

MINNESOTA PUBLIC SCHOOL DISTRICT ELECTION MANUAL

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MINNESOTA PUBLIC SCHOOL DISTRICT ELECTION MANUAL  
(**Bolded Items - 2015 Session Changes**)

INTRODUCTION

This handbook is being written to aid school boards, school administrators and election judges in conducting elections. On a scheduled basis, every school district conducts a general election. Special elections may also be held for various purposes including approving bond issues and increasing tax levies. If the necessary legal procedures are not followed, the election may be invalidated or may be subject to legal attack. This handbook contains suggestions designed to help avoid an invalid election or possible litigation.

Elections in independent and special school districts are governed by the specific provisions of Minnesota Statutes, Chapter 205A and by the general provisions of the Minnesota election law. Elections in common school districts are governed by M.S. 123B.94 and are not covered by this manual.

School district personnel may also wish to review election materials prepared by the Secretary of State and available on the web at [www.sos.state.mn.us](http://www.sos.state.mn.us)

1. GENERAL

1.1 Classification and Types of School Districts.

School districts are political subdivisions of the State of Minnesota and are public corporations. They are classified as common, independent and special districts as defined in M.S. 120A.05. This manual will concentrate on election laws as they relate to independent and special school districts.

1.2 School District Government. (2015 Session Change)

Every school district is governed by a school board. The care, management, and control of a school district is vested in the board of directors which is known as the school board. The term of office of a member is four years and until a successor qualifies. (M.S. 123B.09, Subd. 1). The membership of a school board generally consists of six elected directors and such ex officio members as provided by law. The superintendent is an ex officio member without a vote.

The board may submit to the voters at any special school district election the question whether the board should consist of seven members. If a majority of those voting on the proposition approve a seven member board, a seventh member will be elected for a four year term at the next general election and thereafter the school district will be governed by a seven member board. (M.S. 123B.09, Subd. 1).

A district with a seven member board may submit to the voters at any school election held at least 150 days before the next election of three members of the board the question whether the board shall consist of six members. If a majority of those voting on the question approve a six member board, **three** members instead of **four** members shall be elected at the next general election and thereafter the board shall consist of six members. (M.S. 123B.09, Subd. 1).

In the case of a consolidation, as part of a consolidation plan, a school board must prepare a plan for the orderly reduction of the board to six or seven members and a plan for the establishment of or dissolution of election districts. The plan must be submitted to the Secretary of State for review and comment. (M.S. 123A.48, Subd. 4). The consolidation resolution must provide for the election of board members from one of the following options: single-member districts; multimember districts; at large; or a combination of those options. (M.S. 123A.48, Subd. 2).

All business of a school district, including that relating to elections, is carried on by the school board or a majority thereof.

### 1.3 School Election Law.

Except for the constitutional requirements setting up minimum qualifications for voting, the Legislature has complete power to establish rules and regulations for school elections.

For many years, school district elections were governed by the provisions of the Education Code and were not subject to most provisions of the general election laws. However, school district elections are now subject to the Minnesota election laws (M.S. Chapters 201, 202A, 203B, 204B, 204C, 204D, 205, 205A, 206, 208, 209 and 211B), except as otherwise provided in M.S. Chapter 205A which codifies certain procedures which are applicable only to school district elections. School district elections are also subject to M.S. Chapter 211A relating to campaign financing.

Once every two years the county auditor must conduct training sessions for school district clerks. No local election official may conduct an election without receiving training from the county auditor. (M.S. 204B.25, Subd. 4). School district clerk training requirements are specified in Minnesota Rules, Part 8240.2800. That rule also allows school district employees designated by the clerk to attend the school district clerk election administration training courses (Minn. Rule, Part 8240.2800, Subp. 10). Initial certification requires successful completion of five hours of training. Initial certification is good for the election cycle in which it is earned and the following election cycle. Each election cycle begins on January 1 of an even-numbered year and ends on December 31 of an odd-numbered year. To maintain certification to administer elections, school district clerks need to complete four hours of election training during the election cycle following their initial certification and every two years thereafter. Training may be provided by county auditors or the Secretary of State. (Minn. Rule, Part 8240.0100; 8240.2800).

## 2. PRECINCTS, POLLING PLACES AND ELECTION DISTRICTS

### 2.1 Definitions.

A "precinct" is a geographic area of a school district created for election administration purposes. (M.S. 200.02, Subd. 11). All residents of a precinct vote at the same polling place. Even though precincts are established for voting purposes, board members are elected "at large" by the voters of the entire school district.

A "polling place" is a specific location where voting actually takes place. (M.S. 200.02, Subd. 12).

An "election district" is a geographic area of a school district established for the purpose of electing a board member from that area. A separate election district is established to elect each member of the board and definite boundaries are established for each election district. (M.S. 205A.12).

### 2.2 Establishment of Precincts.

2.2.1 General. M.S. 205A.11, Subd. 1 provides that a school district must utilize as its precincts the precincts or parts of precincts located within its boundaries which have been established by the cities or towns located in whole or in part within the school district.

#### 2.2.2 Intentionally Omitted.

2.2.3 Boundary Changes. Changes in precinct boundaries by an establishing city or town are governed by

M.S. 204B.14. The law requires reestablishment of precinct boundaries after each legislative redistricting. A school board has no separate power to revise boundaries except to combine precincts for elections not held on the day of a statewide election. When the boundaries of a precinct are changed, the county auditor must immediately update the voter records for that precinct in the statewide voter registration system to accurately reflect those changes. (M.S. 201.11, Subd. 1). If a municipality administratively changes the number or name of a street address, the county auditor must be notified and must update the records of registered voters in the statewide system to reflect that change. (M.S. 201.11, Subd. 2). If a city or town changes the boundary of an election precinct, the county auditor must notify each school district with territory affected by the boundary change at least 30 days before the effective date of the change. (M.S. 204B.14, Subd. 5). The rules of the Secretary of State are to contain procedures for coordinating precinct boundary changes with boundaries of local government election districts. (M.S. 204B.14, Subd. 4). After redistricting, a municipality must obtain maps of the school districts located wholly or partially in the municipality before the municipality reestablishes its precinct boundaries. A municipality must obtain the school district maps no later than 21 days after the adoption of the legislative plan. (Minn. Rule 8255.0015).

### 2.3 Polling Places. (2015 Session Change)

2.3.1 General. M.S. 205A.11 provides that a school district must utilize as its polling places the polling places which have been designated by the cities or towns located in whole or in part within the school district. The municipalities are required by M.S. 204B.16, Subd. 1 to designate polling places in a manner so that no one is required to go to more than one polling place to vote in a school district and municipal election held on the same day.

2.3.2 School District Elections Not Held on the Day of a Statewide Election. For any school district election which is not held on the day of a statewide election, the school board may provide that several precincts will be served by one combined polling place and one set of election judges. When no other election is being held in two or more precincts on the day of a school district election, the school board may designate one or more combined polling places at which the voters in those precincts may vote in the school district election. The designation of a combined polling place remains effective until a different combined polling place is designated. No designation of a new or different combined polling place may become effective less than 90 days prior to an election unless that polling place is replacing a polling place that has become unavailable for use. The school board must notify each affected county auditor within 30 days after the establishment of such a polling place. The notice must include a list of the precincts that will be voting at each combined polling place. (M.S. 205A.11). It is the opinion of the Secretary of State's office that, for such an election, a district may designate a different polling place for a combined polling place than the normal polling place designated by the city or town. (See APPENDIX 1 for a sample resolution establishing combined polling places.) In school districts that have organized into separate board member election districts, a combined polling place must be arranged so that it does not include more than one board member election district. (M.S. 205A.11, Subd. 2).

For certain elections held in school districts that use combined polling places, the Legislature has established additional procedural requirements. The school district clerk must prepare a notice to the voters who will be voting at a combined polling place for a school district special election. The notice must include the following information: the date of the election, the hours of voting and the location of the voter's polling place. The notice must be sent by nonforwardable mail to every affected household in the school district with at least one registered voter. The notice must be mailed no later than 14 days before the election. The mailed notice is not required for a school district special election that is held on the second Tuesday in August, the Tuesday following the first Monday in November, or for a special election conducted entirely by mail. A notice that is returned as undeliverable must be forwarded immediately to the county auditor. (M.S. 205A.11, Subd. 2a).

The Notice of Special Election should meet the format for this statutory requirement.

For a school district located in whole or in part within the metropolitan area as defined in the election laws, the polling place must be located within the boundaries of the precinct or within one mile of one of those boundaries unless a single polling place is designated for the school district. If no suitable place is available within a town or within a school district located outside the metropolitan area, the polling place for the town or school district may be relocated within five miles of one of the boundaries of the town or school district. (M.S. 204B.16, Subd. 1).

**2.3.2.5 Change of Polling Place Location.** If a school district changes the location of a polling place or a combined polling place from that previously established for school district elections not held on the day of a statewide election, the school board must send to every affected household with at least one registered voter in the precinct a nonforwardable mailed notice stating the location of the new polling place at least 25 days before the next election. A notice that is returned as undeliverable must be forwarded immediately to the county auditor. (M.S. 204B.16, Subd. 1a). This provision doesn't apply if the polling place is changed on election day. See 2.3.4 below. (See APPENDIX 2a for a Notice of Change of Polling Place Location and APPENDIX 2b for a Certificate of Mailing.) Note that this provision may be applicable if the precincts served by a combined polling place are changed by the board as a result of changes in the precincts served made by the cities and townships that establish those precincts, especially after redistricting.

No designation of a new or different polling place, including a combined polling place, shall become effective less than 90 days prior to an election (including school district general or special elections) and no polling place changes may occur during the period between the state primary and the state general election, except that a new polling place may be designated to replace a polling place that has become unavailable for use. (M.S. 204B.16, Subd. 3; 205A.11).

**2.3.3 Polling Place Requirements.** Any polling place designated by a school district for an election not held on the day of a statewide election must meet the requirements of M.S. 204B.16. A polling place may not be designated in any place where intoxicating liquors or nonintoxicating malt beverages are served, or in any room adjoining such a place, and a polling place may not be designated in any place in which substantial compliance with the requirements of M.S. Chapter 204B cannot be attained. (M.S. 204B.16, Subd. 4). Also, each polling place must be accessible to and usable by elderly individuals and individuals with disabilities. A polling place is deemed to be accessible and usable if it complies with the following standards:

- (a) At least one set of doors must have a minimum width of 32 inches if the doors must be used to enter or leave the polling place.
- (b) Any curb adjacent to the main entrance to a polling place must have curb cuts or temporary ramps. Where the main entrance is not the accessible entrance, any curb adjacent to the accessible entrance must also have curb cuts or temporary ramps.
- (c) Where the main entrance is not the accessible entrance, a sign shall be posted at the main entrance giving directions to the accessible entrance.
- (d) At least one set of stairs must have a temporary handrail and ramp if stairs must be used to enter or leave the polling place.
- (e) No barrier in the polling place may impede the path of persons with disabilities to the voting booth.
- (f) At least one parking space for persons with disabilities, which may be temporarily so designated by the district for the day of the election, must be available near the accessible entrance.

The doorway, handrails, ramps, and handicapped parking provided must conform to the standards specified in the state building code for accessibility by persons with disabilities.

A school board shall designate as polling places only those places which meet the above specified

standards unless no available place within a precinct is accessible or can be made accessible. (M.S. 204B.16, Subd. 5).

2.3.4 Change of Polling Place by Election Judges. In the event that a polling place designated by a school district for an election not held on the day of a statewide election does not comply with the requirements of M.S. Chapter 204B, the election judges of that precinct, on or before the opening of the polls on election day and upon approval of the school district clerk, shall procure a polling place which is as near the designated polling place as possible and which does comply with the statutory requirements. (M.S. 204B.17).

When a new polling place is procured by the election judges, they shall meet on election day at the original polling place where they shall fill any vacancies in their number, publicly announce the change in polling place to the voters who are present and post a notice in large print of the change in a conspicuous place. They shall also post a notice in a location visible by voters who vote from their motor vehicles. (See APPENDIX 2 for form of affidavit of posting.) Upon completing these duties, the election judges shall adjourn to the new polling place where they shall post a similar notice of the change in polling place. The election judges shall certify to the appropriate governing body the expenses incurred because of the change. These expenses shall be paid as part of the expenses of the election. (M.S. 204B.17).

### 2.3.5 Polling Place Equipment.

Booths and Stations. Each polling place must contain a number of voting booths or voting stations in proportion to the number of individuals eligible to vote in the precinct. Each booth or station must be at least six feet high, three feet deep and two feet wide with a shelf at least two feet long and one foot wide placed at a convenient height for writing. The booth or station shall permit the voter to vote privately and independently. Each polling place must have at least one accessible voting booth or other accessible voting station. Each polling place must have at least one voting system that conforms to the Help America Vote Act (HAVA). All booths or stations must be constructed so that a voter is free from observation while marking ballots. During the hours of voting, the booths must have instructions, a pencil and other supplies necessary to mark the ballots. A chair must be provided for elderly voters and voters with disabilities to use while voting or waiting to vote. Stable flat writing surfaces must also be made available to voters who are completing election-related forms. All ballot boxes, voting booths, and election judges must be in open public view in the polling place. (M.S. 204B.18, Subd. 1).

Counties, cities and townships must make accessible voting stations purchased from its HAVA account available to other jurisdictions (including school districts) holding stand-alone elections. The jurisdiction providing the equipment may require the school district using the equipment to reimburse any direct actual costs incurred as a result of the equipment's use and any prorated indirect costs of maintaining and storing the equipment. A rental or other similar use fee may not be charged. (M.S. 204B.18, Subd. 1).

## 2.4 Election Districts.

2.4.1 Authorization. Independent school districts may alter their organization into separate election districts for the purpose of electing board members from such election districts only, instead of "at large". (M.S. 205A.12, Subd. 1).

2.4.2 Procedure to be Followed to Establish Election Districts. Any school board, except one located in whole or in part within a city of the first class, may on its own motion pass a resolution dividing the school district into separate election districts. The proposal must designate one of the following options for election of members: single-member districts, from which one board member each must be elected; multimember districts, from which two or three members each must be elected; a combination of single-member and multimember districts; or a combination of single-member or multimember districts, or both, and election of

one or more members at large. (M.S. 205A.12, Subd. 2). A resolution establishing original election district boundaries shall become effective 90 days after the adoption of the resolution. (M.S. 205A.12, Subd. 6). The voters must, however, approve this proposal before it takes effect. Only one election within any two year period may be held for this purpose. (M.S. 205A.12, Subd. 2).

This action may also be commenced by petition, provided it is signed by at least the greater of fifty voters of the district or ten percent of the number of votes cast in the most recent school board general election. Note that any such petition must meet the procedural requirements of M.S. 205A.13. A proposal initiated by petition must also be submitted to the voters for their approval. Only one election within any two year period may be held for this purpose. (M.S. 205A.12, Subd. 2).

Once the board has divided the district into proposed election districts by resolution, the board's decision must be submitted to the voters at a special election called for that purpose. (M.S. 205A.12, Subd. 2). Note that the Board determines the proposed election districts, whether the matter is initiated on its own motion or as a result of a petition. (See APPENDIX 3 for the ballot question to be submitted to the voters.)

If the election is initiated by petition, the resolution calling the election must be adopted within six months after the date of receipt of the petition (unless that time period is extended under M.S. 205A.05, Subd. 1). This election must be held with the same notice and in the same manner as provided by law for other school district special elections. (M.S. 205A.12, Subd. 2).

2.4.3 Guidelines to be Followed to Establish Proposed Election Districts. Regardless of whether the matter is proposed by the board on its own motion or as a result of a petition, the school board determines the proposed election districts which are to be submitted to the voters for approval. (M.S. 205A.12, Subd. 2). Each proposed election district must be as equal in population as practicable and must be composed of compact, contiguous territory. The district may utilize the most recent federal decennial census figures available or may conduct a special census for this purpose. The board shall designate each election district by number. (M.S. 205A.12, Subd. 4). While not specifically so required by statute, the district should take into account the boundaries of existing precincts and the locations of existing polling places. The description of the proposed election districts should be adequate to permit identification of the boundaries of each district. If the school district does not use the boundaries of existing city and township precincts to create election districts, the county may be unable to generate polling place rosters for school board elections.

2.4.4 Effect of Voter Approval of Election Districts. If the proposal for the establishment of election districts is approved by the voters, the board must adopt a resolution to specify the election districts from which vacancies shall be filled as they occur until such time as each board member represents an election district. (M.S. 205A.12, Subd. 5).

A candidate for school board in a subsequent election must file an affidavit of candidacy to be elected as a school board member for the election district in which the candidate resides. If there are as many election districts as there are members of the board, one and only one member of the board shall be elected from each election district. (M.S. 205A.12, Subd. 5).

In school districts where one or more board members are elected by election districts, candidates must indicate on the affidavit of candidacy the number of the district from which they seek election or, if appropriate, that they seek election from one of the offices elected at large. If the election districts have two or three members each, the terms of the members must be staggered.

Each board member must be a resident of the election district for which elected, but the creation of an election district or a change in election district boundaries shall not disqualify a board member from serving for the remainder of the member's term. (M.S. 205A.12, Subd. 5).

2.4.5 Redefining Election District Boundaries. The school board may by resolution redefine district boundaries after a school district general election. No election is required, but the board must hold a public hearing before its adoption of the resolution redefining the boundaries. The board must give one week's published notice of the hearing. (M.S. 205A.12, Subd. 6).

After the official certification of the federal decennial or special census, the school board shall either confirm the existing election district boundaries as conforming to the standards in M.S. 205A.12, Subd. 4 requiring that the districts be as equal in population as possible and be composed of compact, contiguous territory or must redefine the election district boundaries to conform to those standards as provided in M.S. 204B.135, Subd. 2. The election districts must be redistricted within 80 days of the time when the legislature has been redistricted, or at least 15 weeks before the state primary election in the year ending in two, whichever comes first. (M.S. 204B.135, Subd. 2). See also Minn. Rule 8255.0010 for alternative dates for redistricting. If the school board fails to take either action within the time required, no further compensation may be paid to the school board members until the districts are either reconfirmed or redefined. (M.S. 205A.12, Subd. 6).

A resolution establishing election district boundaries pursuant to M.S. 204B.135, Subd. 2 becomes effective on the date of the state primary election in the year ending in two. Election district boundaries established at other times become effective 90 days after the adoption of the resolution. (M.S. 205A.12, Subd. 6). A notice and detailed map showing the new districts must be prepared by the school district clerk and be posted in the clerk's office. The notice may also be posted in other conspicuous places in the school district. The information posted must also be available for public inspection in the office of the county auditor. It must be posted within 72 hours after adoption of the district boundaries and must remain posted until the day following the state general election in the year ending in two. (Minn. Rule 8255.0030).

The Attorney General has ruled that a board may not hold an election to revert from separate election districts to a single at large district. (Op. Atty. Gen. 161-A-11 (April 11, 1990)). The provisions of M.S. 205A.12 do not address this issue.

2.4.6. Dissolution of Election Districts. The governing body of a school district that enters into a consolidation or cooperation and combination agreement may, by resolution, dissolve election districts previously established as part of the consolidation or cooperation and combination plan. The resolution must include a plan for the orderly transition to at-large elections of school board members. (M.S. 205A.12, Subd. 7).

2.4.7. Challenges to Election District Plans. An eligible voter may apply to the district court for either a writ of mandamus requiring the redistricting of election districts or to reverse any plan adopted by the school board.

If a plan for redistricting school district election districts is adopted at least 15 weeks before the state primary election in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court within three weeks, but no later than fourteen weeks before the state primary election in the year ending in two. (M.S. 204B.135, Subd. 3).

If a plan for redistricting school district election districts is adopted less than 15 weeks before the state primary election in a year ending in two, an application for revision of the plan that seeks to affect elections held in the year ending in two must be filed with the district court no later than one week after the plan has been adopted. (M.S. 204B.135, Subd. 3).

2.4.8. Consolidation. In the case of a consolidation, as part of a consolidation plan, a school board must prepare a plan for the orderly reduction of the board to six or seven members and a plan for the establishment

or dissolution of election districts. The plan must be submitted to the Secretary of State for review and comment. (M.S. 123A.48, Subd. 4). The consolidation resolution must provide for the election of board members from one of the following options: single-member districts; multimember districts; at large; or a combination of those options. (M.S. 123A.48, Subd 2). The election districts created as a part of a consolidation must meet the requirements of being as equal in population as practicable and being composed of compact, contiguous territory. Having election districts be the territory of each of the prior school districts is not sufficient unless they meet these requirements. Norgaard v. Indep. Sch. Dist. No. 2902, File No. 42-CV-06-832, (fifth Jud. Dist. May 3, 2007).

## 2.5 Electronic Rosters.

2.5.1 Authorization. A school district may use electronic rosters for any election. In a school district that uses electronic rosters, the head elections official may designate that some or all of the precincts use electronic rosters. (M.S. 201.255, Subd. 1). An electronic roster must include the same information as a paper roster. (M.S. 201.221, Subd. 3).

2.5.2 Technology. The electronic roster must meet all the requirements of M.S. 201.255, Subd. 2.

2.5.3 Election Law. The provisions of Minnesota Election law apply to the use of electronic rosters. (M.S. 201.255, Subd. 3).

2.5.4 Election Records Retention. All voter signature certificates and voter registration applications printed from an electronic roster must be retained pursuant to M.S. 204B.40. (M.S. 201.255, Subd. 4). See also Section 15.10 herein. Data on election day registrants and voter history must be uploaded to the statewide voter registration system for processing by county auditors.

2.5.5 Election Day. Precincts may use electronic rosters for election day registration to process preregistered voters, or both. The election judges shall determine the number of ballots to be counted by counting the number of original voter certificates or the number of voter receipts. Each polling place using electronic rosters must have an approved paper backup system present at the polling place in the event the judges are unable to use the electronic roster. (M.S. 201.255, Subd. 5).

2.5.6 Reporting. A school district that intends to use electronic rosters must notify the Secretary of State at least ninety (90) days before the first election at which the school district intends to use electronic rosters. The notification must specify whether all precincts will use electronic rosters and, if not, which precincts will be using electronic rosters. The notice is valid for all subsequent elections unless revoked by the school district. If precincts in the school district that were not included in the initial notification intend to use electronic rosters, a new notification must be submitted. (M.S. 201.255, Subd. 6(a)). A school district that intends to use electronic rosters must certify to the Secretary of State at least 30 days before the election that the electronic rosters meet all requirements of Minnesota law. (M.S. 201.255, Subd. 6(b)).

## 3. INITIATING AN ELECTION

### 3.1 Resolution Calling Election.

The school board must adopt a resolution to call any primary, general or special school district election. (See APPENDIX 4 for a sample resolution calling a school district primary election, APPENDIX 5 for a sample resolution calling the school district general election and APPENDIX 6 for a sample resolution calling a school district special election for a bond issue.)

The clerk must give written notice of any primary, general or special election to the county auditor of

each county in which the school district is located in whole or in part. The notice must include the date of the election, the offices to be voted on at the election, and the title and language for each ballot question to be voted on at the election. (M.S. 205A.07, Subd. 3).

The notice must be given at least 74 days before every school district election. (M.S. 205A.07, Subd. 3).

The school district must utilize as its precincts the precincts or parts of precincts located within its boundaries which have been established by the cities or towns located in whole or in part within the school district. When no other election is held in two or more precincts on the day of a school district election, the school board may designate one or more combined polling places at which voters in those precincts may vote in the school district election. If the location of a polling place or combined polling place is changed, the change must be adopted at least ninety (90) days prior to the election. The board must notify the county auditor within 30 days after the establishment of a combined polling place. The notice must include a list of the precincts that will be voting at each polling place. (M.S. 205A.11). The notice of election published in the official newspaper must include information concerning each established combined polling place and the precincts served by that polling place. (See APPENDIX 1 for a sample resolution establishing the combined precincts.) (See 2.3.2 above for additional notice requirements when using combined polling places.)

The election resolution should set forth the date of the election, the hours the polls will be open, the question or offices to be voted on, and should appoint or provide for appointment of election judges for each precinct. The appointments must be made at least 25 days before the election at which the election judges will serve. (M.S. 204B.21, Subd. 2). A minimum of four election judges must be appointed for each precinct. (M.S. 204B.22, Subd. 1). The board may also appoint additional judges beyond those required, including additional judges to count ballots after voting has ended. (M.S. 204B.22, Subd. 1). The election officials for a school district special election are the same as for the most recent school district general election unless changed by resolution. (M.S. 205A.05, Subd. 1).

### 3.2 Date of Primary Election.

If a district has opted into the primary election system and if a primary election is required, it must be held on the second Tuesday in August of the year in which the school district general election is held. (M.S. 205A.03, Subd. 2). The date of a school district primary held in an odd-numbered year may be postponed for inclement weather as provided in M.S. 205A.055.

### 3.3 Date of General Election.

The general election in an independent school district may only be held on the first Tuesday after the first Monday in November of either the odd-numbered or the even-numbered year (M.S. 205A.04, Subd. 1). A school board may, by resolution, change from an odd-numbered year election to an even-numbered year election or from an even-numbered year election to an odd-numbered year election. The resolution must be adopted no later than four weeks before the first day to file affidavits of candidacy for the general election and must contain an orderly plan of transition. (M.S. 205A.04, Subd. 3). The date of a school district general election held in the odd-numbered year may be postponed for inclement weather as provided in M.S. 205A.055.

### 3.4 Date of Special Election. (2015 Session Change)

3.4.1 Purpose and Date. A school district special election may be called to approve any question on which the voters are authorized by law to pass judgment, including approval of bond issues, approval of a consolidation, creation of election districts, increasing tax levies, and increasing the size of the board to

seven members. A special election to fill school board vacancies may be held **as specified in M.S. 123B.095**. A special election to increase, revoke, or reduce a district's referendum revenue authority may only be held on the first Tuesday after the first Monday in November, unless the election is conducted by mail (M.S. 126C.17, Subd. 11, paragraph (a), or the district is in statutory operating debt and has received the approval of the commissioner to hold the election on a different date. (M.S. 126C.17, Subd. 11, paragraph (b)). The date of a school district special election not held in conjunction with the state primary or the state general election may be postponed for inclement weather as provided in M.S. 205A.055

**3.4.2 Initiation by Petition.** A school board may call a special election on its own motion and must call such an election when requested by a petition filed with the board of fifty or more voters of the district or five percent of the number of votes cast at the preceding school district general election, whichever is greater (M.S. 205A.05, Subd. 1). Any such petition must meet the procedural requirements specified in M.S. 205A.13 and the applicable rules of the Secretary of State (Minn. Rules, Parts 8205.1010 to 8205.1050). Op. Atty. Gen. 185-b, June 15, 2007. A petition for a reverse referendum to approve the issuance of capital facility bonds must be signed by qualified voters in excess of 15% of the registered voters of the school district on the day the petition is filed. (M.S. 123B.62). The authority to initiate an election by petition to increase a referendum revenue authorization or to revoke or reduce a referendum revenue authorization was eliminated by the 2009 Legislature. (Laws 2009, Chapter 96, Section 14).

**3.4.3 Petition Requirements.** Any petition to a school board which requires the board to submit an issue to referendum or election shall meet the requirements specified in the rules of the Secretary of State to be valid (Minn. Rule, Parts 8205.1010 to 8205.1050). The school district clerk is the proper filing officer for a school district special election petition. Op. Atty. Gen. 185-b, June 15, 2007. Minn. Rules, Part 8205.1040, Subp. 2. See also M.S. 200.039.

**3.4.4 Conduct of Special Elections.** School district special elections must be conducted and the returns made in the manner provided for the school district general election. Unless otherwise provided by law, a question at a special election is carried with the majority in its favor required by law. (M.S. 205A.05, Subd. 1).

**3.4.5 Notice of Special Election.** The school district clerk must give the required 74 days notice to each county auditor, must give two weeks published and ten days posted notice of the election, and must post sample ballots in the administrative offices at least four days before the election and at each polling place on the day of the election. (M.S. 205A.07). (See Section 4 below relating to Election Notice). If the election is to approve the issuance of capital facility bonds, a capital project levy, a referendum revenue authorization, a maximum effort loan or the issuance of bonds, the district must also provide a written 74 days notice to the commissioner specifying the date of the election and the title and language for each ballot question to be voted on. (M.S. 205A.07, Subd. 3a).

### **3.5 Prohibited Dates for Special Elections. (2015 Session Change)**

A school district may not hold a special election: (1) during the 56 days before and the 56 days after a regularly scheduled primary or general election conducted wholly or partially within the school district; (2) on the date of a regularly scheduled town election **or annual meeting** in March conducted wholly or partly within the school district; or (3) during the 30 days before or the 30 days after a regularly scheduled town election in March conducted wholly or partially within the school district. (M.S. 205A.05, Subd. 1(b)). The time period in which a special election must be conducted under a particular law may be extended by the school board to conform with these statutory requirements. (M.S. 205A.05, Subd. 1(c)). Districts should be aware that this provision includes township elections which are held on the second Tuesday of March each year in most townships.

A school district or a municipality may not conduct a special election during the 19 weeks before the

state primary election in the year ending in two. A school district special election required by any other law may be deferred until the date of the next school district general election, the state primary election, or the state general election. (M.S. 204B.135, Subd. 4).

A special election cannot be held on a legal holiday. (M.S. 645.44, Subd. 5). The legislature has established the following legal holidays in Minnesota:

New Year's Day, January 1;  
 Martin Luther King's Birthday, the third Monday in January;  
 Washington and Lincoln's Birthday, the third Monday in February;  
 Memorial Day, the last Monday in May;  
 Independence Day, July 4;  
 Labor Day, the first Monday in September;  
 Christopher Columbus Day, the second Monday in October; (optional)  
 Veterans' Day, November 11;  
 Thanksgiving Day, the fourth Thursday in November;  
 Christmas Day, December 25.

A school board may determine whether Christopher Columbus Day and the Friday after Thanksgiving are holidays. If it determines that they are not, public business may be conducted on those days. (M.S. 645.44, Subd. 5).

Whenever New Year's Day, Independence Day, Veterans' Day or Christmas falls on Sunday, the following Monday is considered a legal holiday. Whenever New Year's Day, Independence Day, Veterans' Day or Christmas falls on a Saturday, the preceding Friday is considered a legal holiday. (M.S. 645.44, Subd. 5). Sundays are generally not legal holidays, but an election held on a Sunday may be of doubtful legality. To preclude objection, Sunday should not be chosen as an election day.

### 3.6 Voting Hours.

3.6.1 Metropolitan Area School Districts. At a school district election in a school district located in whole or in part within a metropolitan county, the school board, by resolution adopted before giving notice of the election, may designate the time during which the polling places will remain open for voting at the next succeeding and all later school district elections. The polling places must open no later than 10:00 a.m. and close no earlier than 8:00 p.m. The resolution shall remain in force until it is revoked by the school board. (M.S. 205A.09, Subd. 1). (See APPENDIX 1 for sample resolution.) Note that the election laws use a different definition of the metropolitan area than general law. For election law purposes, the metropolitan area includes the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington and Wright. (M.S. 200.02, Subd. 24).

3.6.2 Other School Districts. At a school district election in a school district which is not located in whole or in part within a metropolitan county as defined in the election laws, the school board, by resolution adopted before giving notice of the election, may designate the time, during which the polling places will remain open for voting at the next succeeding and all later school district elections. All polling places must be open between the hours of 5:00 p.m. and 8:00 p.m. The resolution must remain in force until it is revoked by the school board or changed because of request by voters. If a petition requesting longer voting hours, signed by a number of voters equal to 20 percent of the votes cast at the last school district election, is presented to the school district clerk no later than 30 days before a school district election, then the polling place for that election must open at 10:00 a.m. and close at 8:00 p.m. The school district clerk must give ten days' published notice and posted notice of the changed voting hours and notify appropriate county auditors of the change. (M.S. 205A.09, Subd. 2).

3.6.3 Elections Held in Conjunction with State Elections. If the school district election is held in conjunction with the state primary or general election, the hours for voting shall be from 7:00 a.m. until 8:00 p.m., unless the election is conducted by certain small non-metropolitan towns. (M.S. 204C.05).

3.7 Election for Increasing Referendum Revenue Authorization and for Revoking an Existing Levy; Capital Project Levy Procedures.

See Chapter 13, School Law Bulletin entitled "School District Referendum Revenue Authorization Procedures and Capital Project Levy Procedure."

3.8 Election for Seven Member Board; Election to Revert to Six Member Board. (2015 Session Change)

School boards are authorized to submit to the voters at any school district special election the question whether the board shall consist of seven members. If a majority of those voting on the proposition approve a seven member board, a seventh member is elected at the next school district general election for a four year term and thereafter the school district shall be governed by a seven member board. (M.S. 123B.09, Subd. 1). (See APPENDIX 8 for a sample form of ballot question.)

A district with a seven member board may submit to the voters at any school election held at least 150 days before the next election of three members of the board the question whether the board shall consist of six members. If a majority of those voting on the question approve a six member board, **three** members instead of **four** members shall be elected at the next general election and thereafter the board shall consist of six members. (M.S. 123B.09, Subd. 1).

3.9 Mail Elections.

3.9.1 General. A school district submitting questions to the voters at a special election may conduct an election by mail with no polling place other than the office of the auditor or clerk. No school district offices may be voted on at a mail election. Notice of the election must be given to the county auditor at least 74 days prior to the election. This notice must also fulfill the requirements of Minn. Rule 8210.3000. The special mail ballot procedures must be posted at least six weeks prior to the election. No more than 46 and no later than 14 days prior to the election, the auditor or clerk shall mail ballots by nonforwardable mail to all voters registered in the school district. No later than 14 days before the election, the auditor or clerk must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20<sup>th</sup> day before the election. Eligible voters not registered at the time ballots are mailed may apply for ballots pursuant to M.S. Chapter 203B relating to absentee ballots. (M.S. 204B.46). Procedures for mail ballot elections are further specified in Minn. Rule 8210.3000 et. seq. If an election is to be conducted by mail, the procedures will differ from normal election procedures in at least the ways specified below:

3.9.2 Authorization. The school board must adopt a resolution authorizing mail balloting no later than 90 days prior to the first election at which mail balloting will be used. (Minn. Rule 8210.3000, Subp. 2). The clerk must notify the county auditor of each county in which the school district is located in whole or in part of the adoption of this resolution within two weeks after its adoption. (Minn. Rule 8210.3000, Subp. 3).

3.9.3 Approval. The provisions requiring the district to apply to the home county auditor for approval to conduct the election by mail have been repealed.

3.9.4 Notice of Mail Ballot Procedures. The district shall adopt mail ballot procedures and prepare a Notice of Mail Ballot Procedures. The Notice of Mail Ballot Procedures must be posted at least six weeks before the date of the election. The Notice must include:

- (a) the name of the district;
- (b) the date of the election and the date that ballots will be mailed;
- (c) a statement that each voter in the district registered by the 21st day before the election will be mailed a ballot;
- (d) the times, places and manner in which voted ballots can be returned;
- (e) an explanation of how an eligible voter who is not registered may apply for a ballot and how a registered voter who will be absent from the precinct may apply to receive the ballot at a temporary address;
- (f) the place and time for counting of ballots; and
- (g) the name and address or telephone number of the official or office where additional information may be obtained. (Minn. Rule 8210.3000, Subp. 3). (See APPENDIX 62 for sample mail ballot procedures.)

Before the first election at which mail balloting will be used, notice must also be given by one or more of the following means: publication in a newspaper of general circulation, posting at public locations within the district, dissemination of information through the media or at public meetings, or mailed notice to registered voters. (Minn. Rule 8210.3000, Subp. 3). Inclusion of the Mail Ballot Procedures in the Notice of Special Election which is published, posted and, in the case of referendum revenue authorization elections, mailed, should meet these requirements.

**3.9.5 Agreements.** The district may enter into an agreement with the home county auditor to conduct the election on its behalf. In that case, the county auditor would mail the ballots, receive the ballots and would take care of all voter registration and in-person voting requirements. If the auditor is agreeable, this makes the conduct of the election far simpler and more manageable for the district.

**3.9.6 Mailing Ballots.** No earlier than 46 and no later than 14 days prior to the date of the special election, ballots shall be mailed by nonforwardable first class mail to all registered voters in the school district. No later than 14 days before the election, the auditor or clerk must make a subsequent mailing of ballots to those voters who register to vote after the initial mailing but before the 20<sup>th</sup> day before the election. (M.S. 204B.46). Ballots for eligible voters who reside in health care facilities may be delivered as provided in M.S. 203B.11. A ballot must be sent to each registered voter. No ballot may be mailed to a challenged voter. A challenged voter may apply for an absentee ballot. The ballot mailing must be addressed to the voter at the voter's residence as shown on the registration file unless the voter completes an absentee ballot request. (Minn. Rule 8210.3000, Subp. 4). All materials mailed in connection with mail voting shall bear the official United States Postal Service Election Mail insignia. All envelopes used in connection with mail voting shall also bear a legend indicating the ballot category enclosed (mail) in no smaller than 8-point type. (Minn. Rule 8210.0050).

A return envelope, a ballot secrecy envelope and instructions for marking and returning ballots must be included with the ballots. (See APPENDIX 63 for sample Instructions to Mail Ballot Voters.) (Minn. Rule 8210.3000, Subp. 4a). The instructions must include a telephone number or electronic mail address, which voters can call or write for help in mail voting. At the request of the Secretary of State, a survey card that the voter can return to the Secretary of State must also be included. The ballot return envelope must be printed with the mail voter's certificate. (See APPENDIX 64 for sample Mail Voters Certificate to be printed on ballot return envelope.) (Minn. Rule 8210.3000, Subp. 4b). The ballot return envelope must be addressed for return to the home county auditor or the school district clerk, as applicable. First class postage must be affixed to the return envelope. (Minn. Rule 8210.3000, Subp. 4).

**3.9.7 Nonregistered Eligible Voters.** An eligible voter who was not registered on the 21st day prior to the election may apply for and receive an absentee ballot. The regular absentee voting procedures apply except the time for applying for, receiving, and returning absentee ballots is extended until 8:00 p.m. on the day of

the election. (Minn. Rule 8210.3000, Subp. 5). The mail balloting process for voters whose registrations are incomplete must be administered as if the voter were not registered to vote. (Minn. Rule 8210.3000, Subp. 4).

3.9.8 Replacement Ballots. The election official must maintain a record of all replacement ballots issued. (Minn. Rule 8210.3000, Subp. 6).

3.9.9 Undeliverable Ballots. Ballots returned to the post office as undeliverable to the voter at the address of registration must be securely retained. If the auditor or clerk is able to verify the voter's residence at that address, the ballot may be reissued. An undeliverable ballot must be considered a returned notice of verification and the voter's registration must be treated as provided in M.S. 201.12. The official conducting the election must maintain a record of all undeliverable ballots. If the ballot is returned by the post office with notification of the voter's new address within the school district, the auditor or clerk shall resend a ballot to the voter along with a return envelope. The auditor or clerk shall keep a list of individuals who are sent the second mailing after the rosters are printed and must provide a copy of that list to the election judges for use in processing the returned ballots. (Minn. Rule 8210.3000, Subp. 7).

3.9.10 Returning Ballots. Mail ballots may be returned to the official conducting the election by mail, in person, or by designated agent. Ballots returned in person or by a designated agent must be accepted until 8:00 p.m. on the day of the election. An individual shall not be the designated agent of more than three absentee voters in one election. (Minn. Rule 8210.3000, Subp. 8).

3.9.11 Polling Place. The only polling place required for mail balloting is the office of the election official conducting the election. (Minn. Rule 8210.3000, Subp. 9). The number of voting stations set up in the office of the official conducting the election must be sufficient to accommodate the number of voters expected to vote in person on election day. If the clerk is conducting the election, the administrative offices of the district or another suitable location may be designated. There must be at least one polling place where voters can vote in person. On election day, the official conducting the election shall provide one or more secure drop boxes where voters can deposit return envelopes containing ballots.

3.9.12 Place for Counting Ballots; Election Judges. If adequate space for counting ballots is not available at the county courthouse or at the designated school district location, the school board shall designate another suitable location where the election judges can meet on election day to receive and count ballots. The location must be open to public inspection of the counting of ballots. The school board must appoint election judges. During the day of the election, at least two election judges must be present in the office of the official conducting the election to accept mail ballots delivered in person and to process persons registering on election day. Additional judges may be appointed as needed. If the ballots are to be counted by hand and there are more than two questions or one office to be voted on, at least one judge must be appointed for the counting of ballots for every 500 persons from whom ballots are expected to be returned. (Minn. Rule 8210.3000, Subp. 9).

3.9.13 Receiving and Counting Ballots. On or before election day, the judges shall receive from the county auditor or clerk returned ballots and applications for absentee ballots, records of replacement ballots and a list of the voters sent a second mailing of the ballot. The judges must arrange to receive from the auditor or clerk any additional ballots received in the mail or returned by a voter prior to 8:00 p.m. on election day. If the counting location is not at the county courthouse or the school district polling place, the ballots must be transported to the location where ballot processing and counting will occur in a sealed transfer case by two or more election judges. During the receiving and counting of ballots, the ballots must at all times remain in the custody of two or more election judges. (Minn. Rule 8210.3000, Subp. 10).

Prior to the election, the auditor or clerk must appoint a ballot board to examine the mail and absentee ballot return envelopes and mark them "Accepted" or "Rejected" within three days of receipt if there are 14

or fewer days before election day, or within five days of receipt if there are more than 14 days before election day. The board may consist of deputy county auditors, deputy municipal clerks, or deputy school district clerks who have received training in the processing and counting of mail ballots, and who need not be affiliated with a major political party. If an envelope has been rejected at least five days before the election, the ballots in the envelope must remain sealed and the auditor or clerk must provide the voter with a replacement ballot and return envelope in place of the spoiled ballot. If the ballot is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or email to notify the voter that the voter's ballot has been rejected. The official must document the attempts made to contact the voter. (M.S. 204B.46).

If the ballot is accepted, the auditor or clerk must mark the roster to indicate that the voter has already cast a ballot in that election. After the close of business on the seventh day before the election, the ballots from return envelopes marked "Accepted" may be opened, duplicated as needed, initialed by the ballot board, and deposited in the appropriate ballot box. After the close of business on the seventh day before the election, a voter whose record indicates that a mail ballot has been accepted must not be permitted to cast another ballot at that election. In all other respects, the provisions of Minnesota election law governing deposit and counting of ballots apply. The mail and absentee ballots for a precinct must be counted together and reported as one vote total. No vote totals from ballots may be made public before the close of voting on election day. (M.S. 204B.46).

3.9.14 Challenges. Challengers appointed under M.S. 204C.07 may be present while the election judges are examining and accepting or rejecting the return envelopes. Challenges must be made and determined as provided in M.S. 204C.13, Subd. 6. (Minn. Rule 8210.3000, Subp. 11). (See Section 13.6 below.)

3.9.15 Costs. The school board shall pay the costs of mailing which include postage costs and the costs of printing required envelopes, instructions, affidavits, and mailing labels. Other expenses are paid as provided in M.S. 204B.32. (Minn. Rule 8210.3000, Subp. 12). (See Section 15.14 below.)

### 3.10 Combined Elections.

If a school district schedules its election in conjunction with a city or township primary or general election, the city or town shall determine the voting method at that election or the portion of the election it conducts, i.e. paper ballot or optical scan. (M.S. 204B.35, Subd. 5). Note that school districts may not hold a special election on the date of a regularly scheduled town election in March that is conducted wholly or partially within the school district. Since districts are increasingly being required to run special elections in conjunction with other municipal elections, they should establish relationships with the appropriate municipal election officials so that the election may be held in an efficient and legal manner. See Section 15.14 of this manual and the guidelines of the Secretary of State regarding allocation of costs for such combined elections.

Please note that there are many duties relating to elections that are established by law. In most cases those duties are to be performed by the school district clerk. While the clerk may delegate the performance of some routine acts to others, the clerk remains liable to supervise those acts to see that they are properly performed. When an election is conducted in conjunction with a statewide election or with other municipal elections, the county auditor or municipal clerk may perform some of the clerk's duties. However, there must be a clear understanding as to what acts will be performed by whom. In most cases, the school district clerk will remain responsible for publication and mailing of school district notices. The parties should reach agreement regarding who will post required notices. If the county auditor or municipal clerk makes a mistake, the blame will still fall on the school district clerk so that individual must continue to make sure that all proper procedures are followed.

### 3.11 Cancellation of Special Election.

A special election ordered by the school board on its own motion may be cancelled by motion of the school board. (M.S. 205A.05, Subd. 3). The school district clerk must provide written notice of the cancellation to the county auditor of each county in which the school district is located in whole or in part and to the Commissioner of Education. The notice must be provided to the appropriate county auditors and to the Commissioner, if applicable, at least 74 days before any school district special election. (M.S. 205A.07, Subd 3a).

### 3.12 Postponement of Election.

3.12.1 Applicability. This section applies to school district primary and general elections held in the odd-numbered year and to school district special elections not held in conjunction with the state primary or the state general election. (M.S. 205A.055, Subd. 1).

3.12.2 Postponement. In the event of severe or inclement weather, the school district clerk may postpone an election when the National Weather Service or a law enforcement agency has issued storm warnings or travel advisories indicating that the weather conditions would make travel to a polling place difficult or hazardous for voters and election judges. When one or more jurisdictions are holding elections in conjunction with one another, the jurisdiction that covers the largest geographic area has the authority, after consulting with the other auditors and clerks, to make the decision to postpone all the elections. A decision to postpone an election must apply to every precinct in the jurisdiction. (M.S. 205A.055, Subd. 2(a)).

3.12.3 Timing; Notice. A decision to postpone an election must be made no later than 6:00 p.m. on the day before the election. The clerk must contact the election judges and notify local media outlets of the postponement. The clerk must also post a notice on the school district's Web site, if practicable. (M.S. 205A.055, Subd. 2(b)).

3.12.4 Rescheduling. A postponed election must be rescheduled for the following Tuesday after the election was originally scheduled. The date on which the postponed election will be held shall be considered the date of the election for purposes of absentee voting. An election that is postponed due to weather may be postponed again if necessary. (M.S. 205A.055, Subd. 2(c)).

## 4. ELECTION NOTICE

### 4.05 Notice to County Auditor.

At least seventy-four (74) days prior to every school district election, including primary elections, general elections and special elections, the school district clerk shall provide a written notice to the county auditor of each county in which the school district is located in whole or in part. The notice must include the date of the election and the offices and questions to be voted on at the election. (M.S. 205A.07, Subd. 3). For purposes of meeting the timelines of this statute, in a bond election, a notice, including a proposed question, may be provided to the county auditor prior to receipt of a review and comment from the Commissioner of Education and prior to actual initiation of the election. If the election is to approve the issuance of capital facility bonds, a capital project levy, a referendum revenue authorization, a maximum effort loan or the issuance of bonds, the district must also provide a written notice to the commissioner at least seventy-four (74) days prior to the date of the election specifying the date of the election and the title and language for each ballot question to be voted on. (M.S. 205A.07, Subd. 3a).

### 4.1 Notice Requirements.

4.1.1 Election Notice Content. The notice of a school district primary, general or special election must state the time of the election (which should include the date and the hours the polls will be open), the location of each polling place or combined polling place, the offices to be filled, and the title and language for each ballot question to be voted upon at that election. (M.S. 205A.07, Subd. 1). (See APPENDIX 9 for notice of a primary election, APPENDIX 10 for notice of the general election and APPENDIX 11 for notice of a special election.)

4.1.2 Election Notice Publication Requirement. The school district clerk must give two weeks published notice of the election in the official newspaper of the district. (M.S. 205A.07, Subd. 1). This means the notice must be published for two consecutive weeks with the last publication at least one week before the date of the election. (M.S. 645.13).

Note that elections to approve bond issues which require a review and comment have an additional publication requirement and the Commissioner's Review and Comment must be published in the legal newspaper of the district at least 20 but not more than 60 days before the date of the election. (M.S. 123B.71, Subd. 12). Note that a review and comment is required even if the election is initiated by petition. (Op. Atty. Gen. 159a-3 (March 11, 1998)).

4.1.3 Election Notice Posting Requirement. The school district clerk must give 10 days posted notice of the election. The notice must be posted in the administrative office of the school district for public inspection. (M.S. 205A.07, Subds. 1 and 4).

4.1.4 Sample Ballot Posting Requirement. For every school district primary, general, or special election, the school district clerk shall at least four days before the primary, general, or special election, post a sample ballot in the administrative offices of the school district for public inspection, and shall post a sample ballot in each polling place on election day. (M.S. 205A.07, Subds. 2 and 4). Note that the sample ballot that is posted in a polling place for general elections must accurately reflect the offices, candidates and rotation sequence on the ballots used in that polling place. (M.S. 204C.08, Subd. 2a).

4.1.5 Affidavits of Posting and Publication. Once the notices of the election and the sample ballots have been posted, the clerk should execute an affidavit specifying the date on which the notices were posted and the locations where they were posted. (See APPENDIXES 12 and 13 for sample affidavits of posting.) Once the required notices have been published, the school district should require affidavits of publication from its legal newspaper. (This is especially important in the event of a bond election where the affidavit will be required by bond counsel.) These affidavits, together with all other election documents, should be kept on file in case of any litigation. It is incumbent on school district officials to be able to show that statutory requirements have been met.

4.1.6 Electronic Systems. See Section 12.42 for additional publication and posting requirements for elections utilizing optical scan systems.

4.1.7 Mailing Requirement. See Chapter 13, School Law Bulletin entitled "School District Referendum Revenue Authorization Procedures and Capital Project Levy Procedure" for mailing requirements in referendum revenue authorization elections.

4.1.8 Mailing Requirement; Combined Polling Places. For certain elections in school districts that use combined polling places, the Legislature has established additional procedural requirements. The school district clerk must prepare a notice to the voters who will be voting in a combined polling place for a school district special election. The notice must include the following information: the date of the election, the hours of voting and the location of the voter's polling place. The notice must be sent by nonforwardable mail to every affected household in the school district with at least one registered voter. The notice must be

mailed no later than 14 days before the election. The mailed notice is not required for a school district special election that is held on the second Tuesday in August, the Tuesday following the first Monday in November, or for a special election conducted entirely by mail. A notice that is returned as undeliverable must be forwarded immediately to the county auditor. (M.S. 205A.11, Subd. 2a). The model Notice of Special Election should meet the format for this statutory requirement.

#### 4.2 Effect of School Election Defects.

The Minnesota Supreme Court has repeatedly expressed the view that it will sustain an election notwithstanding defects or irregularities in procedures, provided there was no fraud, there was an election in fact, and the defects in procedure were not such as to seriously put into question the outcome of the election.

#### 4.3 Correction of Errors and Omissions. (2015 Session Change)

Under the general election law there are specific procedures for corrections of errors, omissions or wrongful acts which have occurred or are about to occur. M.S. 204B.44 provides that any individual may file a petition with the district court. The petitioner shall serve a copy of the petition on the officer, board or individual charged with the error, omission or wrongful act, and on any other party as required by the court. The petition shall describe the error, omission or wrongful act and the correction sought by the petitioner.

The petition may be filed for the correction of any of the following errors, omissions or wrongful acts which have occurred or are about to occur:

- (1) An error or omission in the placement or printing of the name or description of any candidate or any question on any official ballot, **including the placement of a candidate on the official ballot who is not eligible to hold the office for which the candidate has filed;**
- (2) Any other error in preparing or printing any official ballot; and
- (3) Any wrongful act, omission, or error of any election judge, municipal or school district clerk, county auditor, canvassing board or any of its members, the Secretary of State, or any other individual charged with any duty concerning an election.

Upon receipt of the petition, the court shall immediately set a time for a hearing on the matter and order the officer, board or individual charged with the error, omission or wrongful act to correct the error or wrongful act or perform the duty or show cause for not doing so. The court shall issue its findings in a final order for appropriate relief as soon as possible after the hearing. Failure to obey the order is contempt of court. (M.S. 204B.44).

#### 4.4 Designation of Official Newspaper.

4.4.1 Publication of Notices and Proceedings. School districts are required by law to publish many notices in the official or legal newspaper. (See Section 4.1 above.) They are also required to publish minutes of their official proceedings. (M.S. 123B.09, Subd. 10).

#### 4.4.2 Designation of Legal Newspaper.

4.4.2.1 Requirement. The school board must designate a qualified legal newspaper for publication of its notices and official proceedings. (M.S. 331A.04, Subd. 1).

4.4.2.2. Qualifications. M.S. 331A.02, Subd. 1 provides that to be qualified as a medium of official and legal publication, a newspaper shall:

- (a) be printed in the English language in newspaper format and in column and sheet form equivalent in

printed space to at least 1,000 square inches, or 800 square inches if the political subdivision the newspaper purports to serve has a population of under 1300 and the newspaper does not receive a public subsidy;

(b) if a daily, be distributed at least five days each week. If not a daily, the newspaper may be distributed twice a month with respect to the publishing of government public notices. In any week in which a legal holiday is included, not more than four issues of a daily paper are necessary;

(c) in at least half of its issues each year, have no more than 75 percent of its printed space comprised of advertising material and paid public notices. In all of its issues each year, have 25 percent, if published more often than weekly, or 50 percent, if weekly, of its news columns devoted to news of local interest to the community which it purports to serve. Not more than 25 percent of its total nonadvertising column inches in any issue may wholly duplicate any other publication unless the duplicated material is from recognized general news services;

(d) be circulated in the political subdivision which it purports to serve, and either have at least 400 copies regularly delivered to paying subscribers, or 250 copies delivered to paying subscribers if the political subdivision it purports to serve has a population under 1300, or have at least 400 copies regularly distributed without charge to local residents, or 250 copies delivered without charge to local residents if the political subdivision it purports to serve has a population under 1300;

(e) have its known office of issue established in either the county in which lies, in whole or in part, the political subdivision which the newspaper purports to serve, or in an adjoining county;

(f) file a copy of each issue immediately with the state historical society;

(g) be made available at single or subscription prices to any person or other entity requesting the newspaper and making the applicable payment, or be distributed without charge to local residents;

(h) have complied with all the foregoing conditions of this subdivision for at least one year immediately preceding the date of the notice publication; and

(i) between September 1 and December 31 of each year, publish and submit to the Secretary of State, along with a filing fee of \$25, a sworn United States Post Office second-class statement of ownership and circulation or a statement of ownership and circulation verified by a recognized independent circulation auditing agency covering a period of not less than one year ending no earlier than the June 30 preceding the publication deadline, provided that a filing published and submitted after December 31 and before July 1 shall be effective from the date of filing through December 31 of that year.

If, in the normal course of its business, a qualified newspaper maintains a Web site, then as a condition of accepting and publishing public notices, the newspaper must agree to post all the notices on its Web site at no additional cost. The notice must remain on the Web site during the notice's full publication period. Failure to post or maintain a public notice on the newspaper's Web site does not affect the validity of the public notice. (M.S. 331A.02, Subd. 5).

4.4.2.3. Designation of Specific Legal Newspaper. The statute specifies the priority order to determine which particular paper should be designated as the district's official newspaper:

(a) If there are one or more qualified newspapers, the known office of issue of which are located within the school district, one of them shall be designated. (M.S. 331A.04, Subd. 2).

(b) When no qualified newspaper has a known office of issue located in the school district, but one or more qualified newspapers maintain a secondary office there, one of them shall be designated. (M.S. 331A.04, Subd. 3).

(c) When no qualified newspaper has its known office of issue or a secondary office located within the school district, then a qualified newspaper of general circulation there shall be designated.

The law also provides that, notwithstanding these provisions, the school board may designate any newspaper for publication of its official proceedings and public notices, if the following conditions are met:

(1) the newspaper is a qualified medium of official and legal publication;

- (2) the publisher of the newspaper furnishes a sworn statement, verified by a recognized independent circulation auditing agency, covering a period of at least one year ending no earlier than 60 days before designation of the newspaper, stating that the newspaper's circulation reaches not fewer than 75 percent of the households within the school district;
- (3) the newspaper has provided regular coverage of the proceedings of the school board of the school district and will continue to do so; and
- (4) the school board votes unanimously to designate the newspaper.

If the circulation of a newspaper designated under this provision falls below 75 percent of the households within the school district at any time within the term of its designation as official newspaper, its qualification to publish public notices for the district terminates.

(d) If a school district is without an official newspaper, or if the publisher refuses to publish a particular notice, matters required to be published shall be published in a qualified newspaper of general circulation. The school board of a school district with territory in two or more counties may, if deemed in the public interest, designate a separate qualified newspaper for each county. (M.S. 331A.04, Subd. 5).

As used in these statutes, the terms "known office of issue" and "secondary office" are defined as follows:

"Known office of issue" means the newspaper's principal office devoted primarily to business related to the newspaper, whether or not printing or any other operations of the newspaper are conducted at or from the office. A newspaper may have only one known office of issue. (M.S. 331A.01, Subd. 2).

"Secondary office" means an office established by a newspaper in a community other than that in which its known office of issue is located, in the same or an adjoining county, open on a regular basis to gather news and sell advertisements and subscriptions, whether or not printing or any other operations of the newspaper are conducted at or from the office. (M.S. 331A.01, Subd. 9).

4.4.3 Affidavit of Publication. No compensation shall be recoverable for publishing a legal notice in any newspaper unless the bill is accompanied by an affidavit of the publisher of the newspaper or the publisher's designated agent, having knowledge of the facts, stating that the newspaper has complied with all the requirements to constitute a qualified newspaper. The affidavit must set forth the dates of the month and year and the day of the week upon which the public notice was published in the newspaper. The affidavit must also include the publisher's lowest classified rate paid by commercial users for comparable space, as determined pursuant to section 331A.06. (M.S. 331A.07).

4.4.4. Fees. The maximum rate charged for publication of a public notice shall not exceed the lowest classified rate paid by commercial users for comparable space in the newspapers in which the public notice appears, and shall include all cash discounts, multiple insertion discounts, and similar benefits extended to the newspaper's regular customers (M.S. 331A.06, Subd. 1). No newspaper may increase its rates for publication of public notices by more than ten percent per year, as compared to the maximum rate actually charged by the newspaper in the previous year for publication of public notices, and in any case the new rate shall not exceed the rate described above (M.S. 331A.06, Subd. 2). When the school board of a school district awards a contract for the publication of public notices based on competitive bidding, the rate established by the competitive bidding shall be the rate charged for publication of the public notices. (M.S. 331A.06, Subd. 3).

4.4.5. Forms of Public Notices. M.S. 331A.05 specifies the form of public notices. It should be followed unless the particular statute requiring the giving of published notice requires a different form. M.S. 331A.05 provides in pertinent part as follows:

331A.05 FORM OF PUBLIC NOTICES.

Subd. 1. All public notices shall be printed or otherwise disseminated in the English language.

Subd. 2. Unless otherwise specified by a particular statute, or by order of a court, publication of a public notice shall be as follows:

- (a) the notice shall be published once;
- (b) if the notice is intended to inform the public about a future event, the last publication shall occur not more than 14 days and not less than seven days before the event;
- (c) if the notice is intended to inform the public about a past action or event, the last publication shall occur not more than 45 days after occurrence of the action or event.

Subd. 3. Except as otherwise directed by a particular statute requiring publication of a public notice or by order of a court, a public notice shall be printed in a type face no smaller than six point with a lower case alphabet of at least 90 points. Larger type faces may be used.

Subd. 4. Every public notice shall include a bold face title or caption in a body type no smaller than brevier or eight point referring to the content of the notice. Larger type faces may be used.

Subd. 5. The governing body of a political subdivision may, to better inform the public, increase the frequency of publication of a public notice beyond the minimum required by a particular statute. It may use forms and style for the notice as it deems appropriate, including the use of display advertisements and graphics. In addition to the publication in the newspaper required to be designated under section 331A.04, it may publish or disseminate the notice in other newspapers and by means of standard and electronic mail. Regardless of whether a particular statute specifies "legal notice", "public notice", "notice" or uses similar terms, the governing body may use whatever form for the published notice that it deems appropriate in order to adequately inform the public, subject to the requirements of sections 331A.01 to 331A.11. Nothing in the foregoing provisions of this subdivision shall require the governing body of a political subdivision to use the options described.

## 5. QUALIFICATION OF VOTERS

### 5.1 General Qualifications.

All mentally competent persons satisfying the citizenship, age, residence, and registration requirements may vote at a school election, provided they have never been convicted of treason or a felony unless they have been restored to civil rights. (Minnesota Constitution, Article VII).

Voter eligibility requirements for Minnesota elections are specified in M.S. 201.014 to 201.018. An individual who meets the stated requirements at the time of an election is eligible to vote. The individual must:

- (1) Be 18 or more years of age;
- (2) Be a citizen of the United States;
- (3) Be a resident of the school district; and
- (4) Maintain residence in Minnesota for 20 days immediately preceding the election. (M.S. 201.014, Subd. 1).

The following persons are not eligible voters:

- (1) Any person who has been convicted of treason or any felony, whose civil rights have not been restored;
- (2) Any person who is under a guardianship in which the court order revokes the ward's right to vote;
- (3) Any person who is found by a court of law to be legally incompetent; and
- (4) Any person who is not properly registered. (M.S. 201.014, Subd. 2; 201.018).

## 5.2 Citizenship.

Both natural-born and naturalized citizens may vote, if they satisfy the other necessary requirements. A person is a natural-born citizen if born in the United States or in any possession of the United States. A person is also considered a natural-born citizen if born anywhere of American parents. A person is a citizen by naturalization if the person's parents became citizens while the person was a minor, or if the person became naturalized by Court order. Citizens who marry aliens retain their American citizenship. An alien who marries a citizen does not automatically become a citizen, but may be naturalized after meeting the requirements of federal law.

## 5.3 Age.

Because of the adoption of the Twenty-sixth Amendment to the United States Constitution in 1971, any person 18 years of age or older is eligible to vote in school elections, provided that individual meets the other requirements for voting. Since Minnesota has not adopted the civil law rule that minors are persons who have not attained the age of twenty-one years complete, a person becomes eighteen on the day preceding the eighteenth anniversary of his birth for voting purposes. Thus a person born October 3, 1954 is old enough to vote on October 2, 1972.

## 5.4 Residence.

5.4.1 General. The only residency requirement stated in the general election law is that an individual must maintain residence in Minnesota for 20 days immediately preceding the election. (M.S. 201.014, Subd. 1).

5.4.2 Voting Only in Precinct of Residence. The voter may vote only in the precinct in which the voter maintains residence. The county auditor is required to mail a violation notice to any voter who the county auditor can determine has voted in a precinct other than the precinct in which the voter maintains residence. The county auditor is also required to change the status of the voter to "challenged" in the statewide registration system. A voter who votes in a precinct other than the precinct in which the voter maintains residence after receiving an initial violation notice is guilty of a petty misdemeanor. A voter who votes in a precinct other than the precinct in which the voter maintains residence after having been found to have committed a petty misdemeanor for the same offense is guilty of a misdemeanor. (M.S. 201.016, Subd. 1a).

5.4.3 Duration of Residence. In the general election law, there is no durational requirement as to how long an individual must have resided in the school district prior to the election so long as the individual resides in the precinct in which he or she votes at the time of the election and has been a resident of Minnesota for the 20 days immediately preceding the election.

5.4.4 Determination of Residence. M.S. 201.016 provides that the residence of a voter shall be determined in accordance with M.S. 200.031. That statute provides as follows:

"Residence shall be determined in accordance with the following principles, so far as they may be applicable to the facts of the case:

- (a) The residence of an individual is in the precinct where the individual's home is located, from which the individual has no present intention of moving, and to which, whenever the individual is absent, he intends to return;
- (b) An individual does not lose residence if the individual leaves his home to live temporarily in another state or precinct;
- (c) An individual does not acquire a residence in any precinct of this state if the individual is living

there only temporarily, without the intention of making that precinct home;

(d) If an individual goes into another state or precinct with the intention of making it home or files an affidavit of residence there for election purposes, the individual loses residence in the former precinct;

(e) If an individual moves to another state with the intention of living there for an indefinite period, the individual loses residence in this state, notwithstanding any intention to return at some indefinite future time;

(f) Except as otherwise provided in this section, an individual's residence is located in the precinct where the individual's family lives, unless the individual's family is living in that precinct only temporarily;

(g) If an individual's family lives in one precinct and the individual lives or does business in another, the individual's residence is located in the precinct where the individual's family lives, unless the individual establishes a home in the other precinct and intends to remain there, with or without the individual's family;

(h) The residence of a single individual is in the precinct where the individual lives and usually sleeps;

(i) The mere intention to acquire a new residence is not sufficient to acquire a new residence, unless the individual moves to that location; moving to a new location is not sufficient to acquire a new residence unless the individual intends to remain there;

(j) The residence of an individual who is working temporarily in any precinct of this state is in the precinct where the individual's permanent home is located;

(k) The residence of an individual who is living permanently in a soldiers' home or nursing home is in the precinct where the home is located;

(l) If an individual's home lies in more than one precinct or political subdivision, the residence of the individual is in the precinct in which a majority of the room in which the individual usually sleeps is located;

(m) If an individual's home is destroyed or rendered uninhabitable by fire or natural disaster, the individual does not lose residence in the precinct where the home is located if the individual intends to return to the home when it is reconstructed or made habitable." (M.S. 200.031).

## 5.5 Crime Convictions.

The Minnesota Constitution provides that any person who has been convicted of treason or any felony may not vote unless that person is restored to civil rights. (Article VII, Section 1). Since the Constitutional provision specifies conviction of treason or a felony, it should be noted that one convicted of a misdemeanor could be entitled to vote even while in state custody.

In Minnesota a felony is a crime, other than an enhanced gross misdemeanor, for which a sentence of imprisonment for more than one year may be imposed. (M.S. 609.02, Subd. 1). The conviction is deemed to be for a misdemeanor or a gross misdemeanor if the sentence imposed is within the limits provided for a misdemeanor or gross misdemeanor. (M.S. 609.13, Subd. 1(1). If the felony sentence is stayed, and the defendant is placed on probation and is thereafter discharged without sentence, the conviction is deemed to be for a misdemeanor. (M.S. 609.13, Subd. 1(2)).

The state court administrator must report regularly to the Secretary of State the name, address, date of birth, and, if available, driver's license or state identification card number, date of sentence, effective date of the sentence, and the county in which the conviction occurred of each person who has been convicted of a felony. The state court administrator must also report the name, address and date of birth of each person previously convicted of a felony whose civil rights have been restored. The Secretary of State shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for each county auditor. The county auditor shall change the status of those registrants in the appropriate manner in the statewide registration system. (M.S. 201.155).

## 5.6 Mental Capacity.

There are no educational requirements for voting in Minnesota and a voter does not have to be able to read, write or even understand the English language. The state court administrator must report regularly to the Secretary of State the names, addresses, dates of birth, and, if available, the driver's license or state identification card numbers of persons placed under a guardianship in which the court order revokes the ward's right to vote or adjudges the person as legally incompetent. The court must also report the same information on persons who transfer to the jurisdiction of the court. The Secretary of State will prepare a list of registered voters who meet these qualifications. The appropriate county auditor will change the status on the record in the statewide registration system of any individual named in the report to indicate that the individual is not eligible to re-register or vote. (M.S. 201.15, Subd. 1). If a voter is placed under guardianship in which the court order revokes the ward's right to vote, the word "guardianship" shall appear on the same line as or directly above the name of the voter on the polling place roster. (Minn. Rule 8200.9300, Subp. 7).

The state court administrator must also report regularly to the Secretary of State the names, addresses, dates of birth, and, if available, the driver's license or state identification card numbers of persons whose guardianship was modified to restore the ward's right to vote or whose guardianship was terminated by order of the court after being ineligible to vote for the reasons specified above. The Secretary of State will prepare a list of these registrants. Upon notice of the change in status, the county auditor changes the status on the voter's record in the statewide system to "active". (M.S. 201.15, Subd. 2).

Election judges should rely upon the statewide registration system and should not attempt to make individual judgments about the mental capacity of any voter. If an election judge has a question about the eligibility of any individual to vote because of mental capacity, the judge should contact the county auditor.

## 5.7 Registration.

An eligible voter must register to vote to be eligible to vote in any school district election. (M.S. 201.018). (See Section 6 below regarding registration of voters.)

## 5.8 Other Requirements.

It is not a condition that an otherwise qualified person own property, pay taxes, or have voted in any previous election in order to vote in a school district election.

## 5.9 Penalty.

Any person who votes knowing that he or she is not eligible to vote is guilty of a felony. (M.S. 201.014, Subd. 3).

## 5.10 Employee Time Off to Vote.

Every employee who is eligible to vote in an election has the right to be absent from work for the time necessary to appear at the employee's polling place, cast a ballot, and return to work on the day of that election, without penalty or deduction from salary or wages because of the absence. An employer or other person may not directly or indirectly refuse, abridge, or interfere with this right or any other election right of an employee. (M.S. 204C.04, Subd. 1). The elections covered by this law include a regularly scheduled state primary or general election, an election to fill a vacancy in the office of United States Senator or United States Representative, or an election to fill a vacancy in the office of state senator or state representative. (M.S. 204C.04, Subd. 2). They do not include school district elections not held in conjunction with the state

primary or state general elections. A person who violates this law is guilty of a misdemeanor and shall be prosecuted by the county attorney. (M.S. 204C.04, Subd. 3).

## 6. REGISTRATION OF VOTERS

### 6.1 Requirement to Vote.

An individual wishing to vote in a school district election must register under the permanent voter registration system contained in M.S. Chapters 201 and 203B. (M.S. 201.018, Subd. 2). The law establishes a permanent system of voter registration by county with a single, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state, and assigns a unique identifier to each legally registered voter in the state.

### 6.2 Method of Registration.

An individual may register to vote in person or by mail except during the 20 days immediately preceding any regularly scheduled election. A registration that is received no later than 5:00 p.m. on the 21st day preceding any election shall be accepted. (M.S. 201.061, Subd. 1). A person not registered to vote may register on election day by completing a voter registration application, making an oath as prescribed by the Secretary of State and providing proof of residence. (M.S. 201.061, Subd. 3). A person may prove residence on election day only (1) by presenting (i) a valid Minnesota driver's license, learner's permit, or a receipt for either that contains the voter's valid address in the precinct; (ii) a valid Minnesota identification card issued by the Minnesota Department of Public Safety or a receipt for the identification card that contains the voter's valid address in the precinct; or (iii) a tribal identification card recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the name, address, signature and picture of the individual; (2) by having a valid registration in the same precinct; (3) by presenting notice of late registration mailed by the county auditor or municipal clerk; (4) by having a person who is registered to vote in the precinct and knows the applicant is a resident of the precinct sign the oath; or (5) by having an employee employed by and working in a residential facility located in the precinct, who knows the applicant is a resident of that residential facility, vouch for that facility resident and sign the oath in the presence of the election judge. The rule defines "residential facility" and specifies requirements for an employee to be eligible to sign the oath. (M.S. 201.061, Subd. 3; Minn. Rule 8200.5100, Subp. 1). (See APPENDIX 14 for form of oath.) An eligible voter may also prove residence by presenting an approved photo identification card and one of the authorized additional proofs of residence specified below. The following documents are acceptable photo identification cards if they contain the voter's name and photograph: (1) a Minnesota driver's license or identification card; (2) a United States passport; (3) a United States military identification card; (4) a student identification card issued by a Minnesota postsecondary educational institution; or (5) a tribal identification card issued by a tribe recognized by the Bureau of Indian Affairs, United States Department of the Interior, that contains the signature of the individual. An original bill for (1) telephone, television or Internet providers services regardless of how those telephone, television or Internet services are delivered; (2) gas, electric, solid waste, water or sewer services is acceptable as additional proof of residence if the bill shows the voter's home and current address in the precinct and the due date on the bill is within 30 days before or after election day. A rent statement from a landlord that itemizes utility expenses and meets the requirements above is a utility bill for purposes of providing proof of residence; or (3) a current fee statement that contains the student's valid address in the precinct is also acceptable as proof of residence. (Minn. Rule 8200.5100, Subp. 2). A voter vouched for while registering on election day may not sign a proof of residence oath vouching for any other individual on that same election day.

A voter who is registered to vote in the precinct may sign up to eight proof-of-residence oaths on any election day. This limitation does not apply to an employee of a residential facility described in law. The

secretary of state shall provide a form for election judges to use in recording the number of individuals for whom a voter signs proof-of-residence oaths on election day. See Minn. Rule 8200.9940. For each proof-of-residence oath, the form must include a statement that the individual (i) is registered to vote in the precinct or is an employee of a residential facility in the precinct, (ii) personally knows that the voter is a resident of the precinct, and (iii) is making the statement on oath. The form must include a space for the voter's printed name, signature, telephone number, and address must be attached to the voter registration application. (M.S. 201.061, Subd. 3). See APPENDIX 14 for "Oath of Vouching to Voter's Eligibility" and APPENDIX 14a for "Precinct List of Persons Vouching." The operator of a residential facility as defined in the statute shall prepare a list of the names of its employees currently working in the residential facility and the address of the residential facility. The operator shall certify the list and provide it to the appropriate county auditor no less than 20 days before each election for use in election day registration. (M.S. 201.061, Subd. 3). See APPENDIX 14b for "Residential Facility Oath of Vouching to Voter's Eligibility" and APPENDIX 14c for "Residential Facility Precinct List of Persons Vouched For."

A person in a polling place as a challenger may not swear to the residence of voters attempting to register on election day. An election judge may swear to the residence of a person, but must do so before another election judge. (Minn. Rule 8200.5200).

A school district may also require that an election judge responsible for an election day registration initial each completed registration application. (M.S. 201.061, Subd. 3).

### 6.3 Registration Procedure.

Election judges may register voters at the polling place on election day, but the judge who registers a voter shall not handle that voter's ballot any time prior to the opening of the ballot box after voting ends. (M.S. 201.061, Subd. 4).

Before registering an individual to vote at the polling place, the election judge must review any list of absentee election day registrants provided by the county auditor or municipal clerk to see if the person has already voted by absentee ballot. If the person's name appears on the list, the election judge must not allow that individual to register or to vote in the polling place. (M.S. 201.061, Subd. 4).

Registration applications and forms for oaths shall be available on election day at the polling place. (M.S. 201.061, Subd. 4).

If a voter registering on election day proves residence by oath of a registered voter, the oath form is to be attached to the individual's registration application. Applications completed on election day shall be sent to the county auditor. (M.S. 201.061, Subd. 4).

6.3.1 Unregistered Voters. No election judge may receive a vote from any individual who is not properly registered under pre-registration procedures, election day registration procedures or absentee balloting procedures. (M.S. 201.061, Subd. 5). A violation of this provision is a felony.

6.3.2 Precinct Map. The county auditor or the school district clerk shall provide each precinct in the school district with an accurate precinct map or precinct finder to help election judges determine whether an address is located in that precinct. (M.S. 201.061, Subd. 6).

6.3.3 Attempted Registrations. The judge responsible for election day registration shall try to keep a record of the number of individuals who attempt to register on election day but who cannot provide the required proof of residence. The election judge shall forward the information to the county auditor with the precinct's election return. (M.S. 201.061, Subd. 7).

## 6.4 Registration Applications.

Minnesota Statute requires that registration applications include certain specific information and a certification of voter eligibility. (M.S. 201.071). (Minn. Rule 8200.1100 and 8200.1200).

6.4.1 Instructions. Instructions specifying the manner and method of registration, voting qualifications, penalties for false registration and the availability of registration and voting assistance shall accompany the registration application. If, prior to election day, a person requests Braille instructions, instructions on audio tape or in a large print version, they are obtainable from the county auditor. (M.S. 201.071, Subd. 2).

6.4.2 Deficient Registration. A registration is not deficient if it contains the voter's name, address, date of birth, current and valid Minnesota driver's license or Minnesota state identification number, or if the voter has no current and valid Minnesota driver's license or Minnesota state identification number, the last four digits of the voter's Social Security number, if the voter has been issued a social security number, previous registration (if any), and signature. The absence of a zip code does not cause the registration to be deficient. Failure to check a box on an application form that a voter has certified to be true does not cause the registration to be deficient. An election judge is to request a voter to correct a registration application if it is deficient or illegible. (M.S. 201.071, Subd. 3).

School districts are to assist the county auditor in determining in which school district a voter resides. (M.S. 201.071, Subd. 8).

6.4.3 Emergency Voting. When any voter who has registered prior to an election day is challenged because his or her name does not appear on the polling place roster of the voters in the precinct in which the voter desires to vote, the voter may register on that election day by following the election day registration procedures. Or, if it appears upon examination that such name was erroneously omitted from the polling place roster, the voter shall be permitted to vote in the precinct after completing the required name and address information and signing the oath on the precinct polling place roster. The judges shall note on the roster that the voter was permitted to vote pursuant to instructions from the county auditor and two judges shall initial the entry. (Minn. Rule 8200.3800, Subp. 1).

6.4.4 Providing Applications to Students. All school districts shall make available voter registration applications each May and September to all students registered as students of the school district who will be eligible to vote at the next election after those months. A school district has no obligation to provide voter registration applications to students who participate in a postsecondary education option program or who otherwise reside in the district but do not attend a school operated by the district. A school district fulfills its obligation to a student under this section if it provides a voter registration application to the student one time. The school districts may request these forms from the secretary of state. School districts must advise students that completion of the voter registration applications is not a school district requirement. (M.S. 201.1611, Subd. 1).

## 6.5 Challenges.

6.5.1 Petition; Hearing. Upon petition filed with the county auditor, any voter registered within a county may challenge the eligibility or residence of any other voter registered within that county. The petition shall state the grounds for challenge and be accompanied by an affidavit stating that the challenge is based on the challenger's personal knowledge. Within five days after receipt of the petition, the county auditor shall set a date for a hearing on the challenge and notify the challenger by mail. A copy of the petition and notice of the hearing shall be served on the challenged voter by the county auditor in the same manner as in a civil action. The hearing shall be held before the county auditor or the auditor's designee who shall then make findings and affirm or dismiss the challenge. (M.S. 201.195, Subd. 1). (See APPENDIX 15 and Minn. Rule 8200.9950

for sample oath of challenge to voter's eligibility.)

6.5.2 Appeal. If a challenge is affirmed, the voter whose registration has been challenged may appeal to the Secretary of State. The appeal shall be heard within five days but in any case before election day. Upon hearing the appeal, the Secretary of State shall affirm or reverse the ruling and shall give appropriate instructions to the county auditor. (M.S. 201.195, Subd. 2). A hearing before the Secretary of State shall be conducted as a contested case and determined in accordance with M.S. Chapter 14. (M.S. 201.195, Subd. 3).

6.5.3 Record of Challenge. A record of any challenge to a voter registration shall be made a part of the statewide registration system and remain until removed according to law. The word "challenged" shall appear on the same line as or directly above the name of a challenged voter on the polling place roster. A record of any notice affixed to a voter registration application under M.S. 201.15 shall remain a part of the file until removed according to law. (Minn Rule 8200.9300, Subp. 7).

## 6.6 Violations, Penalty, Investigation, Prosecution. (2015 Session Change)

6.6.1 Intentional Violations. No officer, deputy clerk or other employee shall intentionally:

- (a) Fail to perform or enforce any of the provisions of M.S. Chapter 201 relating to voter registration, except as provided in M.S. 201.27, Subd. 2 (See Section 6.6.2);
- (b) Remove a registration application or record from its proper place in the registration files in a manner or for a purpose not authorized by law;
- (c) Destroy or make an unauthorized change to a record required to be kept by M.S. Chapter 201; or
- (d) Add a name or names to the voter registration files, records or applications, except as authorized by law.

An individual who violates these provisions is guilty of a felony. (M.S. 201.27, Subd. 1).

6.6.2 Knowledge of Violation. A deputy, clerk, employee or other subordinate of a county auditor or municipal or school district clerk who has knowledge or reason to believe that a violation of M.S. Chapter 201 relating to voter registration has occurred shall immediately transmit a report of the knowledge or belief to the county auditor or municipal or school district clerk, together with any possessed evidence of the violation. Any county auditor or municipal or school district clerk who has reason to believe that a violation of M.S. Chapter 201 has occurred, shall immediately transmit a report of the knowledge or belief to the county attorney of the county where the violation is thought to have occurred, together with any possessed evidence of the violation. The county auditor or municipal or school district clerk shall also immediately send a copy of the report to the Secretary of State. A violation of these provisions is a misdemeanor. (M.S. 201.27, Subd. 2).

6.6.3 General Penalties. An individual who intentionally violates any provision of M.S. Chapter 201 is guilty of a felony unless a different penalty is provided by law. (M.S. 201.27, Subd. 3).

6.6.4 Investigations; Prosecutions. A law enforcement agency that is notified by affidavit of a possible violation of M.S. Chapter 201 shall promptly investigate upon receiving an affidavit alleging a violation of this chapter, a county attorney shall promptly forward it to a law enforcement agency with jurisdiction for investigation. If there is probable cause for instituting a prosecution, the county attorney shall proceed **according to the generally applicable standards regarding the prosecutorial functions and duties of a county attorney, provided that the county attorney is not required to proceed with the prosecution if the complaint withdraws the allegation**. A county attorney who fails or refuses to faithfully perform any duty imposed by M.S. Chapter 201 is guilty of a misdemeanor and upon conviction shall forfeit the county attorney's office. (M.S. 201.275(a).

**Willful violation of Chapter 201 by any public employee constitutes just cause for suspension without pay or dismissal of the public employee. (M.S. 201.275(b).**

Where a matter relates to a voter registration application submitted electronically **through the secure Web site established in section 201.061, subdivision 1**, alleged violations may be investigated and prosecuted in the county in which the individual registered or attempted to register. (M.S. 201.275(c)).

6.7 Use of Voter Registration System. The county auditor must allow independent or special school districts to use the necessary portions of the statewide registration system for school district elections. The county auditor may impose reasonable requirements to preserve the security and integrity of the system. The county auditor and the school district shall provide by agreement for the details of the use of the system by the school district. The school board may designate a member of the board or an employee as registration officer. The provisions of M.S. Chapter 201 and 203 apply to school district elections in which the statewide registration system is used. (M.S. 201.096). If a voter makes a written request for removal of the voter's record from the statewide system, the county auditor must remove the record of the voter from the system. (M.S. 201.13, Subd. 4).

## 7. CANDIDATES

### 7.1 Qualifications of Candidates.

Article VII, Section 6 of the Minnesota Constitution provides:

Every person who by the provisions of this article is entitled to vote at any election and is 21 years of age is eligible for any office elective by the people in the district wherein he has resided thirty days previous to the election, except as otherwise provided in this constitution, or the constitution and law of the United States (Article VII, Section 6).

Under this provision, a candidate must meet the following requirements:

- (1) Be 21 years of age at the time the term of office begins;
- (2) Have resided in the school district for 30 days prior to the election;
- (3) Be an eligible voter (see M.S. 201.014 and Section 5 above), which includes the requirement that the individual be a citizen of the United States.

Although 18, 19 and 20 year olds are eligible voters, they do not qualify to hold office. The Minnesota Supreme Court has ruled that the Twenty-sixth Amendment to the United States Constitution does not supersede Article VII, Section 6 of the Minnesota Constitution. (Opatz v. City of St. Cloud, 293 Minn. 379, 196 N.W.2d 298 (1972)). The United States Supreme Court subsequently refused to hear the case. The candidate must be 21 by the time the term of office begins, not at the time of the election (Jude v. Erdahl, 296 Minn. 200, 207 N.W.2d 715 (1973)).

A sex offender who has been convicted of an offense which requires registration under the Predatory Offenders Registration Act is ineligible to become a candidate for the office of school board member. Ineligibility is determined by the sex offender registration requirements in effect at the time the offender files for office, not the registration requirements that were in effect at the time of the offense. (M.S. 123B.09, Subd. 1; 205A.06, Subd. 1b).

### 7.2 Incompatibility of Offices.

If a person holds one public office and is thinking of becoming a candidate for the school board, that person should make certain that the offices are not incompatible and subject to legal attack. This section is not designed to exhaust the area of incompatibility of offices because an entire handbook could be written on this subject alone. It is desirable, however, that something be mentioned to alert affected individuals.

In an early Minnesota case the Supreme Court set forth the test for compatibility when it ruled that a county superintendent of LeSueur County could also serve as superintendent of schools of Mountain Lake, Cottonwood County. The court said:

"Incompatibility does not depend upon the physical inability of one person to discharge the duties of both offices. The test is the character and relation of the offices; that is, whether the functions of the two are inherently inconsistent and repugnant." (State Ex. Rel. Young v. Hays, 105 Minn. 399, 401, 177 N.W. 615 (1908))."

Another Minnesota case involved a case where an individual was duly elected treasurer of School District No. 6 in Itasca County. In the same year, that individual was elected a county commissioner. The Supreme Court approved the Attorney General's ruling that these offices were incompatible. The court said:

"Public offices are incompatible when their functions are inconsistent, their performance resulting in antagonism, and a conflict of duty, so that the incumbent of one cannot discharge with fidelity and propriety the duties of both." (State Ex. Rel. Hilton v. Sword, 157 Minn. 263, 264, 196 N.W. 467 (1923))."

A number of Attorney General opinions have been rendered concerning compatibility and incompatibility of the office of a school board member and other public offices. Offices of village trustee and member of a school board are incompatible (Op. Atty. Gen. 358-F, April 17, 1957). The office of treasurer of a school district is incompatible with membership on a village council (Op. Atty. Gen. 358-F, June 30, 1955). Offices of city councilman and school board member are incompatible (Op. Atty. Gen. 358-F, May 21, 1954).

The offices of village clerk and member of a school board of an independent school district are incompatible where territory of the school district takes in two-thirds of the village, as well as territory lying outside of the village limits (Op. Atty. Gen. 358-F, November 24, 1947). The Attorney General has also compiled a master opinion and matrix regarding the compatibility and incompatibility of offices (Op. Atty. Gen. 358, December 18, 1970).

The legislature has expressly authorized some town board supervisors to serve concurrently on school boards. M.S. 367.033 provides:

367.033. SERVICE ON SCHOOL BOARDS; INCOMPATIBILITY OF OFFICES. Notwithstanding any other law to the contrary, a person may serve on both a school board, however organized, and a town board of supervisors concurrently. This section does not apply to members of the town board of a town exercising the powers of a statutory city under section 368.01, or a special law.

7.2.1. Conflict of Interest. M.S. 471.87 provides that, except as authorized in M.S. 471.88, a public officer who is authorized to take part in any manner in making any sale, lease or contract in official capacity shall not voluntarily have a personal financial interest in that sale, lease or contract or personally benefit financially therefrom. A public officer who violates this provision is guilty of a gross misdemeanor. M.S. 471.88 contains certain exceptions which may be authorized by unanimous vote of the board. M.S. 471.89 contains procedures that must be followed if the no competitive bidding exception is utilized. (See Chapter 3 of this handbook for the language of these statutes.)

By its terms, the conflict of interest law does not apply to a candidate who is not a member of the board (unless that person's relationship with a board member is such that the board member personally benefits financially from the sale, lease or contract). However, contracts that would have been authorized before a person became a member of the board may violate the law or at least be subject to the law if they are

amended, extended or renewed while that person is a board member.

A school board may contract with a class of school district employees such as teachers or custodians where the spouse of a school board member is a member of the class of employees contracting with the school board and the employee spouse receives no special monetary or other benefit that is substantially different from the benefits that other members of the class receive under the employment contract. A school board invoking this exception must have a majority of disinterested school board members vote to approve the contract, direct the school board member spouse to abstain from voting to approve the contract, and publicly set out the essential facts of the contract at the meeting where the contract is approved.

Also, pursuant to M.S. 123B.195, a school board member may be newly employed or may continue to be employed by a school district as an employee only if there is a reasonable expectation at the beginning of the fiscal year or at the time the contract is entered into or extended that the amount to be earned by that officer under that contract or employment relationship will not exceed \$8000 in that fiscal year. Notwithstanding the teacher continuing contract or tenure laws or any other laws, if the officer does not receive majority approval to be initially employed or to continue in employment at a meeting at which all board members are present, that employment is immediately terminated and that officer has no further rights to employment while serving as a school board member in the district.

If a candidate is doing business with the district or wishes to do business with it, or is employed by it, that person should review the conflict of interest laws with his or her legal counsel as early as possible in the process to determine their effect upon the candidate's affairs or employment.

### 7.3 Candidacy by Filing.

The school district election law provides as follows:

7.3.1 Notice of Filing Dates; Publication and Posting. At least two weeks before the first day to file affidavits of candidacy, the school district clerk shall publish a notice in the official newspaper stating the first and last dates on which affidavits of candidacy may be filed in the clerk's office and the closing time for filing on the last day for filing. Note that the Secretary of State's office takes the position that the office must be open until 5:00 p.m. to receive filings on the last day for filing. The clerk shall post a similar notice in the administrative offices of the school district at least ten days before the first day to file affidavits of candidacy. (M.S. 205A.06, Subd. 2). (See APPENDIX 16 for a sample resolution and a sample form of notice.) Note that adoption of the resolution is not necessary, but publication of the notice is mandatory.

7.3.2 Date for Filing Affidavit of Candidacy. In school districts that have opted into the primary election system, the date for filing shall be no earlier than the 84th day and no later than the 70th day before the second Tuesday in August (M.S. 205A.06, Subd. 1a). In all other school districts, affidavits of candidacy must be filed no earlier than the 98th day and no later than the 84th day before the school district general election. If the district is divided into election districts, the candidate must file an affidavit of candidacy to be selected as a school board member for the election district in which the candidate resides (M.S. 205A.12, Subd. 5). If the individual is filing for a special election to fill a vacancy (see section 7.7.3.2. below), the person must file an affidavit of candidacy specifically for that position. Affidavits of candidacy need not be filed personally by the candidate, but the affidavit should be executed during the filing period (Op. Atty. Gen. 473A-6, February 28, 1963). The filing of an affidavit of candidacy is accomplished by actual filing at the proper office and not by mere deposit in the U.S. Mail. Harris v. Donovan, 129 N.W.2d 797 (1964). For an affidavit of candidacy to be properly filed, it must be both filed before the deadline and filed with the appropriate election official. This requirement is mandatory. Smith v. Kiffmeyer, 721 N.W.2d 912 (2006).

A candidate for the office of school board member who will be absent from the state during the filing

period may submit a properly executed affidavit of candidacy, the appropriate filing fee, and any necessary petitions in person to the clerk. The candidate must state in writing the reason for being unable to submit the affidavit during the filing period. The affidavit, filing fee and petitions must be submitted to the clerk during the seven (7) days immediately preceding the candidate's absence from the state. (M.S. 205A.06, Subd. 1c).

7.3.3 Form of Affidavit of Candidacy. The affidavit of candidacy must be in substantially the form provided in M.S. 204B.06, Subd. 1. (See APPENDIX 17 for form of affidavit of candidacy).

The affidavit of candidacy must state:

- (a) The name of the office sought;
- (b) That the candidate:
  - (i) is an eligible voter; and
  - (ii) has no other affidavit on file as a candidate for any office at the same primary or next ensuing general election; and
  - (iii) is, or will be on assuming the office, 21 years of age or more; and
  - (iv) will have maintained residence in the school district (or, if election districts have been established, the election district) from which the candidate seeks election for 30 days before the general election.
- (c) That the candidate's name as written on the affidavit for ballot designation is the candidate's true name or the name by which the candidate is commonly and generally known in the community.

An affidavit of candidacy must state a telephone number where the candidate can be contacted. An affidavit of candidacy must also state the candidate's address of residence or, at the candidate's request, the candidate's campaign contact address. The affidavit of candidacy must allow the candidate to request, if eligible, that the candidate's address of record be classified as private data, and to provide the required certification for classification of that address. (M.S. 204B.06, Subd. 1b (a)).

For an office whose residency requirement must be satisfied by the close of the filing period, a registered voter in this state may request in writing that the filing officer receiving the affidavit of candidacy review the address as provided in this paragraph, at any time up to one day after the last day for filing for office. If requested, the filing officer must determine whether the address provided in the affidavit of candidacy is within the area represented by the office the candidate is seeking. If the filing officer determines that the address is not within the area represented by the office, the filing officer must immediately notify the candidate and the candidate's name must be removed from the ballot for that office. A determination made by a filing officer under this provision is subject to judicial review under section 204B.44. (M.S. 204B.06, Subd. 1b (b)).

If the candidate requests that the candidate's address of residence be classified as private data, the candidate must list the candidate's address of residence on a separate form to be attached to the affidavit. The candidate must also certify on the affidavit that a police report has been submitted or an order for protection has been issued in regard to the safety of the candidate or the candidate's family. The address of residence provided by a candidate who makes a request for classification on the candidate's affidavit of candidacy and provides the certification required by this paragraph is classified as private data, but may be reviewed by the filing officer. (See APPENDIX 17b). (M.S. 204B.06, Subd. 1b (c)).

7.3.4 Filing Fees. The filing fee for school district office is \$2. (M.S. 205A.06, Subd. 3). Once the affidavit of candidacy has been filed and the filing fee paid, the filing fee shall not be refunded.

If a candidate's filing fee is paid with a check, draft, or similar negotiable instrument for which sufficient funds are not available or that is dishonored, notice to the candidate of the worthless instrument

must be sent by the filing officer via registered mail no later than immediately upon the closing of the filing deadline with return receipt requested. The candidate will have five days from the time the filing officer receives proof of receipt to issue a check or other instrument for which sufficient funds are available. The candidate issuing the worthless instrument is liable for a service charge pursuant to M.S. 332.50. If adequate payment is not made, the name of the candidate must not appear on any official ballot and the candidate is liable for all costs incurred by election officials in removing the name from the ballot. (M.S. 204B.11).

**7.3.5 Petition in Place of Filing Fees.** A candidate for the school board may file a petition in place of the required \$2 filing fee. (M.S. 205A.06, Subd. 4). The petition must be signed by individuals eligible to vote for the candidate and must meet the requirements of M.S. 204B.11, Subd. 2, which requires the petition to be signed by the lesser of 500 signatures or 5% of the total number of votes cast in the school district or the election district at the preceding general election at which that office was on the ballot.

The clerk must provide sample petition forms. (See APPENDIX 18 for sample form).

**7.3.6 Distribution of Materials to Candidates.** At the time the affidavit of candidacy is filed, the clerk shall distribute to each candidate the digest of Chapter 211 prepared by the Secretary of State (the Minnesota Campaign Manual - available on the Secretary of State's website or through the county auditor), a financial reporting form (APPENDIX 60) and a Certification of Filing Form (APPENDIX 61). (M.S. 211B.14).

**7.4 Candidacy by Application.** The school district election law authorizes candidacy by application. The school district clerk may accept, within the same timelines as for filing an affidavit of candidacy, an application signed by at least five voters and filed on behalf of an eligible voter in the school district whom they desire to be a candidate. The Secretary of State takes the position that the applicant must state his or her willingness to run by signing the application. Service of a copy of the application must have been made on the candidate and proof of service must be endorsed on the application being filed. Upon receipt of the proper filing fee, the clerk shall place the name of the candidate on the ballot. (M.S. 205A.06, Subd. 1).

No individual shall be nominated by a nominating petition for election to the school board. (M.S. 205A.06, Subd. 11; 205A.03, Subd. 6) (See Section 9.9 below).

**7.4.5 Ineligible Candidates.** Upon receipt of a certified copy of a final judgment or order of a court of competent jurisdiction that a person who has filed an affidavit of candidacy or who has been nominated by petition: 1) has been convicted of treason or a felony and the person's civil rights have not been restored; 2) is under guardianship in which the court order revokes the ward's right to vote; or 3) has been found by a court of law to be legally incompetent; the filing officer shall notify the person by certified mail at the address shown on the affidavit or petition, and shall not certify the person's name to be placed on the ballot. The actions of a filing officer under this subdivision are subject to judicial review under section 204B.44. (M.S. 204B.10, Subd. 6). A sex offender who has been convicted of an offense which requires registration under the Predatory Offenders Registration Act is ineligible to become a candidate for the office of school board member and may not file an Affidavit of Candidacy. (M.S. 205A.06, Subd. 1b).

**7.5 Withdrawal of Candidacy.** A candidate for the school board may withdraw from the election by filing an affidavit of withdrawal with the school district clerk by 5:00 p.m. two days after the last day for filing affidavits of candidacy. After that date, no candidate may file an affidavit of withdrawal. (M.S. 205A.06, Subd. 5). (See APPENDIX 19 for form of affidavit of withdrawal.) The filing fee is not refundable upon withdrawal.

**7.6 Prohibition on Multiple Candidacy.** A candidate who files an affidavit of candidacy for an office to be elected at the general election may not subsequently file another affidavit of candidacy for any other office to be elected on the date of that general election, unless the candidate withdraws the initial affidavit pursuant to

section 204B.12. (M.S. 204B.04, Subd. 4).

### 7.7 School Board Vacancies. (2015 Session Change)

7.7.1 Occurrence of Vacancy. A vacancy on a school board occurs when a member dies or resigns or ceases to be a resident of the district or is unable to serve on the board and attend its meetings for not less than 90 days because of illness or prolonged absence from the district. (M.S. 123B.09, Subd. 3).

7.7.2 Filling Vacancies Caused by Illness or Prolonged Absence. A vacancy caused by a member being unable to serve on the board and attend its meetings for not less than 90 days because of illness or prolonged absence from the district, may, after the board has by resolution declared such vacancy to exist, be filled by the board at any regular or special meeting for the remainder of the unexpired term, or until the ill or absent member is again able to resume duties as a member of the board, whichever date is earliest. When the ill or absent member is again able to resume duties as a member of the board, the board shall by resolution so determine and declare such person to be again a member of the board, and the member appointed by the board to be no longer a member thereof. (M.S. 123B.09, Subd. 4).

7.7.3 Options for Filling Vacancies. Except as provided in M.S. 123B.09, Subd. 4 (See 7.7.2 above), a vacancy in the office of school board member may be filled as provided in M.S. 123B.095, Subds. 1 and 2 or as provided in Subd. 3 of that section.

7.7.3.1 Special Election. If the vacancy is filled under M.S. 123B.09, Subdivision 1 and 2, it must be filled by special election. The school board may by resolution call for a special election to be held according to the earliest of the following time schedules:

- (1) not less than 120 days following the date the vacancy is declared, but no later than 12 weeks prior to the date of the next regularly scheduled primary election;
- (2) concurrently with the next regularly scheduled primary election and general election; or
- (3) no sooner than 120 days following the next scheduled general election.

The person elected at the special election shall take office immediately after receipt of the certificate of election and taking the oath of office and shall serve the remainder of the unexpired term.

7.7.3.2 Victor at Next General Election Seated Immediately. If vacancy for which a special election is required occurs less than 120 days before the general election preceding the end of the term, the vacancy shall be filled by the person elected at that general election for the ensuing term, who shall take office immediately after receiving the certificate of election and taking the oath of office.

7.7.3.3 Vacancies of Less Than One Year; Appointment Option: Except as provided in M.S. 123B.09, Subd. 4 (See 7.7.2 above) and as an alternative to the procedures specified in 123B.09, Subds. 1 and 2 (See 7.7.3.1 and 7.7.3.2 above), any other vacancy in the office of school board member may be filled by board appointment at a regular or special board meeting. The appointment shall be evidenced by a resolution entered in the minutes and shall continue until an election is held under M.S. 123B.09, Subd. 3. All elections to fill vacancies shall be for the unexpired term.

If one year or more remains in the unexpired term, a special election must be held under M.S. 123B.09, Subd. 1 (See 7.7.3.1 above).

If less than one year remains in the unexpired term, the school board may appoint a person to fill the vacancy for the remainder of the unexpired term. However, if the vacancy occurs within 90 days of the next school district general election, an appointment shall not be made and the vacancy must be filled at the general election. The person elected to fill a vacancy at the general election takes office

immediately in the same manner as for a special election under subdivision 1 (See 7.7.3.1 above) and serves the remainder of the unexpired term and the new term for which the election was otherwise held.

**7.7.3.4 Public Hearing for Vacancy Appointment.** Before making an appointment to fill a vacancy under M.S. 123B.09, Subd. 3 (See 7.7.3.3. above), the school board must hold a public hearing not more than 30 days after the vacancy occurs, with public notice given in the same manner as for a special meeting of the school board (See M.S. 13D.04).

At the public hearing, the board must invite public testimony from persons residing in the district in which the vacancy occurs relating to the qualifications of prospective appointees to fill the vacancy. Before making the appointment, the board must also notify public officials in the school district on the appointment, including county commissioners, town supervisors and city council members, and must enter into the record at the board meeting in which the appointment is made the names and addresses of the public officials notified.

If, after the public hearing, the board is unable to decide or decides not to make an appointment, it must hold a special election under subdivision 1 (See 7.7.3.1 above), but the time period in which the election must be held begins to run from the date of the public hearing.

**7.7.3.5 Member Cannot Vote for Successor.** There is a long line of Attorney General opinions, which are binding on school districts, which provide that a current member of the board cannot vote on a successor to fill his or her pending vacancy. Op. Atty. Gen. 1938 Report, No. 57; Op. Atty. Gen. 471-M April 8, 1941; Op. Atty. Gen. 471-M, January 9, 1943; Op. Atty. Gen. 63-A-11, July 23, 1945; Op. Atty. Gen. 161-A-25, December 27, 1945; Op. Atty. Gen. 471-M, April 12, 1956.

**7.7.4 Restrictions on Appointments.** A person appointed as a school board member must meet the same requirements as a candidate (See Section 7.1 above). In addition, if the election or nomination of an individual has been set aside for a violation of M.S. Chapter 211A or 211B, that individual may not be appointed or elected to fill the vacancy during the term of the office. (M.S. 211A.10; 211B.17). (See Sections 16.2.8, 16.2.9, 16.18 and 16.19 below.) Also a school board member may not be appointed to fill a vacancy if that board member has the power as a member of the board to make the appointment. (M.S. 471.46).

Because a person who has been convicted of an offense which requires registration under the Predatory Offenders Registration Act could not be a candidate for the office of school board member under M.S. 123B.09, Subd. 1a and 205A.06, Subd. 1b, presumably that person could not be appointed as a school board member either.

**7.7.5 Removal.** The board may remove, for proper cause, any member or officer of the board and fill the vacancy. The removal must be by a concurrent vote of at least four members, at a meeting of whose time, place and object the charged member has been duly notified. The charged member must be given the reasons for the proposed removal and have an opportunity to be heard in defense against the removal. (M.S. 123B.09, Subd. 9). Note that removal of a school board member or any elected public official is a very serious matter and advice should be sought from legal counsel prior to consideration of such an action.

## 8. BALLOTS

**8.1.1 Ballot Preparation and Printing.** The school district clerk shall prepare and have printed the necessary election materials, including ballots, for a school district election. (M.S. 205A.10, Subd. 1). Note that these duties may be carried out by the county auditor or municipal clerk for school elections held in conjunction with state or municipal elections. The ballots for school district elections must be prepared in the manner

provided in the rules of the Secretary of State. (M.S. 205A.08, Subd. 5).

If the school district schedules its election in conjunction with a city or township primary or general election, the city or town shall determine the voting method at that election or at the portion of the election it conducts. (M.S. 204B.35, Subd. 5).

All ballots shall be prepared in accordance with sections 204B.35 to 204B.44 and Chapter 204D, except for electronic voting system ballots or as otherwise provided by law. (M.S. 204B.35, Subd. 1). The ballots are to be prepared in a manner that enables the voters to understand which questions are to be voted on and the identity and number of candidates to be voted for in each office and to designate their choices easily and accurately. (M.S. 204B.35, Subd. 2).

8.1.2 Number of Ballots. The clerk shall prepare a sufficient number of ballots to fill applications of absentee voters and to provide each precinct with a sufficient number of ballots of each kind as required by statute. (M.S. 204B.35, Subd. 3). The clerk shall furnish each precinct with 100 ballots of each kind for every 85 individuals who voted in that precinct at the last election for the same office or on similar questions, or with ballots of each kind in an amount at least ten percent greater than the number of votes which are reasonably expected to be cast in that precinct, whichever supply of ballots is greater. (M.S. 204B.29).

8.1.3 Absentee Ballots. Ballots necessary to fill applications of absentee voters shall be prepared and delivered at least 46 days before the election to the officials who will administer the election. (M.S. 204B.35, Subd. 4). If no official ballots are ready at the time absentee balloting is scheduled to begin or the supply is exhausted before absentee balloting ends, the county auditor or municipal clerk shall prepare unofficial ballots, printed or written as nearly as practicable in the form of the official ballots. These ballots may be used until the official ballots are available. (M.S. 203B.06, Subd. 3a). See also Section 8.7 below.

8.1.4 Printer's Bond; Penalties. Before a contract exceeding \$1,000 is awarded for printing ballots (if the district contracts for their printing), the printer shall, if requested by the official, furnish a sufficient bond, letter of credit, or certified check, acceptable to the official responsible for printing the ballots, conditioned on printing the ballots in conformity with the Minnesota election law and the instructions delivered. The official responsible for printing the ballots shall set the amount of the bond, letter of credit, or certified check in an amount equal to the value of the purchase (M.S. 204D.04, Subd. 2).

8.1.5 Penalty. Every person authorized or employed to print official ballots who knowingly gives or delivers those ballots to, or knowingly permits them to be taken by, any person other than the official under whose direction they are being printed, or who knowingly prints any ballot or causes or permits any ballot to be printed in a form other than that prescribed by law, or with any other names on it, or with the names of candidates or the titles of offices arranged or the names of candidates spelled in any way other than that authorized and directed by that official, is guilty of a felony. (M.S. 204B.43).

## 8.2 Ballot Requirements.

See Section 12 relating to ballots for use in electronic voting systems.

## 8.3 Election of Candidates.

8.3.1 Primary Ballots. The school district primary ballot must conform as far as practicable with the school district general election ballot. (M.S. 205A.08, Subd. 2).

8.3.2 Vacancies. The names of candidates to fill vacancies at a school district special election held in conjunction with the primary or general election must be placed on the school district primary and general

election ballots. (M.S. 205A.08, Subd. 3).

8.3.3 Sample Ballot. No sample ballot shall be printed on paper the same color as any official ballots. A violation of this provision is a misdemeanor. (M.S. 204B.42).

8.3.4 Optical Scan Systems. In precincts using optical scan systems, all ballots must be printed on white colored material. (M.S. 206.90, Subd. 6). (See Minn. Rule 8250.1810 for ballot formats for optical scan ballots.)

#### 8.4 Form of Ballots; Election of Candidates. (2015 Session Change)

8.4.1 General Election. The title of the office being filled, i.e. SCHOOL BOARD MEMBER should appear at the top of the ballot. Directly underneath the official title shall be printed the words "Vote for one" or "Vote for up to \_\_\_\_\_" (any greater number to be elected). (M.S. 204B.36, Subd. 2).

At a general election, blank lines containing the words "write-in, if any" shall be printed below the name of the last candidate for each office, or below the title of the office if no candidate has filed for that office, so that a voter may write in the names of individuals whose names are not on the ballot. One blank line shall be printed for each board member to be elected. (M.S. 204B.36, Subd. 2). (See APPENDIX 5 for resolution calling general election, including form of ballot.)

8.4.2 Primary. The school district primary ballot must conform as far as practicable with the school district general election ballot except that no blank spaces may be provided for writing in names of candidates. (M.S. 204B.36, Subd. 2; M.S. 205A.08, Subd. 2).

8.4.3 Election to Fill Vacancies. The names of candidates to fill vacancies at a school district special election, **whether or not** held in conjunction with the school district primary or general election, must be placed on the school district ballot. The names of candidates to fill a vacancy in the office of school board member must be listed under the separate heading "SPECIAL ELECTION FOR SCHOOL BOARD MEMBER to fill vacancy in term expiring January \_\_\_\_\_, 20 \_\_," with the date of expiration of the term and any other information necessary to distinguish the office (such as the number of an election district, if applicable). (M.S. 205A.08, Subd. 3). In all other ways it should conform to the school district general and primary election ballot provisions. (Minn. Rule 8250.1810, Subp. 16).

8.4.4 Names on Ballots. The name of a candidate shall not appear on a ballot in any way that gives the candidate an advantage over an opponent, including words descriptive of the candidate's occupation, qualifications, principles or opinions except as otherwise provided by law. (M.S. 204B.35, Subd. 2). However, when the similarity of both the first and last names of two or more candidates for the same office at the same election may cause confusion to voters, up to three additional words may be printed on the ballot after each surname to indicate the candidate's occupation, office, residence or any combination of them if the candidate furnishes the identifying words to the filing officer by the last day for withdrawal of candidacy. (M.S. 204B.38). The provision which formerly allowed married women or widows to use the title "Mrs." and the name or initials of her husband, or deceased husband, has been repealed and a married or widowed female candidate must now use her own name.

8.4.5 Rotation of Names on Ballot. See Section 12.38.3 below regarding rotation on electronic voting systems. The sample ballots for a polling place must reflect the offices, candidates and rotation sequence on the ballots used in that polling place. (M.S. 204C.08, Subd. 2a).

#### 8.5 Questions.

8.5.1 Color of Ballot. No sample ballots shall be printed by any person on paper the same color as the official ballots (white). A violation of this provision is a misdemeanor. (M.S. 204B.42).

8.5.2 Form of Ballot. When a question is to be submitted to a vote, a concise statement of the nature of the question shall be printed on the ballot. (M.S. 204B.36, Subd. 3). The title for each ballot question must not contain more than 10 words. (Minn. Rule 8250.0397, Subp. 2).

(See APPENDIX 6 for resolution containing sample ballot question.)

Any question submitted to the voters at a general or special election that authorizes a property tax levy or a tax rate increase, including the issuance of debt obligations payable in whole or in part from property taxes, must include on the ballot the following notice in bold-face type: "BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE." (M.S. 275.60) See M.S. 126C.17 and M.S. 123B.63 for exceptions to this language for certain ballot questions extending existing referendum revenue authorizations and capital project levy authorizations.

8.5.3 Advisory Questions or Referendums. Nowhere in the Education Code or the election law are advisory ballots authorized for school districts. The law is clear that advisory questions may not be submitted to the electorate unless authorized by the Constitution or statutes. (Howard v. Holm, 208 Minn. 589, 296 N.W. 30 (1940)). Therefore, as an example, if a school board wished to ascertain whether a course in sex education should be taught, it would be precluded from submitting the issue to the voters in the form of an advisory ballot.

The advisory ballot issue should, however, be distinguished from a petition for a special election. The Attorney General has ruled that when a school board has been petitioned to call a special election on a valid question requiring voter approval, such as the question of issuing bonds, that election must be held. An affirmative vote in such an election authorizing the issuance of bonds does not, however, compel the board to issue the bonds (Op. Atty. Gen. 159-a-3, May 25, 1970).

The reasons cited for precluding submission of advisory questions, even if the costs may be paid by someone other than the school district, are set forth in Muehring v. School District No. 31 of Stearns County, 224 Minn. 432, 437, 28 N.W.2d 655 (1947). The Minnesota Supreme Court held:

When there is no statutory authorization for submission of a question to the voters for their decision, such a submission by a public authority clothed with power with respect to the question submitted constitutes an unauthorized redelegation of delegated power. In such a case, because the voters lack power with respect to the question submitted and because the public authority lacks the power to confer it upon them, submission of the question to the voters is without legal effect, and their decision is in no way controlling or binding.

The Attorney General was asked to rule whether the printing of an informal ballot by city officers, giving the voters the opportunity to express their opinions whether the city should acquire lands for and construct an airport would affect the validity of the general election in November. (Op. Atty. Gen. 234-B, October 12, 1942). The Attorney General ruled:

. . . the city has no right to defray the cost of printing the informal ballots or other costs incurred in and about the taking of such a referendum. The city would have no right to pay the election officials for time spent in counting and tallying the referendum ballots.

The duties of judges and other election officials with respect to the polling places and conduct of the election are specified in the election laws. Their duties do not require them to pass out, count and tally

such unofficial ballots and they could not be compelled to do so. It would be no defense to a charge of violating the laws prescribing their duties to make answer that the violation occurred in the course of or by reason of the holding of a referendum on a question not before the electorate at the election.

The Attorney General later ruled that it makes no difference whether the costs to the village are slight or the costs will be paid by donations. (Op. Atty. Gen. 185-B-2, August 22, 1961).

#### 8.6 Substitute Ballots.

If a sufficient number of official ballots are not delivered or if the official ballots are stolen or destroyed and a sufficient number of official ballots cannot be procured, the official in charge of preparing the official ballots shall prepare substitute ballots in the form prescribed herein. The substitute ballots shall be prepared in the same form as official ballots as far as practicable. The word "Substitute" shall be printed in brackets immediately above the words "Official Ballot." When the substitute ballots are delivered to the municipal or school district clerks or election judges, they shall be accompanied by an initialed affidavit of the officer preparing them. The affidavit shall state that the substitute ballots have been prepared and furnished in the manner prescribed by this section and shall state the reason why sufficient official ballots were not ready for delivery. The election judges shall include this affidavit with the election returns from that precinct. (M.S. 204B.39). (See APPENDIX 22 for form of affidavit.)

#### 8.7 Unofficial Ballots.

When no official or substitute ballots are ready at the time when voting is scheduled to begin, or if the supply is exhausted before the voting ends, the election judges shall contact the school district clerk and, at the clerk's direction, shall prepare unofficial ballots, printed or written as nearly as practicable in the form of the official ballots, which ballots may be used until official or substitute ballots are available. When unofficial ballots are prepared and used in any precinct, the election judges shall note that fact on the summary statement of the returns for that precinct and specify the number of unofficial ballots that were cast. (M.S. 204B.30).

#### 8.8 Vacancy in Nomination.

M.S. 204B.131 specifies a method of filling a vacancy in a nomination which occurs after a primary or after the last day for filing occurs. (See Section 9.9 below relating to vacancies in nomination).

### 9. PRIMARY ELECTIONS

#### 9.1 General.

If a school district wishes to be subject to the primary election law, the school board must adopt a resolution opting into that system. The board must adopt the resolution by April 15 of the first year the board wishes the district to be subject to the primary law. (See APPENDIX 4a for a model resolution). That resolution is effective for all ensuing elections until it is revoked. Even if the board opts into the system, a primary will only be held if more than two candidates for a specified school board position or more than twice as many school board candidates as there are at-large positions available file for office. (M.S. 205A.03).

#### 9.2 Filing Dates.

If the board adopts the resolution opting into the primary election system, affidavits of candidacy must be filed with the school district clerk no earlier than the 84th day and no later than the 70th day before the

second Tuesday in August in the year in which the school district general election is held. (M.S. 205A.06, Subd. 1a).

### 9.3 Date.

A school district primary election may only be held on the second Tuesday in August in the year when the school district general election is held. (M.S. 205A.03, Subd. 2). Each year a primary is to be held, a specific resolution initiating the election must be adopted. (See APPENDIX 4 for sample resolution calling the election.)

### 9.4 Notice.

The school district clerk must give 74 days notice to each county auditor, and must give ten days posted and two weeks published notice of the primary in the manner specified in M.S. 205A.07. (See Section 4.1 above.) The clerk must also post a sample ballot in the administrative offices of the school district four days before the primary and post a sample ballot in each polling place on election day. (See APPENDIXES 12 and 13 for sample affidavits of posting.) In addition, the clerk shall give posted and published notice of the dates to file affidavits of candidacy. (M.S. 205A.06, Subd. 2). (See Section 7.3.1 above and APPENDIX 16).

### 9.5 Candidates Filing.

The clerk shall place upon the primary ballot without partisan designation the names of individuals whose candidacies have been filed and for whom the proper filing fee has been paid. (See Sections 7.3 and 7.3.4 above relating to filing and fees). When not more than twice as many school board candidates as there are at-large positions available file for nomination for the office or when not more than two candidates for a specified school board position file for nomination to that office, their names must not be placed upon the primary ballot and instead must be placed on the school district general election ballot as nominees for that office. (M.S. 205A.03, Subd. 3).

### 9.6 Ballots.

The school district primary ballots must conform as far as practicable with the school district general election ballot except that no blank spaces may be provided for writing-in the names of candidates. (M.S. 205A.08, Subd. 2).

### 9.7 Results.

The school district primary must be conducted and the returns made in the manner provided for the state primary as far as practicable. If the primary is conducted only within that school district (odd year), the canvass may be conducted on either the second or third day after the primary. If the primary is conducted in conjunction with the state primary, the canvass must be conducted on the third day after the primary unless the county auditor of each county in which the school district is located agrees to complete its administrative review of the school district primary within a time period that allows the canvass to be completed on the second day after the primary. The school board shall canvass the returns, and the two candidates for each specified school board position who receive the highest number of votes, or a number of candidates equal to twice the number of individuals to be elected to at-large school board positions who receive the highest number of votes, are the nominees for the school board. Their names must be certified to the school district clerk who shall place them on the school district general election ballot without partisan designation and without payment of an additional fee. (M.S. 205A.03, Subd. 4). (See APPENDIX 50 for primary election canvassing resolution.)

## 9.8 Recount.

A losing candidate at the school district primary may request a recount of votes for that nomination subject to section 204C.36. (M.S. 205A.03, Subd. 5). (See Section 15.4 below.)

## 9.9 Vacancy in Nomination.

9.9.1 Death or Withdrawal. A vacancy in nomination exists when a nonpartisan candidate files an affidavit of withdrawal, or a candidate for a nonpartisan office, for which only one or two candidates filed or who was nominated at a primary, dies on or before the 79<sup>th</sup> day before the date of the general election. (M.S. 204B.131, Subd. 1).

9.9.2 Filling Vacancy. A vacancy in nomination may be filled by filing an affidavit of candidacy and paying a filing fee or by filing an affidavit of candidacy and filing a petition in place of the filing fee in the manner provided in M.S. 204B.06 to 204B.09 and 204B.11. All documents and fees so required must be filed within five days after the vacancy in nomination occurs. There must be a two day period for withdrawal of candidates after the last day for filing. If the vacancy in nomination resulted from a withdrawal during the withdrawal period held on the 68<sup>th</sup> to 69<sup>th</sup> day before the primary, and, if at the end of the withdrawal period to fill the vacancy in nomination, there are more than two candidates, the candidates' names must appear on the primary ballot. In all other cases, the candidates' names must appear on the general election ballot. (M.S. 204B.131, Subd. 2).

## 10. ABSENTEE BALLOT VOTING

### 10.1 General.

The procedures and standards for absentee balloting are specified in M.S., Chapter 203B. The Minnesota election law is applicable to voting by absentee ballot unless otherwise provided in M.S. Chapter 203B (M.S. 203B.001). The procedures will differ depending on whether the school district election is held totally alone or whether it is held on the same day as a statewide election or an election for a county or municipality located partially or wholly within the school district.

### 10.2 Eligibility Requirements - Who May Vote by Absentee Ballot. (2015 Session Change)

10.2.1 Absentee Voting Eligibility. Any eligible voter may vote by absentee ballot as provided in sections 203B.04 to 203B.15. (M.S. 203B.02, Subd. 1).

10.2.1.1. Permanent Absentee Voter Status. An eligible voter may apply to a county auditor or municipal clerk to automatically be provided with an absentee ballot application for each ensuing election other than an election by mail conducted under section 204B.45, and must have the status of permanent absentee voter indicated on the voters registration record.

Ongoing absentee voter status ends on: (1) the voter's written request; (2) the voter's death; (3) return of an absentee ballot as undeliverable; (4) a change in the voter's status to "challenged" or "inactive" in the statewide voter registration system. (M.S. 203B.04, Subd. 5).

10.2.2 Military Service; Temporary Absence. An eligible voter who is either in the military, or is a spouse or dependent of an individual serving in the military, or who is temporarily outside the territorial limits of the United States may vote by absentee ballot. (M.S. 203B.02, Subd. 2). (See Section 10.2.4 below.)

10.2.3 Indefinite Residence Abroad. A United States citizen living indefinitely outside the United States

who is eligible under federal law to vote in federal elections in Minnesota **because they, or if they have never resided in the United States, a parent maintained resident in Minnesota for at least 20 days immediately prior to their departure from the U.S.**, may vote by absentee ballot but is not eligible to vote in school district elections. (M.S. 203B.16, Subd. 2).

10.2.4 Absent Voters in the Military or Outside the United States. M.S. 203B.16 to 203B.27 provide alternative voting procedures for eligible voters who are absent from the precinct where they maintain residence because they are either in the military or the spouses or dependents of individuals serving in the military or are temporarily outside the territorial limits of the United States.

10.2.4.1 Application for Ballot. An application for absentee ballots for a voter described above who is in the military or is temporarily outside the United States may be submitted by the voter or by the voter's parent, spouse, sister, brother or child over the age of 18. The application may be submitted in writing or by facsimile or by e-mail if the Secretary of State so approves. The application is submitted to the county auditor of the county where the voter **or the voter's parent last maintained** residence. An application for absentee ballots shall be valid for any primary, special primary general election or special election from the time the application is received through the end of that calendar year. There is no time limit for filing and receiving applications for ballots. (M.S. 203B.17). The form of the application is specified in Minn. Rule 8210.0200, Subp. 1c. (Contact the county auditor or the Secretary of State for the most current form of application for ballots.)

10.2.4.2 Receipt and Recording. If an application is received by the wrong election official, it shall be forwarded to the proper county auditor. (M.S. 203B.18).

Upon accepting an application, the county auditor shall record in the statewide registration system specified information about the voter. A voter whose name is so recorded is not required to register to vote under any other provision of the law in order to vote under M.S. 203B.16 and 203B.17. (M.S. 203B.19).

10.2.4.3 Challenges. The eligibility of a voter making such an application to vote may be challenged as provided in M.S. 201.195 and Section 6.5 above. (M.S. 203B.20).

10.2.4.4 Ballots and Envelopes. The ballots and instructions for marking them, ballot envelopes and return envelopes shall be sent by first class mail to addresses within the continental United States and by air mail to addresses outside the continental United States. (M.S. 203B.21). (See Minn. Rule 8210.0800 for specifications for absentee ballot return envelopes and for affidavits of eligibility.)

10.2.4.5 Mailing Ballots. The county auditor must transmit the appropriate ballots as promptly as possible to the absent voter. Only one set of ballots shall be transmitted to any applicant for any election. (M.S. 203B.22). All materials mailed in connection with absentee voting shall bear the official United States Postal Service Election Mail insignia. All envelopes shall also bear a legend indicating the ballot category enclosed in no smaller than 8-point type. (Minn. Rule 8210.0050).

10.2.4.6 Application Records. When election materials are transmitted to school district or municipal clerks, the county auditor shall also transmit a certified copy of the record of additional applications received for absentee ballots to be cast in that town, school district or city. The clerks shall provide the records to the ballot board. (M.S. 203B.23, Subd. 2).

10.2.4.7 Duties of Election Judges. Upon receipt of an absentee ballot returned under these provisions, the election judges shall compare the voter's name with the names appearing on the application records to insure the voter is eligible to cast an absentee ballot. The election judges shall mark the return envelope "Accepted" and initial or sign the return envelope below the word "Accepted" if the election judges are satisfied that:

- (1) the voter's name on the return envelope appears in substantially the same form as on the application records provided to the election judges by the county auditor;
- (2) the voter has signed the federal oath prescribed pursuant to section 705(b)(2) of the Help America Vote Act, Public Law 107-252;
- (3) the voter has set forth the voter's passport number, or Minnesota driver's license or state identification card number, or the last four digits of the voter's Social Security number, as submitted on the application, if the voter has one of those documents;
- (4) the voter is not known to have died; and
- (5) the voter has not already voted at that election, either in person or by absentee ballot.

An absentee ballot case pursuant to sections 203B.16 to 203B.27 may only be rejected for the lack of one of clauses (1) to (4). In particular, failure to place the envelope within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot.

Election judges must note the reason for rejection on the back of the envelope in the space provided for that purpose. (M.S. 203B.24, Subd. 1).

Failure to return unused ballots does not invalidate a marked ballot, but a ballot shall not be counted if the affidavit on the return envelope is not properly executed. (M.S. 203B.24, Subd. 1).

The election judges shall compare the voter's names with the names appearing on their copy of the application records to insure that the voter has not already returned a ballot in the election. The election judges must indicate on the record whether an absentee ballot was assigned for each applicant whose name appears on the record. If the voter casts a ballot in person on election day, no absentee ballot shall be counted for that voter. If more than one return envelope is received from a voter, the ballots in the return envelope bearing the latest date shall be counted and the uncounted ballots shall be returned by the judges with the rejected ballots. The election judges must preserve the record and return it to the county auditor or clerk with the election day materials. (M.S. 203B.24, Subd. 2).

10.2.4.8 Death of Voter. If the election judges receive proof that a voter who has returned an absentee ballot under these provisions has died before the time when voting is scheduled to begin on election day, the ballot of the deceased voter shall be returned by the election judges with the rejected ballots. The counting of the absentee ballot of such a deceased voter shall not invalidate an election. (M.S. 203B.24).

10.2.4.9 Separate Record. A separate record of the ballots cast under these sections must be generated from the statewide registration system for each precinct. (M.S. 203B.26).

### 10.3 Application for Absentee Ballot.

10.3.1 Time; General. Except in the case of certain health care patients, an application for absentee ballots for any election may be submitted at any time not less than one day before the date of that election. (M.S. 203B.04, Subd. 1).

An eligible voter may apply to a county auditor or municipal clerk to automatically receive an absentee ballot application before each election (other than an election conducted by mail) and to have the status as a permanent absentee voter indicated on the voter's registration record. (M.S. 203B.04, Subd. 5). (See also Minn. Rule 8210.0200, Subp. 4 and 8210.9915 for application forms.)

10.3.2 Time; Health Care Patients. An eligible voter who on the day before an election becomes a resident or patient in a health care facility or hospital located in the municipality or school district in which the eligible voter maintains residence may apply for absentee ballots on election day if the voter:

- (a) Requests an application by telephone from the clerk not later than 5:00 p.m. on the day before election day; or
- (b) Submits an absentee ballot application to the election judges engaged in delivering absentee ballots to that hospital or health care facility pursuant to M.S. 203B.11. (M.S. 203B.04, Subd. 2). The election judges designated to deliver the absentee ballots to that hospital or health care facility shall deliver a blank application to any such eligible patient or resident who requests one in order to apply for absentee ballots. (M.S. 203B.04, Subd. 3).

This provision is mandatory and a school district is subject to its terms.

10.3.3 To Whom Made. An application for absentee ballots shall be in writing and shall be submitted to:

- (a) The county auditor of the county where the applicant maintains residence; or
- (b) The municipal clerk of the municipality, or school district if applicable, where the applicant maintains residence. (M.S. 203B.04, Subd. 1).

For school district elections not held on the same day as a statewide election, the duties of the county auditor, as they relate to the absentee ballot process, shall be performed by the school district clerk unless the county auditor agrees to perform them. (M.S. 203B.05, Subd. 2). Thus, requests for applications for absentee ballots will be made to the school district clerk for school elections conducted on a different day than other elections.

An application may be submitted to the county auditor or school district clerk in person, by electronic facsimile device, by electronic mail or by mail. (M.S. 203B.04, Subd. 1).

An application mailed or returned in person to the county auditor or municipal clerk on behalf of a voter by a person other than the voter must be deposited in the mail or returned in person to the county auditor or municipal clerk within ten days after it has been dated by the voter and no later than six days before the election. (M.S. 203B.04, Subd. 1).

The absentee ballot applications or a list of persons applying for an absentee ballot may not be made available for public inspection until the close of voting on election day except as authorized in M.S. 203B.12. (M.S. 203B.04, Subd. 1).

The names of voters who have submitted an absentee ballot to the county auditor or school district clerk that has not been accepted may not be made available for public inspection until the close of voting on election day. (M.S. 203B.12, Subd. 7).

For all elections where use of the statewide voter registration system is required, the Secretary of State must maintain a list of voters who have submitted absentee ballots that have been accepted. For all other elections, the county auditor or school district clerk must maintain a list of voters who have submitted absentee ballots that have been accepted. The list must be made available to the public in the same manner as public information lists in M.S. 201.091, Subds. 4, 5 and 9. (M.S. 203B.12, Subd. 8).

10.3.4 Contents of Application. An application shall be accepted if:

- (a) It is in writing;
- (b) It is signed and dated by the applicant;
- (c) It contains the applicant's name and residence and mailing addresses, date of birth, and at least one of the following: (1) the applicant's Minnesota driver's license number; (2) Minnesota state identification card number, (3) the last four digits of the applicant's Social Security number; or (4) a

statement that the applicant does not have any of these numbers. (M.S. 203B.04, Subd. 1). (Contact the county auditor or the Secretary of State for the most current form of application and instructions.) (See Minn. Rule 8210.0200, Subp. 1a for general application and 8210.0200, Subp. 2 for the instructions.)

10.3.5 Registration at Time of Application. An eligible voter who is not registered to vote but is otherwise eligible to vote by absentee ballot may register by including a completed voter registration application with the absentee ballot. The individual must present proof of residence to the individual who witnesses the marking of the absentee ballot. A military voter may register in this manner if following regular absentee balloting procedures or may register pursuant to military voting procedures under sections 203B.16 to 203B.27. (M.S. 203B.04, Subd. 4). (See Section 6 above.)

10.3.6 Preparation of Applications. Each county auditor and municipal or school district clerk shall prepare and print a sufficient number of blank application forms for absentee ballots. The county auditor or school district or municipal clerk shall deliver a blank application form to any voter who requests one. Blank application forms must be mailed to permanent absentee voters and to ongoing absentee voters at least 60 days before every regularly scheduled school district primary or regularly scheduled general election for which a primary is not held, or an election held in conjunction with that election, and at least 45 days before any other special election. (M.S. 203B.06, Subd. 1).

#### 10.4 Receipt of Applications for Absentee Ballots.

10.4.1 Application to Wrong Official. If for any reason an application for absentee ballots is submitted to the wrong county auditor or municipal or school district clerk, that official shall promptly forward it to the proper county auditor or municipal or school district clerk. (M.S. 203B.06, Subd. 2).

10.4.1.5 Adult Correctional Facilities. An application for an absentee ballot that provides an address included on the list of adult correctional facilities prepared by the Commissioner of Corrections must not be accepted and an absentee ballot must not be provided to the applicant. The county auditor or municipal clerk must promptly transmit a copy of the application to the county attorney.

10.4.2 Receipt of Application When Ballots Not Available. If an application for absentee ballots is accepted at a time when absentee ballots are not yet available for distribution, the county auditor or municipal or school district clerk accepting the application shall file it. As soon as absentee ballots are available for distribution, that official shall mail them to the address specified in the application. (M.S. 203B.06, Subd. 3).

10.4.3 Registration Check. Upon receipt of an application, the county auditor, clerk or an election judge delivering absentee ballots to a hospital or health care facility who receives the application shall determine whether the applicant is a registered voter. If the applicant is not registered to vote, that official shall include a voter registration application among the election materials provided to the applicant. (M.S. 203B.06, Subd. 4).

10.4.4 Requests from Abroad. If an application for absentee ballots requests delivery of absentee ballots to a point outside the continental United States, the absentee ballots must be sent by Air Mail. The transmittal and return envelopes must contain the text or symbol or both prescribed by the United States Postal Service for transmitting election mail outside the continental United States. (M.S. 203B.06, Subd. 6; Minn. Rule 8210.0800, Subp. 2). If the federal government or any of its branches, departments, agencies or other instrumentalities makes any special service available for the mailing of absentee voting materials, any county auditor or school district clerk may use the service. (M.S. 203B.06, Subd. 7).

10.4.5 Preservation of Applications. An application for absentee ballots shall be dated by the county auditor or school district clerk when it is received and shall be initialed when absentee ballots are mailed or delivered

to the applicant. All applications shall be preserved by the auditor or clerk for 22 months. (M.S. 203B.06, Subd. 5).

### 10.5 Issuing Ballots to Absentee Voters.

10.5.1 Absentee Ballots. At least 46 days before an election, ballots necessary to fill applications of absentee voters shall be prepared and delivered to the officials who will administer the election. (M.S. 204B.35, Subd. 4). If no official ballots are ready at the time absentee balloting is scheduled to begin or the supply is exhausted before absentee balloting ends, the county auditor or municipal clerk shall prepare unofficial ballots, printed or written as nearly as practicable in the form of the official ballots. These ballots may be used until the official ballots are available. (M.S. 203B.06, Subd. 3a).

10.5.2 Delivery. If an application for absentee ballots is accepted at a time when absentee ballots are not yet available, the county auditor or clerk accepting the application shall file it. As soon as absentee ballots are available for distribution, that official shall mail them to the address specified in the application. If an application for absentee ballots is received when absentee ballots are available for distribution, the county auditor or clerk accepting the application shall promptly:

- (1) Mail the ballots to the voter whose signature appears on the application if the application is submitted by mail and does not request commercial shipping under paragraph 2 below;
- (2) Ship the ballots to the voter using a commercial shipper requested by the voter at the voter's expense;
- (3) Deliver the absentee ballot directly to the voter if the application is submitted in person; or
- (4) Deliver the absentee ballots in a sealed transmittal envelope to an agent who has been designated to bring the ballots to a voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient in a health care facility, a resident of a facility providing assisted living services, a participant in a licensed residential program for adults, or a resident of a shelter for battered women. (M.S. 203B.06, Subd. 3).

No envelope, return envelope or directions for casting an absentee ballot shall contain the name of any candidate whose name appears on any of the absentee ballots. (M.S. 203B.06, Subd. 8).

10.5.3 Delivery for Particular Election. If the application does not indicate the election for which absentee ballots are sought, the auditor or clerk shall mail or deliver only ballots for the next election occurring after receipt of the application. However, see M.S. 203B.17, Subd. 1(d) and section 10.2.4.1 above for applications by military and overseas voters. Only one set of ballots may be mailed, shipped or delivered to an applicant. (M.S. 203B.06, Subd. 3).

10.5.4 Delivery to Residents of a Hospital or Other Health Care Facility. For a school election not held in conjunction with another election, the school district clerk shall designate election judges to deliver absentee ballots to an eligible voter who is a resident of or a patient in a hospital or health care facility located in the school district in which the voter resides, in the following manner:

- (a) Ballots shall be delivered by two election judges, each of whom is affiliated with a different major political party (if the election is in conjunction with a statewide election);
- (b) The judges shall travel together in the same vehicle when delivering or returning the absentee ballot;
- (c) Both judges shall be present when the applicant completes the certificate of eligibility and marks the absentee ballot;
- (d) An election judge may assist an applicant as provided by statute. (M.S. 204C.15 and section 13.3 below).
- (e) The judges shall deposit the return envelopes containing the marked absentee ballots in a sealed container and return them to the clerk the same day they are delivered and marked. (M.S. 203B.11).

Each election judge who conducts absentee voting in health care facilities shall successfully complete the course for health care absentee voting prior to performing these duties. (Minn. Rule 8240.1400). The course is to include the following information: who is eligible to vote absentee from health care facilities; application and registration process, including methods for proving residence; voter assistance; voting procedures; procedures for transporting voted ballots; and particular problems encountered at prior elections. (Minn. Rule 8240.1800).

The provisions of this section and section 10.5.5 are mandatory and a school district is subject to their terms.

#### 10.5.5 Time for Delivery.

(a) During the 20 days preceding an election, the judges shall deliver the ballots to eligible voters who are residents of health care facilities or patients in hospitals and who properly applied for absentee ballots under M.S. 203B.04. (See Section 10.5.3 above.)

(b) On election day, the judges shall deliver absentee ballots to an eligible voter who on the day before the election became a resident of a health care facility or hospital patient and properly applied for an absentee ballot. (M.S. 203B.11, Subd. 2-3).

#### 10.5.6 Replacement Ballots.

The auditor or clerk must promptly provide a replacement ballot to a voter who requests one because the voter's ballot was lost, spoiled or never received. The auditor or clerk must record the following information on the voter's absentee ballot application: the date of the voter's request, the date that a replacement ballot was issued to the voter, and the reason that the voter requested a replacement. If a voter returns a spoiled ballot to the election official, the auditor or clerk must put the returned ballot in a spoiled ballot envelope. (Minn. Rule 8210.2600, Subp. 1).

#### 10.6 Return and Ballot Envelopes. (2015 Session Change)

The county auditor or the school district clerk shall prepare, print and transmit a return envelope, a ballot envelope, and a copy of the directions for casting an absentee ballot to each applicant whose application for absentee ballots is accepted. (M.S. 203B.07, Subd. 1). (Contact the county auditor or Secretary of State for the most current absentee balloting materials.)

Directions. The directions for casting an absentee ballot shall be printed in at least 14-point bold type with heavy leading and may be printed on the ballot envelope. When a person requests the directions in Braille or **an audio file**, the county auditor or school district clerk shall provide them in the form requested. The Secretary of State shall prepare Braille and **audio file** copies and make them available. (M.S. 203B.07, Subd. 1). (Contact the county auditor or Secretary of State for the most current instructions; See Minn. Rule 8210.0500, Subp. 3). Instructions for military and overseas voters are found in Minn. Rule 8210.0500, Subp. 4.

Voter Registration Application. When a voter registration application is sent to the applicant, the directions or registration application shall include instructions for registering to vote. (M.S. 203B.07, Subd. 1).

Return Envelope. The return envelope shall be of sufficient size to conveniently enclose and contain the ballot envelope and a folded voter registration application folded along its perforations. The return envelope shall be designed to open on the left hand end. The return envelope must be of sufficient size to contain an additional envelope that when sealed, conceals the signature, identification and other information,

or it must provide an additional flap that, when sealed, conceals the signature, identification and other information. (M.S. 203B.07, Subd. 2). Election officials may open the flap or the additional envelope at any time after receiving the returned ballot to inspect the returned certificate for completeness or to ascertain other information.

Certificate of Eligibility. A certificate of eligibility to vote by absentee ballot shall be printed on the back of the return envelope. The certificate shall contain space for the voter's Minnesota driver's license number, state identification number, or the last four digits of the voter's Social Security number or to indicate that the voter does not have one of these numbers. The space must be designed to ensure that the voter provides the same type of identification as provided on the voter's absentee ballot application for purposes of comparison. The certificate must also contain a statement to be signed and sworn by the voter indicating that the voter meets all of the requirements established by law for voting by absentee ballot. (M.S. 203B.07, Subd. 2).

Statement. The certificate of eligibility shall also contain a statement signed by a person who is registered to vote in Minnesota or by a notary public or other individual authorized to administer oaths stating that:

- (a) The ballots were displayed to that individual unmarked;
- (b) The voter marked the ballots in that individual's presence without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them; and
- (c) If the voter was not previously registered, that the voter has provided proof of residence as required by M.S. 201.061, Subd. 3. (M.S. 203B.07, Subd. 2).

Postage. The county auditor or school district or municipal clerk shall affix first class postage to the return envelopes. (M.S. 203B.07, Subd. 1).

Address on Return Envelopes. The county auditor or school district or municipal clerk shall address return envelopes to allow direct mailing of the absentee ballots to the county auditor or clerk who has the responsibility to accept and reject the absentee ballots. (M.S. 203B.08, Subd. 2; Minn. Rule 8210.0700, Subp. 3).

#### 10.7 Return of Absentee Ballots. (2015 Session Change)

An eligible voter receiving absentee ballots shall mark them in the manner specified in the directions and mail the return envelope containing marked ballots as directed. Absentee ballots may also be left with the county auditor, municipal clerk or school district clerk who provided the absentee ballots to the voter. If delivered in person, the return envelope must be submitted to the county auditor or municipal clerk by 3:00 p.m. on election day. (M.S. 203B.08, Subd. 1). A voter may also designate an agent, who must be at least 18 years old, to deliver in person the sealed envelope to the county auditor, municipal clerk or school district clerk from whom the ballots were received. Agents must show the auditor or clerk identification and, in a log, write their name and address, the voter's name and address, and sign. No individual may serve as the agent of more than three absent voters in any one election. (Minn. Rule 8210.2100; M.S. 203B.08, Subd.1). Absentee ballot return envelopes that are delivered in person by an absent voter must be received by the county auditor or clerk by 5:00 p.m. on the day before election day. (Minn. Rule 8210.2200, Subp. 1). See APPENDIX 33a for Absentee Ballot Agent Delivery Record. If the school district clerk is performing the duties of the county auditor relating to receipt of absentee ballots, offices are required to be open only during regular business hours on the day before the election to receive absentee ballots. (M.S. 203B.085).

Before accepting an absentee ballot return envelope that is hand delivered by an absent voter or an

agent, the county auditor or clerk shall inspect the envelope to verify that it is sealed and the absent voter's statement of absentee voter is properly completed. When an absent voter hand delivers an envelope which is unsealed or has an improperly completed absent voter's statement of absentee voter, the absent voter shall be allowed to seal the envelope and correct or complete the statement. When an agent hand delivers a sealed envelope with an improperly completed absent voter's statement, the agent may return the envelope to the absent voter for correction or completion in compliance with the time requirements specified above. (Minn. Rule 8210.2200, Subp. 2).

When an agent hand delivers an envelope that is not sealed or which the auditor or clerk has reason to believe has been tampered with, the envelope shall not be accepted. The auditor or clerk shall write "rejected" across the absentee ballot return envelope and shall write the reason for rejection on the envelope. The absentee ballot return envelope shall be retained by the auditor or clerk in that official's office. A notice of nonacceptance shall be mailed to the absent voter, stating the date of nonacceptance, the name and address of the agent, and the reason for nonacceptance. A replacement ballot notice may be sent in place of the notice of nonacceptance. The absent voter may apply for replacement absentee ballots. (Minn. Rule 8210.2200, Subp. 2).

An eligible voter may vote by absentee ballot in the office of the county auditor and at any other polling place designated by the county auditor during the 46 days before an election. The county auditor must make such designations at least 14 weeks before the election. Note that the school district clerk would perform these duties for a school district election not held on the day of a statewide election. The county auditor must make available at least one electronic ballot marker in each polling place that has implemented a voting system that is accessible for individuals with disabilities. (M.S. 203B.081).

During the seven days preceding an election and until 2:00 p.m. on election day, an eligible voter who would have difficulty getting to the polls because of incapacitating health reasons, or who is disabled, or who is a patient of a health care facility, a resident of a facility providing assisted living services, a participant in a licensed residential program for adults, or a resident of a shelter of battered women may designate an agent to deliver the ballots to the voter from the county auditor or municipal clerk. An agent must have a preexisting relationship with the voter. The voted ballots must be returned to the county auditor or municipal clerk no later than 3:00 p.m. on election day. The voter must complete an affidavit requesting the auditor or clerk to provide the agent with the ballots in a sealed transmittal envelope. The affidavit must include a statement from the voter stating that the ballots were delivered to the voter by the agent in the sealed transmittal envelope. An agent may deliver ballots to no more than three persons in an election. The affidavits and transmission envelopes shall be prepared in accordance with the rules of the Secretary of State. (M.S. 203B.11, Subd. 4). See APPENDIX 33b for Voter Request for Agent Delivery of Absentee Ballot.

**10.7.1 Receipt of Absentee Ballots.** When ballots are returned to the proper government official, that official shall stamp or initial and date the return envelope and place it in a secure location with other returned absentee ballots. (M.S. 203B.08, Subd. 3).

The names of voters who have submitted an absentee ballot return envelope to the county auditor or school district clerk may not be made available for public inspection until the close of voting on election day. (M.S. 203B.12, Subd. 7). The voter's date of birth, if included on the application, is not available to the public. (M.S. 203B.04). Anyone wishing to inspect the applications must provide identification and may only use the information for elections, political activities, or law enforcement. (M.S. 203B.03).

School district officials are no longer subject to the law that required the clerk's office to be open on the Saturday afternoon and the Monday night prior to a primary or general election to accept absentee ballot applications and to allow the casting of absentee ballots (M.S. 203B.085).

The county auditor or school district or municipal clerk shall establish measures for safeguarding absentee ballot return envelopes received by that official prior to election day. If an auditor or clerk intends to deposit return envelopes in the mail, the auditor or clerk shall do so promptly upon receipt of the return envelope from the absent voter or agent. The auditor or clerk shall establish a record of absentee ballot return envelopes which are retained in that official's office. The record shall state the absent voter's name, address, and precinct number; the agent's name, if any; and the date the ballot was received by the auditor or clerk. All retained envelopes shall be placed in a locked, secure location after being dated, stamped, and recorded. The envelopes shall not be removed from this location or handled, except as necessary in an emergency or to process ballots by a ballot board as provided by law. A part-time municipal clerk who receives return envelopes shall notify the auditor prior to each election of the safeguarding procedures which the clerk plans to follow, and the procedures shall be subject to the auditor's approval. On election day all absentee ballot return envelopes retained by the county auditor or school district or municipal clerk shall be removed from the place of safekeeping and compared with the record to ensure that all envelopes are accounted for. Any discrepancy shall be reported to the Secretary of State promptly. Each return envelope shall then be delivered to the polling place in the precinct where the absent voter resides. (Minn. Rule 8210.2400).

#### 10.7.2 Intentionally Omitted.

#### 10.8 Delivery to Ballot Board. (2015 Session Change)

Within five days after receipt, the county auditor or municipal or school district clerk shall deliver to the ballot board all ballots received, except that during the 14 days immediately preceding an election, the county auditor or municipal clerk shall deliver all ballots received to the ballot board within three days. Ballots received on election day either (1) after 3:00 p.m., if delivered **in person**; or (2) after **8:00 p.m.**, if delivered by **mail or a package delivery service**, shall be marked as received late by the county auditor or municipal clerk, and must not be delivered to the ballot board. (M.S. 203B.08, Subd. 3) (M.S. 203B.12, Subd. 1).

#### 10.9 Ballot Boards. (2015 Session Change)

10.9.1 Establishment. The school board of each district with responsibility to accept and reject absentee ballots must, by resolution, establish a ballot board. This would be applicable when the school district itself is running the election or part of the election. (M.S. 203B.121, Subd. 1). See APPENDIX 27 for form of resolution establishing a ballot board.

10.9.2 Members. The ballot board must consist of a sufficient number of election judges trained in the handling of absentee ballots and appointed as provided by law. The board may include deputy county auditors or deputy city clerks who have received training in the processing and counting of absentee ballots. The school district must pay a reasonable compensation to each member of its ballot board for services rendered during an election. If a staff member is already being compensated for regular duties, additional compensation is not required for ballot board duties performed during the staff member's duty day. (M.S. 203B.121, Subd. 1).

10.9.3 Delivery of Ballots to Ballot Board. As provided in Section 10.8 above, the county auditor or school district clerk shall deliver all absentee ballots received to the ballot board within the timelines specified. (M.S. 203B.08, Subd. 3).

10.9.4 Duties. The duties of the ballot board shall include the following:

- (a) The members of the ballot board shall take possession of all return envelopes delivered to them in accordance with Section 203B.08. (See 10.8 and 10.9.3 above) Upon receipt, two or more members of

the ballot board shall examine each return envelope and mark it accepted or rejected as described below. Election judges performing these duties in school district elections are exempt from the political party requirements. (M.S. 203B.121, Subd. 2(a); Minn. Rule 8210.2450, Subp. 1).

(b) The members of the ballot board shall mark the return envelope “Accepted” and initial or sign the return envelope below the word “Accepted” if the majority of the members of the ballot board are satisfied that:

(i) The voter’s name and address on the return envelope are the same as the information provided on the absentee ballot application. (See Section 10.3.4 above). In making this determination, the use of, or lack of, full names, nicknames, abbreviations, or initials on either document are not a reason for rejection. (Minn. Rule 8210.2450, Subp. 2).

(ii) The voter signed the certification on the back of the return envelope. In determining whether the voter signed the return envelope, the use of, or lack of, full names, nicknames, abbreviations or initials within either signature (the signature on the return envelope and the signature on the application) are not a reason for rejection. A signature is considered the voter’s even if a voter uses a signature mark on either or both documents, or if a voter has another individual or different individuals sign the voter’s name in their presence on either or both the application and return envelope in accordance with applicable law. A ballot must be rejected if the name signed is clearly a different name than the name of the voter as printed on the return envelope. This is the only circumstance under which a ballot may be rejected on the basis of signature. (Minn. Rule 8210.2450, Subp. 2).

(iii) The voter’s Minnesota driver’s license number, state identification number, or the last four digits of the voter’s Social Security number are the same as a number on the voter’s **absentee ballot application or voter record**. If the number does not match, the ballot board must compare the signature provided by the applicant to determine whether the ballots were returned by the same person to whom they were transmitted. The provisions relating to signatures specified above are also applicable here. (Minn. Rule 8210.2450, Subp. 3).

(iv) The voter is registered and eligible to vote in the precinct or has included a properly completed voter registration application in the return envelope. Ballot board members must determine if the voter is registered under the name and at the address on the return envelope by using the statewide voter registration system, or a master list or polling place roster produced by the statewide voter registration system. A voter who is not registered, whose registration is inactive, or whose registration is challenged, must include a properly completed voter registration application within the absentee return envelope. If the voter was sent nonregistered absentee materials and the voter is not registered to vote and a voter registration application is not found in the return envelope, the ballot board members shall open the ballot envelope and, without examining or removing the ballot, remove any voter registration application from the ballot envelope. The ballot board members must immediately reseal the ballot envelope with the ballot enclosed, initialing across the seal and noting on the ballot envelope the purpose for which it was opened. (Minn. Rule 8210.2450, Subp. 4(A)). A voter registration returned separately from an absentee return envelope after the voter registration deadline is a late registration and may not be used as a registration for the current election. (Minn. Rule 8210.2450, Subp. 4(B)). An absentee ballot may not be rejected for lack of an eligible witness, if a witness has signed the statement required for a witness and: (i) has provided a Minnesota address as part of the witness’s certification on the return envelope; (ii) has provided his or her title indicating eligibility to administer oaths; or (iii) has affixed a notarial stamp. (Minn. Rule 8210.2450, Subp. 5).

(v) The certificate has been completed as prescribed in the directions for casting an absentee ballot. (M.S. 203B.121, Subd. 2(b)).

(vi) The voter has not already voted at that election, either in person or, if it is after the close of business on the seventh day before the election, by absentee ballot. The return envelopes from accepted ballots must be preserved and returned to the county auditor. (M.S. 203B.121, Subd. 2(b)). Ballot board members must use the statewide voter registration system or available polling place

rosters to determine whether another ballot from the voter has been accepted. If the ballot is returned by the seventh day before the election, any ballot that has been previously received from that voter and has not been rejected is deemed spoiled and must not be counted. If a ballot is received after the close of business on the seventh day before the election and another absentee ballot has been accepted for that voter, the return envelope for the new ballot must be marked “Rejected.”

(c) If a majority of the members of the ballot board examining a return envelope find that an absentee ballot has failed to meet one of the requirements specified above, they shall mark the envelope “Rejected,” initial or sign it below the word “Rejected,” list the reason for the rejection on the envelope, and return it to the county auditor. Failure to place the ballot within the security envelope before placing it in the outer white envelope is not a reason to reject an absentee ballot. (M.S. 203B.121, Subd. 2(c)(1)).

(d) If an envelope has been rejected at least five days before the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or email to notify the voter that the voter’s ballot has been rejected. The official must document the attempts made to contact the voter. (M.S. 203B.121, Subd. 2(c)(2)). The auditor or clerk must send a replacement ballot to a voter whose absentee ballot is rejected more than five days before an election, along with an explanation of why the ballot was rejected. The election official must record the following information on the voter’s absentee ballot application: the date that the voter’s ballot was rejected, the date that a replacement ballot was issued to the voter, and the reason that the previous ballot was rejected. Rejected ballots must be kept in a separate sealed container. (Minn. Rule 8210.2600, Subp. 2).

(e) If an envelope is rejected within five days of the election, the envelope must remain sealed and the official in charge of the ballot board must attempt to contact the voter by telephone or email to notify the voter that the voter’s ballot has been rejected. The official must document the attempts made to contact the voter. (M.S. 203B.121, Subd. 2(c)(3)).

(f) The official in charge of the absentee ballot board must mail the voter a written notice of absentee ballot rejection between six and ten weeks following the election. If the official determines that the voter has already cast a ballot in the election, no notice is required. If an absentee ballot arrives after the deadline for submission, the notice must be provided between six and ten weeks after receipt of the ballot. A notice of absentee ballot rejection must contain the following information:

- (i) the date on which the absentee ballot was rejected or, if the ballot was received after the required deadline for submission, the date on which the ballot was received;
- (ii) the reason for the rejection; and
- (iii) the name of the appropriate election official to whom the voter may direct further questions, along with appropriate contact information. (M.S. 203B.121, Subd. 2(d)).

(g) An absentee ballot return envelope marked “Rejected” may not be opened or subject to further review except in an election contest under M.S. Chapter 209. (M.S. 203B.121, Subd. 2(e)).

#### 10.9.5 Record of Voting.

(a) When applicable, the county auditor or school district clerk must immediately record that a voter’s absentee ballot has been accepted. After the close of business on the seventh day before the election, a voter whose record indicates that an absentee ballot has been accepted must not be permitted to cast another ballot at that election. (M.S. 203B.121, Subd. 3(a)).

(b) The roster must be marked, and a supplemental report of absentee voters who submitted a voter registration application with their ballot must be created, no later than the start of voting on election day to indicate the voters that have already cast a ballot at the election. The roster may be marked either: (i) by the county auditor or school district clerk before election day; (ii) by the ballot board before election day; or (iii) by the election judges at the polling place on election day. The record of a voter whose absentee ballot was received after the close of business on the seventh day before the election is not required to be marked on the roster or contained in a supplemental report as otherwise required. (M.S. 203B.121, Subd. 3(b)).

10.9.6 Opening of Envelopes. After the close of business on the seventh day before the election, the ballots from return envelopes marked “Accepted” may be opened, duplicated as needed, initialed by the members of the ballot board, and deposited in the appropriate ballot box. If more than one ballot is enclosed in the ballot envelope, the ballots must be returned in the manner provided for return of spoiled ballots, and may not be counted. (M.S. 203B.121, Subd. 4).

10.9.7 Storage and Counting of Absentee Ballots.

(a) On a day on which absentee ballots are inserted into a ballot box, two members of the ballot board must:

- (i) remove the ballots from the ballot box at the end of the day;
- (ii) without inspecting the ballots, ensure that the number of ballots removed from the ballot box is equal to the number of voters whose absentee ballots were accepted that day; and
- (iii) seal and secure all voted and unvoted ballots in that location at the end of the day. (M.S. 203B.121, Subd. 5(a)).

(b) After the polls have been closed on election day, two members of the ballot board must count the ballots, tabulating the vote in a manner that indicates each vote of the voter and the total votes cast for each candidate or question. The count must be recorded on a summary statement in substantially the same format as provided in section 204C.26. The ballot board must submit at least one completed summary statement to the county auditor or municipal clerk. No vote totals from ballots may be made public before the close of voting on election day. In elections other than state primary and general elections, these vote totals may be added to the vote totals on the summary statement of returns for the appropriate precinct or may be reported as a separate total. The count shall be public. No vote totals from ballots may be made public before the close of voting on election day. (M.S. 203B.121, Subd. 5(b); 205A.10 Subd. 2).

(c) In addition to these requirements specified above, if the task has not been completed previously, the members of the ballot board must verify as soon as possible, but not later than 24 hours after the end of the hours for voting, that voters whose absentee ballots arrived after the rosters were marked or supplemental reports were generated and whose ballots were accepted did not vote in person on election day. An absentee ballot submitted by a voter who has voted in person on election day must be rejected. All other absentee ballots must be opened, duplicated if necessary, and counted by members of the ballot board. The vote totals from these ballots must be incorporated into the totals with the other absentee ballots and handled as specified in (b) above. (M.S. 203B.121, Subd. 5(c)).

10.9.8 Effective Date. The ballot board provisions are effective for elections held after June 25, 2010.

10.9.9 Laws Applicable. Except as provided, all of the laws applicable to absentee ballots and absentee voters and all other provisions of the Minnesota election law shall apply to a ballot board. (M.S. 203B.121, Subd. 1(c)).

10.10 Strict Compliance with Absentee Balloting Provisions Required.

In Bell v. Gannaway, 303 Minn. 346, 227 N.W.2d 797 (1975), the Minnesota Supreme Court reaffirmed the requirement that voters strictly comply with absentee balloting provisions and pointed out that absentee ballot voting is a privilege, as distinguished from the right to vote in person.

The Court stated:

"The provisions of election laws requiring acts to be done and imposing obligations upon the elector which are personal to him are mandatory. He is personally at fault if he violates them. If his vote is rejected for such

violations, it is because of his own fault, not that of election officials. Such provisions prescribe mandatory conditions precedent to the right of voting."

227 N.W.2d at 803 (citations omitted).

In the Bell case, the voter did not execute the voter's certificate that accompanies the absentee ballot. The election judges were unable to compare the signature on the application with the signature on the voter's certificate. Because the election judges did not reject the ballot as they should have, and no candidate's challenger was present to challenge the ballot, it was commingled with the other ballots and became indistinguishable from the others. The election was decided by one vote, so the questioned absentee ballot was decisive. The Supreme Court reluctantly upheld the counting of the ballot, but noted in its opinion:

The failure of the election judges (to reject the ballot on account of the missing comparison signature) . . . was not suggestive of fraud, and upon publication of (this) decision, there should be no occasion for a repetition of such mistake anywhere in the state.

227 N.W.2d at 806, n.12 (emphasis added).

#### 10.11 Prohibitions; Penalty.

No individual shall intentionally:

- (a) Make or sign any false certificate required by M.S. Chapter 203B relating to absentee voting;
- (b) Make any false or untrue statement in any application for absentee ballots;
- (c) Apply for absentee ballots more than once in any election with the intent to cast an illegal ballot;
- (d) Exhibit a ballot marked by that individual to any other individual;
- (e) Do any act in violation of M.S. Chapter 203B for the purpose of casting an illegal vote in any precinct or for the purpose of aiding another to cast an illegal vote;
- (f) Use information from absentee ballot materials or records for purposes unrelated to elections, political activities, or law enforcement; or
- (g) Provide assistance to an absentee voter except in the manner provided in M.S. 204C.15. (M.S. 203B.03, Subd. 1).
- (h) Solicit the vote of an absentee voter while in the immediate presence of the voter during the time the individual knows the absentee voter is voting; or
- (i) Alter an absentee ballot application after it has been signed by the voter, except by an election official for administrative purposes.

Before inspecting information from absentee ballot materials or records, an individual shall provide identification to the public official having custody of the material or information. (M.S. 203B.03, Subd. 1).

A violation of these provisions is a felony. (M.S. 203B.03, Subd. 2).

#### 10.12 Expenses.

Each school district shall pay the expenses incurred by its clerk for administering the absentee ballot voting provisions of M.S. 203B.04 to 203B.15. (M.S. 203B.15).

### 11. ELECTION JUDGES

#### 11.1 Authority to Appoint.

For school district elections not held in conjunction with a statewide election, the school board shall appoint election judges as provided by M.S. 204B.21, Subd. 2. (M.S. 205A.10, Subd. 2). (See Section 11.3.2 below.)

### 11.2 Qualifications. (2015 Session Change)

Minnesota Election Law sets forth qualifications for state election judges which also apply to judges of school district elections.

General. Any individual who is eligible to vote in Minnesota is eligible to be appointed as an election judge. (M.S. 204B.19, Subd. 1). An election judge must be: an eligible voter in Minnesota; literate in the English language; a member of a major political party; and trained as an election judge.

Additional. The appointing authority may establish additional qualifications which are not inconsistent with these provisions and which relate to the ability of an individual to perform the duties of an election judge. (M.S. 204B.19, Subd. 4). The school board may examine any individual who seeks employment as an election judge to determine whether that individual meets any additional qualifications so established. The provisions of M.S. 204B.19, Subd. 5 which provide that not more than half the election judges in a precinct may be members of the same major political party unless the election board consists of an odd number of judges do not apply to a school district election not held in conjunction with a statewide election.

Trainee Election Judges. The provisions of M.S. 204B.19, Subd. 6, authorize the appointment of high school students, including homeschooled students, to act as trainee election judges in certain municipal elections. See Minn. Rule 8240.1655 for qualifications for trainee election judges. No more than one-third of the election judges at a precinct may be trainees. The presence or participation of trainee election judges do not count toward meeting the minimum number of election judges required. (M.S. 204B.22, Subd. 4).

Ineligible Individuals. The following individuals may not serve as an election judge:

- (1) an individual who is unable to read, write or speak the English language;
- (2) the husband, wife, parent, stepparent, child, stepchild, brother, sister or stepsibling of any other election judge in the same precinct or any candidate at that election;
- (3) an individual is domiciled, either permanently or temporarily, with any candidate at that election;**
- (4) a candidate at that election (M.S. 204B.19, Subd. 2); or
- (5) a challenger.

In appointing election judges, the school board should be familiar with some of the Attorney General's opinions relative to appointment of judges. The Attorney General held that two brothers cannot serve on a town election board. (Op. Atty. Gen. 434-B-12, May 22, 1952). A candidate for election or re-election to the office of township supervisor or township clerk cannot participate in the handling of the election. (Op. Atty. Gen. 434-B-12, March 12, 1959). The father of an unopposed candidate cannot serve as judge or clerk of elections. (Op. Atty. Gen. 183-J, August 3, 1954). The Attorney General held in an earlier opinion, however, that the father-in-law of a candidate for office to be voted on at general election could be an election judge. (Op. Atty. Gen. No. 74, Page 113, 1942).

### 11.3 Appointment.

The election judges appointed to serve in an election precinct constitute that precinct's election board. The school board shall designate one of the judges in each precinct as head election judge. The head election judge is responsible for: assigning tasks among the judges; completing forms; obtaining signatures; and performing all other election judge duties. (M.S. 204B.20). Head election judges must complete additional

training to serve as head election judges. (Minn. Rule, Part 8240.1750). Head Election Judge training materials are available on the Secretary of State's Website.

11.3.1 Minimum Number. At least four election judges shall be appointed for each precinct or polling place in the state general election. In all other elections, a minimum of three judges shall be appointed for each precinct. (M.S. 204B.22, Subd. 1; 205A.11, Subd. 3). The school board may also appoint additional judges for each precinct or polling place if it so desires. The board may want the total number of judges to remain an odd number because questions that arise during an election are resolved by a majority of the judges. An election judge may serve for all or part of election day, at the discretion of the appointing authority, as long as the minimum number of judges required is always present. The head election judge must serve for all of the election day and be present in the polling place unless another judge has been designated by the head election judge to perform the functions of the head election judge during any absence.

11.3.2 Appointment Lists. By May 15 in a year in which there is an election the county auditor will furnish a list of appropriate names of election judges for each election precinct in the jurisdiction of the school district. The county auditor shall submit separate lists for each major political party. (M.S. 204B.21, Subd. 1).

The school board is to appoint election judges from these lists subject to the general eligibility requirements and other additional requirements established by the board. However, if no lists have been furnished or if additional judges are required after the names on the list have been exhausted, the district may appoint any other persons who meet the qualifications to serve as an election judge. (M.S. 204B.21, Subd. 2).

11.3.3 Time of Appointment. Judges shall be appointed at least 25 days before the election at which the election judges will serve. (M.S. 204B.21, Subd. 2).

11.3.4 Election Board Vacancies. A vacancy on an election board occurs when an election judge appointed to that board:

- (1) Fails to arrive at the polling place within 30 minutes after the time when the polling place is scheduled to open;
- (2) Becomes unable to perform the duties of the office after assuming the duties; or
- (3) For any reason fails or refuses to perform the duties of the office as assigned by the head election judge.

When a vacancy occurs, the remaining judges shall elect a qualified person from the precinct to fill the vacancy. (M.S. 204B.23). When possible, the judges shall elect individuals who have been trained as election judges. (M.S. 204B.23). The law also states that the municipal or school district clerk may assign election judges to fill vacancies as they occur.

While there is no statutory provision for removal of an election judge, the statute makes it clear that additional judges may be appointed to count ballots after voting ends, in place of the election board that served during voting. (M.S. 204B.22, Subd. 1).

#### 11.4 Oath of Office.

Each election judge shall sign the following oath for assuming office:

"I . . . solemnly swear (or affirm) that I will perform the duties of election judge according to law and the best of my ability and will diligently endeavor to prevent fraud, deceit and abuse in conducting this election. I will perform my duties in a fair and impartial manner and not attempt to create an advantage for my party or for any candidate." (M.S. 204B.24).

The oath shall be attached to the summary statement of the election returns of that precinct. If there is no individual present who is authorized to administer oaths, the election judges may administer the oath to each other. (M.S. 204B.24).

An oath signed by an election judge elected by the other judges to fill a vacancy shall indicate that the new election judge was elected to fill a vacancy. (M.S. 204B.23). (See APPENDIX 34 for forms of oath of office.)

Only persons who have taken this oath may perform election day duties at the polling place.

11.4.1. Penalty for Violation. Any person who serves as an election judge in violation of any provision of M.S. 204B.19 to 204B.25 is guilty of a misdemeanor. (M.S. 204B.26).

## 11.5 Compensation for Judges.

11.5.1 Pay and Mileage. For election judges serving in a school district election which is not held in conjunction with a state election, the school board may determine the rate to be paid to election judges. In any event, the school district shall pay at least the prevailing Minnesota minimum wage for each hour spent carrying out duties at the polling place and in attending required training sessions. Further, a judge who travels to pick up election supplies or delivers returns to the clerk or county auditor shall receive not less than the prevailing Minnesota minimum wage plus mileage. (M.S. 204B.31). The school board shall determine the mileage amount to be paid. (M.S. 471.665, Subd. 1). Any person appointed to serve as an election judge may elect to serve as a volunteer without payment by submitting a written statement to the school board no later than 10 days before the election. (M.S. 204B.31, Subd. 2).

11.5.2 Time Off From Work. An individual who is selected to serve as an election judge may, after giving an employer at least 20 days' written notice, be absent from a place of work for the purpose of serving as an election judge without penalty. An employer may reduce the salary or wages of an employee serving as an election judge by the amount paid to the election judge during the time the employee is absent from the place of employment. (M.S. 204B.195).

## 11.6 Training of Judges.

The county auditor is responsible for training election judges who are appointed to serve at any election held in the county as well as to provide for emergency training for judges elected to fill vacancies. However, the auditor may delegate to an election official the duty to provide training to election judges in that school district. (M.S. 204B.25).

11.6.1 Training Program. Minnesota Rule Parts 8240.0100 to 8240.2500 govern the content of the required basic training courses for election judges and head election judges. Election judges assigned to health care facility absentee voting must complete additional training. A Healthcare Facility Election Judge Guide and training materials are available on the Secretary of State's Website. Election judges serving on a ballot board must complete training regarding the handling and processing of absentee ballots.

11.6.2 Emergency Training Course. Minnesota Rules also provide for an emergency training course to be used in the event of a vacancy in an election judge position. This rule provides:

8240.1900 EMERGENCY TRAINING COURSE.

Subpart 1. At the polls. The head election judge shall conduct emergency training if needed at the polling place. The training authority shall provide an outline of emergency training procedures and otherwise ensure that the head election judge is prepared to conduct emergency training, if necessary.

Subp. 2. Course content. The head election judge shall review with a replacement judge all procedures and duties that are assigned to the replacement judge.

Subp. 3. Ongoing instruction. The head election judge shall provide additional instruction to the replacement judge as necessary throughout election day.

11.6.3 Electronic Voting Precincts. See Section 12.35 below relating to additional training requirements for judges in precincts using electronic voting systems.

## 11.7 Judges' Duties.

The head judge is the lead election official in a polling place and has completed additional training for handling complex duties. The head judge oversees the polling place, assigns election judges to specific tasks and gives the other judges direction as needed on election day. The head judge also picks up the precinct supplies before the election; ensures all supplies are ready before opening; conducts emergency judge training for any replacement judges; resolves questions and problems during election day; completes the election returns and other required forms; and closes the polling place and returns election material.

Before 9:00 p.m. on the day preceding an election, at least one election judge from each precinct shall obtain voter registration files, ballots, forms, envelopes and other required supplies from the clerk or other legal custodian. The judge shall then deliver the materials to the polling place on election day before the time when voting is scheduled to begin. (M.S. 204B.29, Subd. 1).

If no election judge secures the election materials for a precinct as provided above, the school district clerk shall deliver them to an election judge for that precinct not later than the time when voting is scheduled to begin. The school district clerk shall require the election judge accepting delivery of the election supplies to sign a receipt for them. The election judges of that precinct shall pay the expenses of delivery of the materials and shall be liable for the penalty provided by law for neglect of duty. (M.S. 204B.29, Subd. 2).

The election judges are responsible for the preservation of all election materials received by them until returned to the appropriate election official after the voting has ended. (M.S. 204B.29, Subd. 1).

## 11.8 Duties Prior to Opening the Polls.

11.8.1 Duties. Before the polls open, the judges shall do at least the following:

- (1) Take the oath of office (M.S. 204B.24);
- (2) Move the polling place, if necessary (M.S. 204B.17 and Section 2.3.4 above);
- (3) Receive the election supplies delivered to the polling place before the time when voting is scheduled to begin (M.S. 204B.29, Subd. 1);
- (4) Assemble and arrange voting booths and voting stations and make sure the booths are equipped with instructions, pencils and other supplies needed to mark the ballot (M.S. 204B.18);
- (5) Prepare electronic voting systems, if applicable (M.S. 206.74);
- (6) Display the American flag on a suitable staff at the entrance to the polling place and ensure that it remains displayed continuously during the hours of voting (M.S. 204C.08, Subd. 1);
- (7) Post an official voter instruction poster furnished in a conspicuous location or locations in the polling place (M.S. 204C.08, Subd. 2);
- (8) Make sure sample ballots are prominently posted;
- (9) Post signs indicating a separate line for voter registration and a separate line for voting;

- (10) Two judges initial the back of each ballot (M.S. 204C.09, Subd. 1); and
- (11) Inspect the ballot boxes. (M.S. 204C.08, Subd. 3).

11.8.2 Arrival; Ballots. The election judges shall meet at the polling place at least one hour before the time for opening the polls. Before the polls open, the election judges shall compare the ballots used with the sample ballots, electronic ballot displays, and audio ballot reader furnished to see that the names, numbers, and letters on both agree and shall certify to that fact on forms provided for that purpose. The certification must be filed with the election returns. (M.S. 204C.08, Subd. 1).

11.8.3 Counting Ballots Delivered. Before voting begins, at least two election judges must certify the number of ballots delivered to the precinct. Election judges must conduct this count, presuming that the total count provided for prepackaged ballots is correct. As each package is opened, two judges must count the ballots in the package to ensure that the total count provided for the package is correct. Any discrepancy must be noted on the incident log. (M.S. 204C.09, Subd. 1).

Electronic Voting Precincts. See Section 12.44 for additional requirements in precincts using electronic voting systems.

## 11.9 Opening the Polls.

The judges should open the polls promptly at the scheduled time and announce to those who may be waiting that the polls are now open and voting will commence. The judges shall post outside the polling place conspicuously written or printed notices of the time when voting is scheduled to end. (M.S. 204C.08, Subd. 3).

## 11.10 Duties During the Day.

Although each election judge has distinct and separate duties during the day, the duties may be rotated. One judge may both distribute ballots and register voters during the course of the day but the judge cannot perform both functions for the same voter. An election judge may assist a person wishing to vote in filling out the voter registration application. The judges shall confine questions to those necessary to complete the voter registration application. (Minn. Rule 8200.5300).

The voting machines shall be kept in plain view at all times during voting hours. (M.S. 204C.08, Subd. 3). Official ballots shall be distributed only in the room containing the voting booths (with the exception of distribution to certain handicapped voters) and only to individuals who are about to vote. (M.S. 204C.09, Subd. 2). No ballot shall be distributed to a voter unless it has been initialed by the election judges. (M.S. 204C.09, Subd. 2). The judges shall see that the American flag is displayed continuously during the hours of voting and shall sign the flag certification statement on the precinct summary statement attesting to that fact. The judges shall receive no compensation for any time during which they intentionally fail to display the flag. (M.S. 204C.08, Subd. 1).

11.11 Challengers. An election judge may not be appointed as a challenger under section 204C.07. (M.S. 204C.07), Subd. 4).

## 12. USE OF ELECTRONIC VOTING SYSTEMS

### A. VOTING MACHINES

#### 12.1 Authorization for Use.

The authority to use voting machines in Minnesota elections was repealed by the 1997 Legislature.

## B. ELECTRONIC VOTING SYSTEMS

### 12.30 Authorization for Use.

A school board may provide for the use of an electronic voting system in school elections which are not held in conjunction with statewide elections. The school district shall notify the Secretary of State of its decision. (M.S. 205A.12, Subd. 5a).

An electronic voting system is a system in which the voter records votes by means of marking a ballot so that votes may be counted by automatic tabulating equipment in the polling place where the ballot is cast or at a counting center. An electronic voting system includes automatic tabulating equipment, nonelectronic ballot markers, electronic ballot markers, including electronic ballot displays, audio ballot readers, and devices by which the voter will register the voter's intent; software used to program automatic tabulators and layout ballots, computer programs used to accumulate precinct results, ballots, secrecy folders, system documentation, and system testing results. (M.S. 206.56, Subd. 8).

#### 12.30.1 Electronic Voting System Requirements.

A school district may use an electronic voting system if that system: (a) permits secret voting; (b) permits every voter to vote for all candidates and questions for whom or upon which the voter is legally entitled to vote; (c) provides for write-in voting when authorized; (d) automatically rejects, except as provided below, all votes for an office or question when the number of votes cast on it exceeds the number which the voter is entitled to cast and, (e) provides every voter an opportunity to verify votes recorded on the permanent paper ballot, either visually or using assistive voting technology, and to change votes or correct any error before the voter's ballot is cast and counted, produces an individual, discrete, permanent paper ballot cast by the voter, and preserves the paper ballot as an official record available for use in any recount. (M.S. 206.80).

The Secretary of State has adopted rules required by Minnesota election law pertaining to examination and use of electronic voting systems. When considering purchasing an electronic voting system, the district should check with the Secretary of State's office to see that the system has been approved or should ask the vendor to provide a certification issued by the Secretary of State. Note that the certification is limited to specific hardware and software configurations. It also may include stipulations or special procedures for use of the system. (Minn. Rule 8220.0650, Subp. 1).

12.30.2 Experimental Machines. The school board may approve the experimental use of an electronic voting system certified by the Secretary of State in one or more precincts without formally adopting the system. (M.S. 206.58, Subd. 2; M.S. 206.81).

#### 12.31 Notification.

A school board shall inform the public about the use of a new electronic voting system at least 60 days before an election and instruct voters with a demonstration system placed in a public location for the six week period prior to the first election at which the new system will be used. (M.S. 206.58, Subd. 1).

When a school board decides to use an electronic voting system, it shall establish rules and instructions for its use consistent with Minnesota law at a special or regular board meeting at least 30 days before an election. The board is also required to submit the instructions to the Secretary of State for approval. When approved, the district shall post the rules and instructions prominently in the polling place throughout the

voting day. (M.S. 206.58, Subd. 2). Rules and instructions should be available from the municipality which owns the system or from the system vendor.

When a school board adopts the use of an electronic voting system, it is the duty of the school district clerk to certify to the Secretary of State within 30 days from the date of adoption that an electronic voting system will be used in the school district and the date when use will commence. (M.S. 206.58, Subd. 4). (See APPENDIX 40 for form of certification.)

#### 12.32 Payment for Machines.

The school board may pay for an electronic voting system in a manner it determines to be in the school district's best interests. Methods include: (1) appropriations from the general fund; (2) a tax levy; (3) issuing and selling bonds or other certificates of indebtedness. A majority vote of the school board is required before issuing bonds or other certificates of indebtedness, but an election is not required. (M.S. 206.59).

#### 12.33 Intentionally Omitted.

#### 12.34 Intentionally Omitted.

#### 12.35 Training for Judges.

The officials in charge of elections shall determine procedures to instruct election judges and voters in the use of electronic voting system manual marking devices and the electronic ballot manner, including assistive voting technology. (M.S. 206.84, Subd. 1).

#### 12.36 Preparation of Ballot Materials.

The school district clerk or other official charged with providing paper ballots when they are used shall provide all ballots, sample ballots, precinct summary statements, and other necessary supplies needed for electronic voting systems. (M.S. 206.61, Subd. 1).

If the school district election is held in conjunction with the state primary or general election, the county auditor shall provide the necessary materials. (M.S. 206.61, Subd. 1).

#### 12.37 Intentionally Omitted.

#### 12.38 Candidates' Names on Ballots. **(2015 Session Change)**

12.38.1 Type. The candidates' names may be set in as large type as the length of the majority of names on the ballot permits. The remaining candidates' names may be set in smaller sizes of type as the length of each name requires in order to fit the available space on the ballot. (M.S. 206.61, Subd. 3).

12.38.2 Placement. The ballot information for an electronic system on the ballot must be in the order of arrangement provided for paper ballots. Such information may be arranged in vertical or horizontal rolls or in a number of separate pages. More than one column or row may be used for the same office. Electronic ballot display and audio ballot readers must conform to the candidate order on the optical scan ballot used in the precinct. (M.S. 206.61, Subd. 4; M.S. 206.84, Subd. 3; Minn. Rule 8250.1800).

12.38.3 Alternation of Names on Ballot. The school board is required to comply as far as practicable with the election law provision requiring alternation of names by changing the order of names on the electronic voting system in the various precincts so that each name appears on the voting system substantially an equal

number of times in the first, last and in each intermediate place in the group or list in which it belongs. (M.S. 206.61, Subd. 5).

Arrangement of candidates' names shall be the same on all voting systems within the same precinct. However, when the number of names exceeds the number of precincts, the school district clerk or other official in charge of the election shall determine the alternation of names by lot. (M.S. 206.61, Subd. 5).

If an electronic ballot marker is used with a paper ballot that is not an optical scan ballot, the manner of alternation of candidate names on the paper ballot must be as prescribed for optical scan ballots. (M.S. 206.61, Subd. 5).

In elections conducted by an optical scan voting system, the rules provide a candidate rotation algorithm to use in rotating candidates' names. (Minn. Rule 8220.0825, Subp. 3). Note that this rotation system is different from that used in paper ballot precincts.

**If the number of candidates for an office is equal to or less than the number to be elected, no rotation of candidate names is required and the official preparing the ballot shall determine the position of the candidates by lot. (Minn. Rule 8250.1810, Subp. 7).**

12.39 Intentionally Omitted.

12.40 Intentionally Omitted.

12.41 Preparation of Electronic Voting System Programs and Plans.

12.41.1 Program. A program or programs for use in an election conducted by means of an electronic voting system or using an electronic ballot marker shall be prepared at the direction of the county auditor or school district clerk who is responsible for the conduct of the election and shall be independently verified by a competent person designated by that official. A test deck prepared by a competent person shall be used for independent verification of the program. It shall test the maximum digits used in totaling the returns and shall be usable by insertion during the tabulation process as well as prior to tabulation. A test deck must also be prepared using the electronic ballot marker program and must also be used to verify that all valid votes counted by the vote tabulator may be selected using the electronic marker. (M.S. 206.82, Subd. 1).

12.41.1.1 Testing of Program. Computer programs must be prepared so as to tabulate accurately each voter's choices for all candidates, offices, and measures for which the voter is lawfully entitled to vote in conformity with the laws of Minnesota and Minnesota Rules. (Minn. Rule 8220.0750).

Computer programs must require an electronically readable precinct identifier or ballot style indicator on all ballots. (Minn. Rule 8220.0750).

The vote tabulation portion of the computer program must be prepared as provided in Minn. Rule 8220.0750.

12.41.1.2 Schedule for Completing Programs. No later than five days after candidates' names are certified by the secretary of state, the election jurisdiction responsible for requesting the computer program must supply any information such as candidates' names and base rotation and the order of offices and questions to be voted on to the individuals designated to prepare the computer program. The official conducting the election shall also supply the programmers with the rotation algorithm in Part 8220.0825 or other instructions regarding the proper rotation sequence for the ballots. (Minn. Rule 8220.0850).

The computer program for any election and an exact duplicate of the program for use as backup must be completed and delivered to the election jurisdiction or the county auditor in charge of a common central counting center at least 21 days prior to the election. (Minn. Rule 8220.0850).

12.41.1.3 Preparation of Test Deck or Ballot Image. The election jurisdiction requesting the computer program must prepare a test deck of ballots to be used to determine that the voting system and the computer program will correctly mark or count the votes cast for all offices and all proposals in compliance with the Minnesota election law. The test deck must test in a manner commensurate with the logic of the computer program, the capabilities of the program, and storage to correctly tally the number of votes which might be cast for any office or question in the election. The test deck must conform to Minnesota rules. A test deck must be prepared specifically for each election. The test deck prepared must consist of a preaudited configuration of ballots to record a predetermined number of valid votes for each candidate and issue. (Minn. Rule 8220.1050).

12.41.1.4 Test Ballots. All test ballots must be marked "TEST." Ballots must be prepared having votes in excess of the number allowed by law for each office and proposal appearing on the ballot. Blank ballots in which no positions have been voted must be included in the test deck or ballot image. At least one test-ballot must be prepared with votes in all positions where there is a candidate or measure on the ballot. Test ballots must comply with Minnesota Rules. (Minn. Rule 8220.1150).

12.41.1.5 Intentionally Omitted.

12.41.1.6 Preliminary Testing of Computer Programs. Prior to the public accuracy test, the election jurisdiction providing the computer programs shall test the voting systems and programs to ascertain that they will correctly mark or count the votes for all offices and measures. The computer programs must be tested on all precincts. The election jurisdiction requesting the computer programs shall compare the edit listing against the zero tape and ballots of all precincts to ascertain that the appropriate ballots are in each precinct, and that the offices and questions to be voted on and the candidates' names are in the order that they appear on the ballots for each precinct. Each election jurisdiction shall make a certificate as to the above matters and file it with the county auditor. The test must be conducted using the test deck prepared under the direction of the election jurisdiction, and the results must be compared against the predetermined results of the test deck. (Minn. Rule 8220.1350).

12.41.1.7 Duties Upon Completion. When an errorless count has been made on all precincts, the election jurisdiction providing the computer program must:

- (a) Secure all computer programs, all support software used except the operating system, test decks, test results, and predetermined results of the test decks in a sealed container stored in a secured area;
- (b) Secure all memory units containing the election program.
- (c) Secure a duplicate copy of all computer programs, including support software and application programs, in a location separate from the working copy; and
- (d) Prepare a certificate that all precincts have been tested using the test deck prepared under the direction of the election jurisdiction and that the results agree with the predetermined results of the test deck. The certificate must contain the numbers of any seals used to seal the container or memory units and may be combined with the Certificate of Public Accuracy Test. (Minn. Rule 8220.1450).

12.41.2 Plan. The school district clerk in a district where an electronic voting system is used and the county auditor of a county in which an electronic voting system is used in more than one municipality and the county auditor of a county in which a counting center serving more than one municipality or district is located shall prepare a plan which indicates acquisition of sufficient facilities, computer time, and professional services and which describes the proposed manner of complying with the provisions of M.S. 206.80 governing

electronic voting system requirements. The plan must be signed, notarized, and submitted to the Secretary of State more than 60 days before the first election at which the municipality uses an electronic voting system and prior to July 1 in every general election year. The Secretary of State shall review the plan and notify the reporting authority of the sufficiency or insufficiency of its plan within 20 days of receipt. (M.S. 206.82, Subd. 2).

12.41.3 Bond. Before a contract is awarded to any vendor for preparation of a program for use with an electronic voting system, the vendor shall furnish the Secretary of State with a \$5,000 bond in a form acceptable to the Secretary of State, conditioned on preparing the program in conformity with Minnesota election law and the instructions delivered to the vendor by the county auditor or school district clerk who is responsible for the conduct of the election (M.S. 206.82, Subd. 3). The bond is required until the adoption, use or purchase of the machine, system or program is discontinued in Minnesota. (Minn. Rule 8220.0650).

#### 12.42 Testing of Voting Systems. (2015 Session Change)

Within 14 days before election day for optical scan voting systems, the official in charge of elections shall have the voting system tested to ascertain that the system will correctly mark ballots using all methods supported by the system, including through assistive technology, and count the votes cast for all candidates and on all questions. Public notice of the time and place of the test must be given at least two days in advance by publication once in official newspapers and by posting of a notice in the office of the county auditor and each local election official conducting the test. (Minn. Rule 8220.1550) (See APPENDIX 40A for form of notice.) The test must be observed by at least two election judges and must be open to representatives of the political parties, candidates, the press, and the public. The test must be conducted by processing a preaudited group of ballots marked to record a predetermined number of valid votes for each candidate and on each question and must include for each office one or more ballot cards which have votes in excess of the number allowed by law in order to test the ability of the voting system tabulator and electronic ballot marker to reject those votes. (M.S. 206.83) and processing an additional test deck of ballots marked using the electronic ballot marker for the precinct, including ballots marked using the electronic ballot display, audio ballot reader, and any assistive voting technology used with the electronic ballot marker. The ballot must also be examined to ensure that each received a clear mark. (Minn. Rule 8220.1550).

The chief election official of the election jurisdiction shall explain the methods and test procedures used to determine the accuracy of the computer programs. This will include submitting as public record the certificate prepared showing that all precincts have been tested using the test deck prepared under the direction of the election jurisdiction.

The sealed container containing the computer programs, test deck, and predetermined results must be opened and the computer programs tested to determine their accuracy on the voting systems on which they are to be used on election day. The initial testing of the voting systems and programs must be with the test deck prepared under the direction of the election jurisdiction. In election jurisdictions with three or fewer precincts, all the precincts must be tested. In election jurisdictions with more than three precincts, a minimum of three precincts must be tested. The official conducting the election shall select the precincts to be tested. (Minn. Rule 8220.1550).

If any error is detected, the cause must be ascertained and corrected and an errorless count must be made on all precincts before the voting system may be used in the election. (M.S. 206.83; Minn. Rule 8220.1550).

12.42.1 Additional Test Decks. Upon request, the Secretary of State must be provided a set of blank ballots to be used as a test deck for any school district election computer program. The Secretary's request shall indicate the number of blank ballots to be delivered for the test deck.

The use of test decks provided by the Secretary of State does not substitute for the requirement for an election jurisdiction to prepare and use a test deck. (Minn. Rule 8220.1650).

12.42.2 Securing Computer Programs. Immediately after certifying the results of the public accuracy test, the election jurisdiction must secure all computer programs, software utilized, test decks, certified computer results of the test, and the predetermined results in a container which must be sealed in a manner so that the container cannot be opened without breaking the seal. If a precinct count voting system is used to count the ballots, it must be sealed with the memory pack containing the election programs inside. Attached to or inside the container must be a certificate describing its contents. The certificate must be signed by witnesses. All computer programs, test decks and other related materials must be clearly identified as to the voting system on which they were tested. (Minn. Rule 8220.1850).

12.42.3 Security. The central count voting system or precinct count voting system must be set up so that the vote tallying procedures will function in isolation while being tested or operated on election day. No physical connection must exist between central count voting system or precinct count voting system and any other computer during hours that voting is occurring in that precinct on election day or while the central count voting system or precinct count voting system is tabulating results for a precinct. (Minn. Rule 8220.2050).

The county auditor and municipal clerk must secure ballot recording and tabulating systems physically and electronically against unauthorized access. Except for wired connections within the polling place, ballot recording and tabulating systems must not be connected to or operated on, directly or indirectly, any electronic network, including a local area network, a wide-area network, the Internet, or the World Wide Web. Wireless communications may not be used in any way in a vote recording or vote tabulating system. Wireless, device-to-device capability is not permitted. No connection by modem is permitted.

Transfer of information from the ballot recording or tabulating system to another system for network distribution or broadcast must be made by disk, tape, or other physical means of communication, other than direct or indirect electronic connection of the vote recording or vote tabulating system. (M.S. 206.845, Subd. 1).

After the close of the polls, the head election judge must create a printed record of the results of the election for that precinct. After the record has been printed, the head election judge in a precinct that employs automatic tabulating equipment may transmit the accumulated tally for each device to a central reporting location using a telephone, modem, Internet, or other electronic connection. During the canvassing period, the results transmitted electronically must be considered unofficial until the canvassing board has performed a complete reconciliation of the results. (M.S. 206.845, Subd. 2).

After completion of the public accuracy test, every change to a computer program used for vote tallying and under the control of the election jurisdiction must be authorized, approved and documented by the responsible authority of the election jurisdiction. The documentation must include the time and place of each action. (Minn. Rule 8220.2850).

#### 12.43 Accessibility to Electronic Voting Systems.

The electronic voting system must be placed and protected so that it will be accessible to only one voter at a time and will be in full view of all the election judges and challengers. (M.S. 206.64, Subd. 1).

#### 12.44 Preparation for Election.

The official in charge of elections in each municipality where an electronic voting system is used shall have the voting system put in order, set, adjusted, and made ready for voting when delivered to the election precincts. The official shall also provide each precinct with a container for transporting ballot cards to the counting location after the polls close. The container shall be of sturdy material to protect the ballots from all reasonably foreseeable hazards including auto collisions. The election judges shall meet at the polling place at least one hour before the time for opening the polls. Before the polls open the election judges shall compare the ballots used with the sample ballots, electronic ballot displays, and audio ballot reader furnished to see that the names, numbers, and letters on both agree and shall certify to that fact on forms provided for the purpose. The certification must be filed with the election returns. (M.S. 206.84, Subd. 6).

#### 12.45 Voting.

The election judges shall admit one individual at a time to each booth after determining that the individual is eligible to vote. Voting by electronic voting systems shall be secret except as provided for voters who request assistance. A voter may remain inside the voting booth for the time reasonably required for the voter to complete the ballot. A voter who refuses to leave the voting booth after a reasonable amount of time, but not less than three minutes may be removed by the election judges. (M.S. 206.64, Subd. 1). Judges must use common sense in determining how long a particular voter may take to vote in any given election.

A voter who spoils a ballot or makes an error may return it to the election judge and obtain another. (M.S. 206.84, Subd. 7). (See 12.49.11 below.)

12.46 Assistance to Voters Unable to Enter. An individual who is unable to enter a polling place where paper ballots or an electronic voting system are used may register and vote without leaving a motor vehicle. Two election judges shall assist the voter to register and to complete a voter's certificate and shall provide the necessary ballots. The judges do not need to be members of different major political parties unless the election is conducted in conjunction with a statewide election. The voter may request additional assistance in marking ballots as provided above. (M.S. 204C.15, Subd. 2).

#### 12.47 Intentionally Omitted.

#### 12.48 Intentionally Omitted.

#### 12.49 Optical Scan Voting Systems. (2015 Session Change)

An optical scan voting system is an electronic voting system in which the voter records votes by marking with a pencil or other writing instrument a ballot on which the names of candidates, office titles, and a statement of any questions accompanied by the words "Yes" and "No" are printed. (M.S. 206.90, Subd. 1).

12.49.1 Procedures. To the extent possible, the procedures for using an optical scan system must be the same as those used for other electronic voting systems. (M.S. 206.90, Subd. 2). However, the public accuracy test must be held within 14 days for an optical scan system (M.S. 206.83). (See Minn. Rule Parts 8230.0050 to 8230.4395 for procedures for optical scan voting systems.)

12.49.2 Absentee Voting. An optical scan voting system may be used for absentee voting. The county auditor may supply an appropriate marking instrument to the voter with the ballot. (M.S. 206.90, Subd. 4).

12.49.3 Instruction of Judges and Voters. In instructing judges and voters on the use of the system, the officials in charge of the election shall include instruction on the proper mark for recording votes on the ballot and the insertion by the voter of the ballot into automatic tabulating equipment that examines and

counts votes as the ballot is deposited in the ballot box. Officials shall include instruction on the insertion by the voter of the ballot card into an electronic ballot marker that can examine votes before the ballot card is deposited into the ballot box. (M.S. 206.90, Subd. 5).

12.49.4 Ballots. In precincts using an optical scan voting system, a single ballot on which all ballot information is included must be printed in black ink on white material except that marks to be read by the automatic tabulating equipment may be printed in another color ink. If more than one ballot is required, the ballots must, so far as practicable, be of the same color as is required for paper ballots. (M.S. 206.90, Subd. 6). In state elections, a single ballot title must be used. In odd-numbered years when both municipal and school district officers or questions appear on the ballot, the single ballot title "City (or Town) and School District Ballot" must be used.

On the front of the ballot must be printed the words "Official Ballot" and the date of the election and lines for the initials of at least two election judges.

When optical scan ballots are used, the offices to be elected must appear in the following order: federal offices; state legislative offices; constitutional offices; proposed constitutional amendments; county offices and questions; municipal offices and questions; school district offices and questions; special district offices and questions; and judicial offices. (M.S. 206.90, Subd. 6).

On optical scan ballots, the names of candidates and the words "Yes" and "No" for ballot questions must be printed as close to their corresponding vote targets as possible. The line on an optical scan ballot for write-in votes must contain the words "write-in, if any."

The ballots must be prepared in the format specified in Minn. Rule 8250.1800, Subp. 1.

Ballots must meet or exceed the specifications the equipment manufacturer has filed with the Secretary of State. The election official responsible for preparing the ballots must supply to the ballot printer the manufacturer's recommended standards and specifications for ballot printing. The ballots must be delivered in shrink wrapped packages and be stored in a manner to protect against moisture. (Minn. Rule 8230.0560).

12.49.5 Supplies. Each precinct must be supplied with a ballot box for the deposit of voted ballots, the sample ballots for the precinct, ballot secrecy covers, envelopes marked "spoiled ballots," "write-in ballots," and "ballots for which duplicates were or are to be made," a form to record write-in votes, if needed, and a set of instructions for operating the precinct on election day. In election jurisdictions using central count voting systems, an envelope marked "defective ballots" also must be provided to each precinct. (Minn. Rule 8230.0580).

12.49.6 Ballot Boxes. Ballot boxes used with counting equipment that reads the ballot as it is inserted into the ballot box may be separate or part of the equipment provided that the ballot is fed directly into a locked or sealed ballot box. At a general election, the ballot boxes must have two separate compartments into which the equipment can feed ballots. One compartment must receive ballots on which all votes have been counted and recorded. The other compartment must receive the ballots on which all votes have been counted, except for those offices for which a write-in target has been completed. An auxiliary ballot box, that may be separate or an additional compartment, must be supplied to be used if the equipment fails to function and to receive ballots that cannot be read by the ballot counter. (Minn. Rule 8230.4355).

12.49.7 Voting Booths. In precincts using an optical scan voting system, the number of voting booths must be sufficient to provide for the number of voters expected. Information needed to enable voters to mark ballots quickly and correctly must be posted in each voting booth. (M.S. 206.90, Subd. 7). The booths or stations must be arranged so the secrecy of the ballot is not violated. (Minn. Rule 8230.0250).

12.49.8 Duties of Election Officials. The official in charge of elections shall have the electronic ballot marker that examines and marks votes on ballot cards and the automatic tabulating equipment that examines and counts ballots as cards are inserted set, adjusted and made ready for voting when delivered to the election precincts. (M.S. 206.90, Subd. 8). Computer programs and counting equipment must be tested as required by Minnesota election laws and rules.

12.49.9 Preparation of Precinct Counting Equipment. Computer programs and test decks must be prepared, tested and secured in compliance with Minnesota Rules, Parts 8220.0750 to 8220.1850.

12.49.10 Voting Procedure. Every voter at the polling place must be offered a demonstration of how to mark the ballot and use the voting system. (Minn. Rule 8230.0650).

The election judge shall not deliver a ballot to a voter until the judge has received a voter receipt. The voter receipt may contain an example of the target used on the ballot. The election judge must state or demonstrate how to complete the target as the ballot is handed to the voter. A writing instrument without an eraser that will produce marks that can be accurately read by the ballot counter must be provided to each voter. (Minn. Rule 8230.0650).

Upon being issued a ballot and offered a ballot secrecy cover, the voter shall go to an unoccupied voting station and vote. Upon leaving the voting station, the voter shall insert the ballot into the ballot counter or ballot box. The voter may choose to hand the ballot to an election judge who shall insert the ballot into the ballot counter or ballot box. (Minn. Rule 8230.0650).

12.49.11 Spoiled Ballot Cards. Automatic tabulating equipment and electronic ballot markers must be capable of examining a ballot for defects and returning it to the voter before it is counted and deposited in the ballot box and must be programmed to return as a spoiled ballot a ballot with votes for an office or question which exceed the number which the voter is entitled to cast. (M.S. 206.90, Subd. 9).

If a voter spoils a ballot by inadvertently defacing it or requests a new ballot, the voter shall hand the ballot to the election judge. The election judge may look at the ballot if necessary to determine what style of replacement ballot to give the voter. The election judge shall place the ballot in the spoiled ballot envelope and give the voter another ballot. (Minn. Rule 8230.0850).

Any ballot found in a voting station must be marked "found in voting station." The ballot must be placed in the spoiled ballot envelope. In no case may the ballot be placed with the properly cast ballots. A note of the occurrence must be made in the remarks section of the precinct incident report. (Minn. Rule 8230.1050).

12.49.12 Absentee Ballots. The judges shall examine the absentee ballots as they are removed from the envelopes. Ballots requiring duplication must be duplicated in accordance with Minnesota rule. (Minn. Rule 8230.1130).

12.49.13 Write-in Votes. At a general election, each ballot must be examined either electronically or manually for write-in votes. (Minn. Rule 8230.1350). To be counted as a write-in vote, a sticker containing the name of a write-in candidate must be placed on the ballot in the area under the office for which the vote is cast. (Minn. Rule 8230.1450).

12.49.14 Defective Ballots. If a ballot has been damaged, it may be duplicated and counted. The damaged ballot must be placed in the duplicate ballot envelope. If it is clearly evident from examination of the ballot that the ballot has been damaged or marked for the purpose of distinguishing it, then the ballot is defective

and may not be counted. The ballot must be placed in the defective ballot envelope and returned to the official in charge of the election. (Minn. Rule 8230.1850).

12.49.15 Procedures Following Closing of Polls. All ballots which are not issued to voters must be secured for return to the official in charge of the election for the election jurisdiction. (Minn. Rule 8230.1150, Subp. 1).

The total number of voters must be entered on the precinct summary statement. (Minn. Rule 8230.1150, Subp. 3).

## 12.50 Procedures for Precinct Count Optical Scan Voting Systems.

12.50.1 Ballot Boxes. Ballot boxes used with precinct count voting systems may be separate or part of the ballot counting equipment provided that the ballot is fed directly into a locked or sealed ballot box. At a general election, the ballot box must have two separate compartments into which the ballot counting equipment can feed ballots. One compartment must receive ballots on which all votes have been counted and recorded. The other compartment must receive ballots on which all votes have been counted except those for offices for which the write-in target has been completed. An auxiliary ballot box, that may be separate or an additional compartment, must be supplied to be used if the voting system fails to function or for ballots that cannot be read by the ballot counter. (Minn. Rule 8230.4355).

12.50.2 Duplication of Ballots. Any ballots requiring duplication at the polling place must be duplicated in the manner described in items (a) to (e):

(a) Whenever a ballot is required to be duplicated, the duplication process must be performed by two election judges not of the same political party. (This is not applicable to stand alone school district elections.)

(b) Whenever it is necessary to duplicate a ballot, the duplicate ballot and the original ballot must be identified with a single number written on both ballots. The number on the duplicate ballot must be the same number as on the original ballot. When more than one ballot is being duplicated in a precinct, the numbering must be serial.

(c) The reason for duplication must be written on the duplicate ballot. The election judges duplicating the ballot shall initial the duplicate ballot and the original ballot.

(d) When duplicating a ballot, one election judge shall call from the original ballot the valid selections of the voter; another election judge shall prepare the duplicate ballot with the voter's valid selections. The duplicate ballot must be compared against the original ballot to ensure it has been accurately duplicated.

(e) All original ballots which require duplication must be placed in an envelope marked "ballots for which duplicates were or are to be made." The duplicate ballot must be placed with the other valid ballots to be tabulated. (Minn. Rule 8230.4360).

## 12.50.3 Equipment and Procedures.

Number of ballot counters and memory units. At least one precinct count voting system and at least one memory unit must be used in each precinct. One precinct count voting system and one memory unit may be used to count ballots for up to four precincts that are in the same municipality and that have a combined total of fewer than 2,500 registered voters as of June 1 of that election year. A separate summary statement must be produced for each precinct being counted by the precinct count voting system and the voted ballots must be separated and sealed by precinct. (Minn. Rule 8230.4365, Subp. 1).

Procedure before polls open. Each ballot counter must be tested to ensure that the components are operating properly. The election judges shall verify that the ballot counter at the precinct polling place has the correct seal number and certify the seal number on the summary statement. Before opening the polls, the election judges shall initialize the ballot counter in accordance with the manufacturer's instructions. The judges shall verify that the initial counts are zero, that the public counter is set at zero, and that the order of the offices and questions to be voted on and the candidates' names on the zero tape is the same as their order on the ballot for that precinct. (Minn. Rule 8230.4365, Subp. 2).

Procedures during voting hours. Ballot counters must be programmed to return to the voter a ballot having an overvote or votes for candidates of more than one political party in a partisan primary election. Ballot counters must be programmed to print a message describing the error on a paper tape or to display the error message electronically. If the voting system is capable of emitting an audible signal while electronically displaying the error message, it must do so. Election judges monitoring the deposition of ballots into the ballot counters must be stationed no closer than six feet from the ballot counter. The election judges shall read the error message to the voter and may explain the conditions that cause a ballot to be rejected, but the judges shall not examine the voted ballot unless the voter requests assistance or it is necessary to determine what style of replacement ballot must be given to the voter.

If the voter wants to change the rejected ballot, the election judge shall treat the rejected ballot as a spoiled ballot, place the rejected ballot in the spoiled ballot envelope, and issue the voter a new ballot.

If the voter does not want to change the rejected ballot, the election judge shall override the rejection of the ballot. No means of overriding the rejection of a ballot having defects may be used that does not meet the conditions in items (a) to (c):

- (a) The override must be protected against being inadvertently activated.
- (b) The override must not allow more than one ballot to be processed each time it is operated.
- (c) An override message must be printed on the results tape, or be displayed electronically while the voting system emits an audible signal, each time the override is operated. (Minn. Rule 8230.4365, Subp. 3).

Error messages. The following messages are sufficient for optical scan voting systems to print or display for the described errors or actions:

- (a) overvote for (voting system will supply and print the name of the overvoted office);
- (b) overvote for multiple offices;
- (c) crossover vote; and
- (d) ballot overridden. (Minn. Rule 8230.4365, Subp. 4).

Opening ballot box during voting hours. Two election judges of different political parties may open the ballot boxes on election day to straighten or remove the voted ballots but they shall not count or inspect the ballots. (The two party judge requirement does not apply to stand alone school district elections.) If removing ballots, the election judges shall put the ballots taken from the ballot box's main compartment into containers and seal them. The judges shall put the ballots taken from the ballot box's write-in compartment into containers separate from the other ballots and seal them. The judges shall label the ballot containers and store them in a secure location. The judges shall note on the incident report the fact that the ballot box was opened, the time the box was opened, and, if applicable, the numbers of any seals used to seal the ballot containers. (Minn. Rule 8230.4365, Subp. 5).

Procedures after voting has ended. As soon as voting has ended, the election judges shall process any ballots in the auxiliary ballot box and then secure the ballot counter against receiving any more ballots. The

election judges must inspect the seals on each ballot counter to ensure that they have not been altered and are intact and that the seal numbers agree with the numbers as verified at the opening of the polls. Any discrepancy must be noted in the incident report. (Minn. Rule 8230.4365, Subp. 6).

12.50.4 Counting Ballots. The election judges shall open the ballot box and any overflow containers, remove the ballots, and determine the total number of ballots. If the election judges determine that the total number of ballots is greater than the number of persons voting and that it is impossible to reconcile the numbers, the judges shall follow the procedures in M.S. 206.86. (Minn. Rule 8230.4370).

12.50.5 Write-in Votes. At a general election, after the ballot counter has been secured against receiving additional ballots, the election judges shall open the write-in compartment and remove the ballots. If a valid write-in vote exists, the election judges shall determine whether the write-in vote has caused an overvote. If the write-in vote has caused an overvote, the ballot is defective for that office only. If a write-in vote is determined to be valid and no overvote condition exists, the election judges shall enter the candidate's name and the office on the write-in vote tally sheet. At the discretion of the county auditor, the processing described above may be done at the office of the local election official or county auditor rather than at the precinct polling place. (Minn. Rule 8230.4375).

12.50.6 Summary Statement. One unbroken tape that includes the zero report at the opening of the polls, messages printed during the hours of voting, and the first printout of results must be certified to the official conducting the election. In the event of equipment or power failure, the election judges and any technicians working on the equipment shall make entries on the tape of initials and time of occurrence to indicate the points at which the equipment failed and was returned to service. If the tape has been broken, the election judges shall seal the parts together and sign over the seal so that it cannot be broken without disturbing the continuity of the signatures. The election judges shall prepare the number of summary statements directed by the official conducting the election. For state elections, the county auditor shall forward a summary statement to the Secretary of State together with two copies of the county canvassing board report. The official conducting the election may authorize the printing of copies of the summary statement for public information purposes. The official conducting the election shall prepare copies of any additional forms required by the Secretary of State. (Minn. Rule 8230.4380).

12.50.7 Transfer Case Procedures.

Content. The election judges shall place in the transfer case for delivery to the official conducting the election all of the following items:

- (a) valid voted ballots;
  - (b) envelope containing spoiled ballots;
  - (c) envelope containing ballots for which duplicates were made; and
  - (d) envelopes with notations concerning any other issued ballots contained which are not to be counted.
- (Minn. Rule 8230.4385, Subp. 1).

Second transfer case. If space in the transfer case is inadequate, then a second ballot box transfer case, or container of a type approved by the election jurisdiction for storage of ballots must be used and the sealing and security handled in the same manner as the transfer case. (Minn. Rule 8230.4385, Subp. 2).

Other containers. The summary statement, incident report, write-in vote tally sheet if write-in votes were counted at the polling place, and any materials not listed above that the official conducting the election has designated for return to the official must be placed in a separate container or containers for delivery. (Minn. Rule 8230.4385, Subp. 3).

Sealing transfer case. A transfer case must be sealed with a seal so that it is impossible to open the case or to insert or remove ballots without breaking the seal. Within or attached to the transfer case must be a certificate signed by the judges indicating its contents, the precinct name, and the number of any seals used to seal the case or cases. (Minn. Rule 8230.4385, Subp. 4).

Delivery of transfer case. The transfer case containing the required items as identified above must be delivered by one or more election judges to the official conducting the election or to the collection point for transportation to the official. (Minn. Rule 8230.4385, Subp. 5).

12.50.8 Certificate of Election Judges. The election judges shall sign a certificate of election judges. (Minn. Rule 8230.4390).

12.50.9 Retention of Ballots. Ballots which are not issued to voters must be returned to the official conducting the election who shall retain them by precinct until the time for contest has expired. (Minn. Rule 8230.4395).

12.51 Procedures for Central Count Optical Scan Voting Systems. Procedures for central count optical scan voting systems shall be as provided in Minnesota Rules Parts 8230.2010 to 8230.4150.

12.52 Canvassing Board.

In a school district where an electronic voting system is used, the canvassing board shall perform the same duties as provided for the canvassing of paper ballots. (M.S. 206.87).

12.53 Violations; Penalties.

An individual who intentionally injures or attempts to injure or render ineffectual any component of an electronic voting system or who violates any provisions of M.S. Chapter 206 relating to electronic voting systems is guilty of a felony. (M.S. 206.66, Subd. 1).

An individual who violates any rules adopted by the Secretary of State or by the governing body of a school district where an electronic voting system is used is guilty of a gross misdemeanor. (M.S. 206.66, Subd. 2).

## 13. ELECTION DAY ACTIVITIES

13.1 Procedures.

When the voter arrives at the polls, the judges shall have the individual sign the polling place roster or voter signature certificate in the space next to his or her name. An election judge may confirm the voter's name, address and date of birth before the voter signs the roster or voter signature certificate. After the voter signs the roster or voter signature certificate, the judge will give the voter a voter's receipt which the voter gives to the judge in charge of ballots in return for a ballot. Voters' receipts must be maintained during the time for notice of filing an election contest. (M.S. 204C.10).

The voter must next hand the voter's receipt to the election judge in charge of ballots as proof of the right to vote. (M.S. 204C.10, Subd. 1). The judge in charge of ballots shall give the voter one ballot of each kind that is to be voted upon at that precinct. The voter shall then await his or her turn to enter the voting booth to mark the ballot. (M.S. 204C.13, Subd. 1).

Each voter, after marking his or her ballot, must leave the voting booth and insert the ballot into the ballot counter (Minn. Rule 8230.0650) (See 12.49.10 above).

If a voter refuses to sign the polling place roster or voter signature certificate or answer a question when challenged, the election judge must not allow the voter to vote. (M.S. 204C.12, Subd. 4).

13.2 Receiving and Marking Ballots. See Section 12.49.10 above.

13.2.1 Challenge of Voter. At any time before the ballots of any voter are deposited in the ballot boxes, the election judges or any individual who was not present at the time the voter procured the ballots, but not otherwise, may challenge the eligibility of that voter or the deposit of any received absentee ballots in the ballot boxes. The election judges shall determine the eligibility of any voter who is present in the polling place. If the voter is found to be not eligible to vote, the judges shall place the ballots of that voter unopened among the spoiled ballots. The election judges shall determine whether to receive or reject the ballots of an absent voter, and whether to deposit received absentee ballots in the ballot boxes and shall dispose of absentee ballots in the manner provided in M.S. 203B.121. (See Section. 10.9 above). Violation of these provisions by an election judge is a gross misdemeanor. (M.S. 204C.13, Subd. 6).

13.2.2 Leaving Polling Place. An individual who has voted or whose ballot has been rejected must leave the polling place and not return except in specific circumstances. (See Section 13.4 below.) (M.S. 204C.13, Subd. 7).

13.3 Assistance to Voters. (2013 change)

13.3.1 Inside the Polling Place. A voter who claims a need for assistance because of inability to read English or physical inability to mark a ballot, may obtain the aid of two election judges. The election judges shall mark the ballots as directed by the voter and in as secret a manner as circumstances permit. A voter in need of assistance may alternatively obtain the assistance of any individual the voter chooses. The following persons may not provide assistance to a voter: the voter's employer, an agent of the voter's employer, an officer or agent of the voter's union, or a candidate for election. The person who assists the voter shall, unaccompanied by an election judge, retire with that voter to a booth and mark the ballot as directed by the voter. No person who assists another voter as provided in the preceding sentence shall mark the ballots of more than three voters at one election. Before the ballots are deposited, the voter may show them privately to an election judge to ascertain that they are marked as the voter directed. An election judge or other individual assisting a voter shall not in any manner request, persuade, induce, or attempt to persuade or induce the voter to vote for any particular political party or candidate. The election judges or other individuals who assist the voter shall not reveal to anyone the name of any candidate for whom the voter has voted or anything that took place while assisting the voter. (M.S. 204C.15, Subd. 1).

Except as authorized above, a voter shall not reveal to anyone in the polling place the name of any candidate for whom the voter intends to vote or has voted. A voter shall not ask for or receive assistance from anyone within the polling place except as authorized above. If a voter, after marking a ballot, shows it to anyone except as authorized by law, the judges shall refuse to deposit the ballot in any ballot box and shall place it among the spoiled ballots. Unless the showing of the ballot was clearly intentional, the voter shall receive another ballot. (M.S. 204C.17).

13.3.2 Outside the Polling Place. An individual who is unable to enter a polling place where paper ballots or an electronic voting system are used may register and vote without leaving a motor vehicle. Two election judges shall assist the voter to register and to complete a voter's certificate and shall provide the necessary ballots. The judges do not need to be members of different major political parties unless the election is held

in conjunction with a statewide election. The voter may request additional assistance in marking ballots as provided above. (M.S. 204C.15, Subd. 2).

### 13.3.3 Intentionally Omitted.

13.3.4 Voting Lines. In all polling places two election judges shall assist a disabled voter to enter the polling place and go through the registration and voting lines. The voter may also request the assistance of election judges or any other individual in marking ballots, as provided above. The judges do not need to be members of different major political parties unless the election is held in conjunction with a statewide election. (M.S. 204C.15, Subd. 3).

The election law does not provide a penalty for assisting a voter who does not actually need it; nor is there a requirement to keep records of voters who were given assistance.

13.3.5 Secrecy; Mismarking Ballots; Disclosure. A school district election must be by secret ballot. (M.S. 205A.10).

An election judge or other person who assists a voter is guilty of a gross misdemeanor if he mismarks the ballot, marks the ballot other than as directed, or discloses to anyone other than the voter how the ballot was marked. (M.S. 204C.16).

The election judges shall make no entry or notation in the election register or anywhere else showing the political party to which a voter belongs or for which political party the voter voted. No election judge shall knowingly permit anyone in the polling place to make such an entry or notation. (M.S. 204C.18, Subd. 1).

No voter, election judge, or other individual shall place at any time a mark as a means of identification upon any ballot handed to or cast by a voter or upon spoiled or discarded ballots except the initials of the election judges on the backs of election ballots. A violation of this provision is a gross misdemeanor. (M.S. 204C.18, Subd. 2).

13.4 Persons Authorized in Polling Place. Representatives with written authorization from the Secretary of State's office, county auditor's office and the school district or municipal clerk's office may be present at the polls as observers. In addition to these individuals, election judges, sergeants-at-arms, and challengers may be present at the polls. Persons helping a voter who is disabled or unable to read English, persons vouching for a voter's residence, and children accompanying voters may also be in the polling place. A voter may remain inside the polling place only while voting or registering to vote, providing proof of residence for a registrant or assisting a handicapped voter or voter unable to read English, or completing an Election Complaint Form. Further, no one except those receiving, marking or depositing ballots shall be within six feet of a voting booth, ballot counter, or electronic voting equipment, unless authorized by a judge, or the individual is an election judge monitoring the operation of the ballot counter or electronic voting equipment. (M.S. 204C.06, Subd. 2).

Each official on duty in the polling place must wear an identification badge that shows his or her role in the election process. (M.S. 204C.06, Subd. 2(c)).

The Secretary of State may authorize educational activities relating to voting and elections for elementary and secondary school students in the polling place on the day of a state, county, municipal or school district election. Activities must be administered in a manner that does not interfere with the conduct of the election. (M.S. 204B.27, Subd. 7). Teachers and students participating in these educational activities may be present at the polling place during voting hours. (M.S. 204C.06, Subd. 2(b)).

A news media representative may enter a polling place during voting hours only to observe the voting process. A media representative must present photo identification to the head election judge upon arrival at the polling place, along with either a recognized media credential or a written statement from a local election official attesting to the media representative's credentials. A media representative must not:

- (1) approach within six feet of a voter;
- (2) converse with a voter while in the polling place;
- (3) make a list of persons voting or not voting; or
- (4) interfere with the voting process. (M.S. 204C.06, Subd 8).

### 13.5 Other Unauthorized Activity. (2013 change)

The following prohibitions also apply to school elections:

13.5.1 Persons Allowed Near Polling Place. No one except an election official or an individual who is waiting to register or to vote or an individual conducting exit polling shall stand within 100 feet of the building in which a polling place is located. (M.S. 204C.06, Subd. 1). Exit polling is defined as approaching voters in a predetermined pattern as they leave the polling place after they have voted and asking voters to fill out an anonymous, written questionnaire.

13.5.2 Damaging or Removing Election Materials; Gross Misdemeanor. No individual shall intentionally:

- (a) Tear down, mutilate, deface or otherwise damage during the hours of voting any voter instruction poster placed inside or outside of a polling place by an election judge or other election official; or
- (b) Remove from the polling place before the time for voting ends any ballots prepared for use at the election or any supplies or conveniences placed in voting booths for use by the voters, except as authorized by law.

A violation of this provision is a gross misdemeanor. (M.S. 204C.06, Subd. 3).

13.5.3 Damaging or Removing Election Materials; Felony. No individual shall intentionally:

- (a) Remove from a polling place any election file or election register, except as authorized by law;
- (b) Damage, deface, or mutilate any ballot, election file or election register or any item of information contained on it, except as authorized by law; or
- (c) Add anything to a ballot, election file or election register, except as authorized by law.

A violation of this provision is a felony (M.S. 204C.06, Subd. 4).

13.5.4 Peace Officers. Except when summoned by an election judge to restore the peace or when voting or registering to vote, no peace officer shall enter or remain in a polling place or stand within 50 feet of the entrance of a polling place. (M.S. 204C.06, Subd. 6).

13.5.5 Enforcement; Sergeant-At-Arms. The election judges may appoint a sergeant-at-arms when necessary to keep the peace or otherwise to assist them. An election judge may request a sergeant-at-arms or a peace officer to arrest or remove from the polling place any individual who, despite a warning to desist, engages in disorderly conduct. A sergeant-at-arms or a peace officer shall not otherwise interfere in any manner with voters. (M.S. 204C.06, Subd. 5).

M.S. 204C.06, Subds. 5 and 6 make it clear that election judges have the authority to call a peace officer to arrest a person who is disturbing the peace or electioneering in or near the polls. A person who is disturbing the peace or is electioneering in or near the polls or is hindering a prospective voter may be

arrested by a police officer or any private citizen. (M.S. 629.37). Election officials have the power to make a citizen's arrest. (Op. Atty. Gen. 187-A-9, May 26, 1952).

13.5.6 Use of Intoxicating Liquor; Prohibition Penalty. During the time an election is being held, it is a misdemeanor to bring intoxicating liquor or nonintoxicating malt liquor into a polling place, to drink intoxicating liquor or nonintoxicating malt liquor in a polling place, or to be intoxicated in a polling place. The election judges shall not permit an obviously intoxicated individual to vote or remain in the polling place for any purpose. (M.S. 204C.06, Subd. 7).

13.5.7 Unlawful Voting. No individual shall intentionally:

- (a) Misrepresent the individual's identity in applying for a ballot, depositing a ballot in a ballot box or attempting to vote by means of a voting machine or electronic voting system;
- (b) Vote more than once at the same election;
- (c) Put a ballot in a ballot box for any illegal purpose;
- (d) Give more than one ballot of the same kind to an election judge to be placed in a ballot box;
- (e) Aid, abet, counsel or procure another to go into any precinct for the purpose of voting in that precinct, knowing that the other individual is not eligible to vote in that precinct; or
- (f) Aid, abet, counsel or procure another to do any act in violation of this section.

A violation of any of the previous provisions is a felony. (M.S. 204C.14, Subd. 1). For purposes of proving a violation of this law, the signature of an individual or a polling place roster is prima facie evidence of the intent of the individual to vote at that election. (M.S. 204C.14, Sub. 2).

13.5.8. Deceptive Practices in Elections.

No person shall knowingly deceive another person regarding the time, place or manner of conducting an election or the qualifications for or restrictions on voter eligibility for an election, with the intent to prevent the individual from voting in the election. A violation of this provision is a gross misdemeanor. (M.S. 204C.035, Subd. 1).

Any person may report to the county auditor or municipal clerk an act of deception regarding the time, place or manner of conducting an election. The election official to whom the report was made shall provide accurate information to the person who reported the incorrect information in a timely manner, and may provide information about the act of deception and accurate information to mass media outlets in any affected area. The county attorney may subsequently proceed to prosecute as specified above. (M.S. 204C.035, Subd. 2).

13.6 Challenges.

An election judge has the duty to challenge a prospective voter's right to vote if the judge knows or reasonably believes that the prospective voter lacks the necessary qualifications and is not an eligible voter. An election judge who fails to carry out the duties in M.S. 204C.12 is guilty of a gross misdemeanor. (M.S. 204C.12, Subd. 5; Op. Atty. Gen. 187a-9, May 13, 1970). If an election judge challenges a voter, a series of questions should be posed by the election judge after administering the following oath:

"Do you solemnly swear (or affirm) that you will fully and truly answer all questions put to you concerning your eligibility to vote at this election?" (M.S. 204C.12, Subd. 2).

The questions should be sufficient to test the individual's residence and eligibility to vote in the precinct.

A challenged voter who refuses to answer questions or sign the polling place roster shall not be allowed to vote. (M.S. 204C.12, Subd. 4).

A vote challenger on behalf of a candidate may also request that a judge challenge a person's right to vote. (See Section 13.6.1 below.) The challenger must complete and sign the form prepared by the Secretary of State when making a challenge. (M.S. 204C.12, Subd. 2); See Minn. Rule 8210.9960 for challenge form. The judge shall then administer the oath and question the voter as illustrated above. (M.S. 204C.13, Subd. 6).

The election judges or any individual who was not present at the time the voter procured the ballots, may challenge the eligibility of that voter at any time before the ballots of the voter are deposited in the ballot boxes. (M.S. 204C.13, Subd. 6 and Section 13.2.6 above).

In determining the legal residence of a challenged individual, the election judges shall be governed by the provisions of M.S. 200.031. (See Section 5.4.4 above.) If the challenged individual's answers to the questions show ineligibility to vote in that precinct, the individual shall not be allowed to vote. If the individual has marked ballots but not yet deposited them in ballot boxes before the election judges determine ineligibility to vote in that precinct, the marked ballots shall be placed unopened with the spoiled ballots. (M.S. 204C.12, Subd. 3).

If, after questioning, the elections judges still doubt whether such a person is qualified to vote, or if the challenge is not withdrawn, the person shall be allowed to vote after verbally taking the oath on the polling place roster and signing the roster. (M.S. 204C.12, Subd. 3).

13.6.1 Challengers. In non-partisan school elections, each candidate may appoint, by written certificate, voters to act as challengers at the polling place for each precinct. However, only one challenger for each candidate is permitted for each precinct at the polling place at one time. (M.S. 204C.07, Subd. 2). A challenger cannot show an obvious pattern when challenging such as challenging all voters of one race, all young voters, etc. Abuse of the right to challenge constitutes a gross misdemeanor. (Op. Atty. Gen. 182, October 26, 1964).

At an election where a question is to be voted upon, the school board, upon written petition signed by at least 25 eligible voters, shall appoint in writing one voter for each precinct in the school district to act as challenger of voters for that precinct. (M.S. 204C.07, Subd. 3).

A challenger must be a resident of Minnesota. (M.S. 204C.07, Subd. 3a). An election judge may not be appointed as a challenger. (M.S. 204C.07, Subd. 4). Appointed challengers seeking admission to a polling place must prove their status as a resident by presenting one of the documents specified in M.S. 201.061, Subd. 3. Challengers need not prove residence in the precinct in which they seek to act as a challenger.

Challengers are permitted to remain in polling places during voting hours and until votes are counted and results declared. Challengers may not:

- (1) Handle or inspect registration applications, files, or lists;
  - (2) Compile any list of persons who have or have not voted;
  - (3) Attempt to influence voting in any manner;
  - (4) Talk to a voter except to determine whether the voter is eligible to vote in the precinct, and only in the presence of an election judge;
  - (5) Be disruptive;
  - (6) Go within 6 feet of a voting booth, ballot counter, or electronic voting equipment.
- (M.S. 204C.06, Subd. 2; 204C.07, Subd. 4).

Challengers and the political parties that appointed them must not compile lists of voters to challenge on the basis of mail sent by a political party that was returned as undeliverable or if receipt by the intended recipient was not acknowledged in the case of registered mail. This provision applies to any local, state or national affiliate of a political party that has appointed challengers, as well as any subcontractors, vendors, or other individuals acting as agents on behalf of a political party. A violation of this provision is a gross misdemeanor. (M.S. 204C.07, Subd. 5).

13.7 Closing the Polls. Five minutes before closing time one of the judges should announce by oral proclamation that the polls will close promptly in five minutes. Polls must be closed promptly at the time designated in the resolution calling the election; provided, however, that those voters who at the time of closing the polls are either waiting in the polling place or waiting in line at the door to register or to vote may be allowed to register and vote and the polls must remain open a sufficient time for them to do so. One of the judges should determine the end of the line at the scheduled closing time so that latecomers may not get into the line thereafter. (M.S. 204C.05).

Polls are then closed when the last eligible voter has voted and no one else may be permitted to vote late.

## 14. VOTE COUNTING (2015 Session Change)

### 14.1 General.

When the hours for voting have ended and all voting has concluded, the election judges shall immediately count the votes cast at the election. The count is public and shall be held at the polling place. The count shall be continued without intermission until it is completed and the results are declared; however, the judges may recess for meals or other necessary purposes. No one other than election judges shall handle the ballots during the count. Any other individual who touches or interferes with ballots during the counting or any election judge who permits such touching is guilty of a misdemeanor. (M.S. 204C.19, Subd. 1).

14.2 Electronic Voting Systems. The counting of ballots cast by electronic voting systems is as provided in Section 12 above.

14.3 Rules for Determining Voter's Intent. These rules provide that a ballot may not be rejected for any technical error that does not make it impossible to determine the voter's choice even though the ballot may be slightly soiled or defaced. All ballots must be counted for the persons for whom they were intended, so far as the intent can be clearly ascertained from the ballots themselves. To determine a voter's intent, the provisions of M.S. 204C.22 provide as follows:

Subdivision 1. Ballot valid if intent determinable. A ballot shall not be rejected for a technical error that does not make it impossible to determine the voter's intent. In determining intent the principles contained in this section apply.

Subd. 2. From face of ballot only. Intent shall be ascertained only from the face of the ballot.

Subd. 3. Votes for too many candidates. If a voter places a mark beside the names of more candidates for an office than are to be elected or nominated, the ballot is defective with respect only to that office. No vote shall be counted for any candidate for that office, but the rest of the ballot shall be counted if possible. At a primary, if a voter has not indicated a party preference and places a mark beside the names of candidates of more than one party on the partisan ballot, the ballot is totally defective and no votes on it shall be counted. If a voter has indicated a party preference at a primary, only votes cast for candidates of that party shall be counted.

Subd. 3a. Votes Yes and No. If a voter votes both yes and no on a question, no vote may be counted for that question, but the rest of the ballot must be counted if possible.

Subd. 4. Name written in proper place. If a voter has written the name of an individual in the proper place on a general or special election ballot a vote shall be counted for that individual whether or not the voter makes a mark in the **oval or other target shape** opposite the blank.

Subd. 4a. Write in for candidate team. Intentionally omitted.

Subd. 5. Name written on primary ballot. If a voter has written the name of an individual on a primary or special primary ballot, a vote shall not be counted for that office.

Subd. 6. Mark out of place. If a mark (X) is made out of its proper place, but so near a name or space as to indicate clearly the voter's intent, the vote shall be counted.

Subd. 7. All written names or marks counted up to limit. If a number of individuals are to be elected to the same office, the election judges shall count all names written in and all printed names with marks in **ovals or other target shapes** opposite them, not exceeding the whole number to be elected. When fewer names than the number to be elected are marked or written in, only the marked or written in names shall be counted. When more names than the number to be elected are marked or written in, the ballot is defective with respect to that office and no vote shall be counted for that office.

Subd. 8. Misspelling; abbreviations. Misspelling or abbreviations of the names of write-in candidates shall be disregarded if the individual for whom the vote was intended can be clearly ascertained from the ballot.

Subd. 9. Votes for only some offices or questions determined. If the voter's choice for only some of the offices or questions can be determined from a ballot, the ballot shall be counted for those offices or questions only.

Subd. 10. Different marks. If a voter uniformly uses a mark **that** clearly indicates an intent to mark a name or to mark yes or no on a question, and the voter does not use **the more standard mark** anywhere else on the ballot, a vote shall be counted for each candidate or response to a question marked. If a voter uses two or more distinct marks, such as (X) and some other mark, a vote shall be counted for each candidate or response to a question marked, unless the ballot is marked by distinguishing characteristics that make the entire ballot defective as provided in Subdivision 13.

Subd. 11. Attempted erasures. If the names of two candidates have been marked, and an attempt has been made to erase or obliterate one of the marks, a vote shall be counted for the remaining marked candidate. If an attempt has been made to obliterate a write-in name a vote shall be counted for the remaining write-in name or marked candidate.

Subd. 12. Soil; defacement. A ballot shall not be rejected merely because it is slightly soiled or defaced.

Subd. 13. Identifying ballot. If a ballot is marked by distinguishing characteristics in a manner making it evident that the voter intended to identify the ballot, the entire ballot is defective.

Subd. 14. No votes for certain offices. If the number of candidates for an office is equal to the number of individuals to be elected to that office, and the voter has not marked any name, no vote shall be counted for any candidate for that office.

Subd. 15. Blank ballot for one or more offices valid. If no name or response to a question is marked and no name is written in, the ballot is blank with respect to that office or question. A ballot that is blank with respect to one or more offices or questions is not defective.

During the process of counting, election judges may be faced with judgment decisions. The intent of the law is to maintain faith and integrity in the election process and to ascertain the intention of the voter. Ballots marked with a mark either in the "Yes" or "No" oval are to be counted. There should be no erasures or other markings on the ballot since ballots should not be identified in any way and ballots so marked or erased should normally be counted by the judges as spoiled ballots. Spoiled ballots are those that do not substantially follow the instructions on the ballots. If judges should have particular questions, they should use their common sense and good judgment.

#### 14.4 Counting Write-In Ballots; Intention of Voter.

The Attorney General has rendered an opinion relating to the counting of write-in ballots and the use of a maiden name. This opinion involved a school district election and the writing of a candidate's name of a ballot by the person casting it. Some voters wrote in the name of Mrs. Ray Davis while other voters wrote in the maiden names of Mrs. Davis which was Nellie Mann. In noting that it was a close question whether all the votes should have been counted for Mrs. Davis, the Attorney General stated that the election judges, taking notice of facts known to them, could properly count the ballots for her. (Report of Attorney General, 1941-42, No. 65, Page 103).

Election judges should give every consideration to the intention of the voters.

#### 14.5 Defective Ballots.

A ballot that is defective to the extent that the election judges are unable to determine the voter's intent shall be marked on the back "Defective" if it is totally defective or "Defective as to \_\_\_\_\_", naming the office or question if it is defective only in part. (M.S. 204C.23).

Defective ballots shall be sent to the county auditor or school district clerk after certification, as part of the returns along with spoiled or unused ballots. (M.S. 204C.25).

#### 14.6 Premature Disclosure of Results.

No person may disclose count results from a precinct until all count results from that precinct are available. The news media is not permitted to disclose any count results from any precinct before the statewide scheduled poll closing time. (M.S. 204C.19, Subd. 3).

### 15. RETURNS AND RESULTS

#### 15.1 Summary Statements and Envelopes for Ballot Returns. (2015 Session Change)

15.1.1 Form of Summary Statement. Each even-numbered year, the Secretary of State shall prescribe the form of summary statements of election returns. Each county auditor or school district clerk required to furnish summary statements shall prepare them in the manner prescribed by the Secretary of State. (M.S. 204C.26, Subd. 3).

15.1.2 Summary Statement Contents. Each official responsible for printing ballots shall furnish three or more blank summary statement forms for the returns of those ballots for each precinct. The blank summary statement forms shall be furnished at the same time and in the same manner as the ballots. (M.S. 204C.26, Subd. 1).

The blank summary statement forms furnished to each precinct shall identify the precinct, school district, date, kind of election and, under appropriate headings identifying each color ballot, shall contain spaces for the election judges to enter required information. (M.S. 204C.26, Subd. 2). (See APPENDIX 42 for form of general election summary statement and APPENDIX 43 for form of special election summary statement.)

Each blank summary statement form shall also contain a certificate to be signed by the election judges stating that the national flag was displayed on a suitable staff during voting hours; that all of the ballots cast were properly piled, checked and counted; and that the numbers entered by the election judges on the summary statements correctly show the number of votes cast for each candidate and for and against each question. (M.S. 204C.26, Subd. 2). (See APPENDIX 46 for optical scan precinct certificate.)

15.1.3 Summary Statement Information Requirements. Once the election judges have counted the ballots, they should submit the returns to the school board along with three copies of the precinct summary statements.

Each copy of the precinct summary statement shall contain the following information for each kind of ballot:

- (a) The number of ballots delivered to the precinct as adjusted by the actual count made by the election judges, the number of unofficial ballots made, and the number of absentee ballots delivered to the precinct;
- (b) The number of votes each candidate received or the number of "Yes" and "No" votes on each question, the number of undervotes, the number of overvotes, and the number of defective ballots with respect to each office or question;
- (c) The number of spoiled ballots, the number of duplicate ballots made, the number of absentee ballots rejected, and the number of unused ballots, presuming that the total count provided on each package of unopened prepackaged ballots is correct;
- (d) The number of individuals who voted at the election in the precinct which must equal the total number of ballots cast in the precinct;
- (e) The number of voters registered before the polling place opened and the number of voters registering on election day in that precinct; and
- (f) The signatures of the election judges who counted the ballots certifying that all of the ballots cast were properly piled, checked and counted; and that the numbers entered by the election judges on the summary statements correctly show the number of votes cast for each candidate and for and against each question. (M.S. 204C.24, Subd. 1).

Judges shall place a full set of completed summary statements in each of three (two) separate envelopes and seal them so that the envelopes cannot be opened without leaving evidence that they have been opened. The election judges shall then sign each envelope over the sealed part so no envelope can be opened without disturbing the continuity of the signatures. (M.S. 204C.24, Subd. 2). Only two copies are required for elections not held in conjunction with a statewide election. (M.S. 204C.26, Subd. 1).

Each of the envelopes shall show substantially the following information on its face:

"Summary statements of the returns of the \_\_\_\_\_ precinct, school district number \_\_\_\_\_, in the County of \_\_\_\_\_, State of Minnesota." (M.S. 204C.24, Subd. 2).

## 15.2 Envelopes for Counted Ballots.

Each official responsible for printing ballots shall also furnish envelopes to contain those ballots after they have been counted. The envelopes shall be made of heavy paper. They shall be of convenient size to hold the ballots and shall be furnished at the same time and in the same manner as the ballots. (M.S. 204C.26, Subd. 4). (See APPENDIX 49 regarding front of ballot envelopes.)

Disposition of Ballots. After the count and the summary statements have been completed, in the presence of all the election judges, the counted, defective and blank ballots shall be placed in envelopes, and the envelopes shall be sealed. The election judges shall sign each envelope over the sealed part so that the envelope cannot be opened without disturbing the continuity of the signatures. The number of ballots in each envelope, the name and number of the school district, and the name of the precinct shall be plainly written upon the envelopes. The spoiled ballots shall be placed in separate envelopes and returned with the unused ballots to the county auditor or municipal or school district clerk from whom they were received. (M.S. 204C.25).

## 15.3 Delivery of Returns.

15.3.1 Delivery of Summary Statements and Returns. One or more election judges shall deliver two sets of summary statements and returns, all voted ballots, and all spoiled school district ballots to the school district clerk's office within 24 hours after the end of the hours for voting. (M.S. 204C.27). Also within 24 hours after voting has ended, at least one judge from each precinct must deliver to the school district clerk the remaining summary statements and returns, all unused and spoiled ballots, completed voter registration applications, voting rosters, and voting systems. The school district clerk shall return all polling place rosters and completed voter registration applications to the county auditor within 48 hours after the end of the hours for voting.

15.3.2 Delivery of Summary Statements; Elections Held in Conjunction with State Election. At a school district election held in conjunction with a state election, the county auditor or municipal clerk shall deliver the summary statements of the school district election returns, all unused and spoiled school district ballots, and the envelope containing the school district ballots from each precinct to the clerk of the appropriate school district within 48 hours after the polls close. (M.S. 204C.28, Subd. 3).

15.3.3 Failure to Deliver. If the election judges fail to deliver returns to the school district clerk as required above, the school district clerk to whom the returns should have been delivered shall dispatch a special messenger to obtain them. The messenger shall receive the same compensation as an election judge would receive for performing the same service (see Section 11.5.1 above) and shall be subject to the same penalties as an election judge for violation of any provision of the Minnesota election law. (M.S. 204C.29, Subd. 1).

15.3.4 Acceptance. An officer to whom returns are required to be made shall not refuse to receive them because they are delivered in any manner other than that prescribed by law, except that the returns must be sealed. No canvassing board shall refuse to include any returns in its canvass of votes because of any informality in holding the election or making the returns. All returns shall be received and the votes canvassed by the canvassing board and included in its statements when there is substantial compliance with the provisions of the Minnesota election law. (M.S. 204C.29, Subd. 2).

15.3.5 Penalties. No individual who is appointed to carry a report, certificate or certified copy of election returns shall intentionally mutilate, tear, deface or obliterate any portion of it or do any act to prevent its

delivery. No individual shall take or accept from a messenger any report, certificate or certified copy of election returns with intent to prevent its delivery, or having taken or accepted it, shall mutilate, tear, deface, obliterate or destroy any portion of it. A violation of these provisions is a felony. (M.S. 204C.29, Subd. 3).

#### 15.4 Canvass and Declaration of Results.

Between the third and tenth days after a school district election, the school board shall canvass the returns and declare the results of the election. (M.S. 205A.10, Subd. 3). However, primary elections must be canvassed on the second or third day after the election if the primary is conducted only within the school district (odd year) or on the third day after the election if conducted in conjunction with the state primary unless the county auditor of each county in which the school district is located agrees to complete its administrative review of the primary within a time period that allows the canvass to be completed on the second day after the primary. (M.S. 205A.03, Subd. 4). If the school district conducts a special election in conjunction with the state primary but does not have a primary itself, it must canvass between the third and tenth days after the election. This canvass is an inspection of the returns, a totaling of the votes cast in each precinct, and a declaration by resolution. The duties of the canvassing board are limited to those specified in M.S. 204C.32 to 204C.39. (M.S. 204C.31, Subd. 3). After the school board has satisfied itself as to the election results, it must prepare an Abstract and Return of Votes Cast and pass the necessary canvassing resolution. (See APPENDIX 50 for canvassing resolution for primary election, APPENDIX 51 for canvassing resolution for general election, APPENDIX 52 for canvassing resolution for special election.) (See APPENDIX 53 and 54 for forms of Abstract and Return of Votes Cast for general and special elections and see APPENDIX 55 for form of clerk's certificate regarding the validity of the Abstract and Return of Votes Cast.)

The Minnesota Supreme Court has upheld the authority of a trial court to direct an election canvassing board to reconvene to correct a palpable clerical error in computation. Haroldson v. Norman, 146 Minn. 426, 178 N.W. 1003 (1920). On the authority of this case, it would appear that a school board could convene and reverse its earlier canvassing resolution in the face of a palpable clerical error in computation.

#### 15.5 Certification of Results.

The school district clerk is to certify the election results to the county auditor. The school district clerk, however, is the final custodian of ballots and returns. (M.S. 205A.10, Subd. 3). For school elections held in conjunction with other elections, optical scan ballots that also contain municipal, county or state offices will be kept by the municipal clerk or county auditor, but will be available to the school district for recount purposes.

#### 15.6 Tie Votes.

If two candidates receive an equal number of votes for an office, the school board shall resolve the tie by lot. (M.S. 205A.10, Subd. 3). While the candidates need not be present, the board may wish to accord them such opportunity. The votes on issuance of bonds or other like propositions cannot be resolved by lot.

#### 15.7 Issuance of Certificate of Election. (2015 Session Change)

After canvassing the election and after the time for contesting elections has passed (**seven days after the canvassing board has declared the result of the election**), the board shall issue a certificate of election to the candidate for each office who received the largest number of votes cast for the office. If there is a contest, the certificate of election to that office must not be issued until the outcome of the contest has been determined by the proper court. (M.S. 205A.10, Subd. 3; **204C.40, Subd. 2**). (See APPENDIX 56 for

resolution authorizing issuance of certificate of election; see APPENDIX 57 and 58 for forms of certificate of election; see APPENDIX 59 for form of acceptance and oath of office.)

#### 15.8 Recount; Election of School Board Member. (2015 Session Change)

A losing candidate for nomination or election for any school district office may request a recount of the votes cast in that office if the difference between the votes cast for that candidate and the winning candidate for the office is less than one-quarter of one percent (.0025%) of the total votes counted for that office. In the case where two or more seats are being filled from among all the candidates for the office, the one-quarter of one percent difference is between the elected candidate with the fewest votes and the candidate with the most votes from among the candidates who were not elected. (M.S. 204C.36, Subd. 1 (a)).

A losing candidate for nomination or election to the school board may request a recount of the votes cast for nomination or election to that office if the difference between the votes cast for that candidate and a winning candidate for nomination or election is less than one-half of one percent (.005%), and the total number of votes cast for the nomination or election of all candidates is more than 400 but less than 50,000. In cases of offices where two or more seats are being filled from among all the candidates for that office, the one-half of one percent difference is between the elected candidate with the fewest votes and the candidate with the most votes from among the candidates who were not elected. (M.S. 204C.36, Subd. 1(b)).

A losing candidate for nomination or election to the school board may request a recount of the votes cast for nomination or election to that office if the difference between the votes cast for that candidate and for a winning candidate is ten votes or less, and the total number of votes cast for the election of all candidates is no more than 400. In cases where two or more seats are being filled from among all the candidates for the office, the ten vote difference is between the elected candidate with the fewest votes and the candidate with the most votes from among the candidates who were not elected. (M.S. 204C.36, Subd. 1(c)).

The losing candidate must file the request with the school district clerk **by 5:00 p.m. on the fifth day after the canvass of a primary or by 5:00 p.m. on the seventh day after the canvass of a special or general** election for which a recount is sought. (M.S. 204C.36, Subd. 1, (d)). (See Section 17.3.1 below). Upon receipt of a request when the vote difference is as provided in section 204C.36, Subd. 1, clauses (a) to (c), the school board shall recount the votes at the expense of the district. (M.S. 204C.36, Subd. 1(d)).

A losing candidate who does not qualify under the above provisions may nevertheless request a recount at the candidate's own expense when the vote difference is greater than the difference required above. The votes shall be recounted if the requesting candidate files with the school district clerk a bond, cash or surety in the amount set by the school board for payment of recount expenses. (M.S. 204C.36, Subd. 2a). The requesting candidate may provide the filing officer with a list of up to three precincts that are to be recounted first and may waive the balance of the other recount after the results in these precincts have been determined. (M.S. 204C.36, Subd. 2b.)

**A discretionary recount of a primary must not delay the delivery of the notice of nomination to the winning candidate (M.S. 204C.36, Subd. 2c).**

A candidate requesting a discretionary recount is responsible for the following expenses:

The compensation of the secretary of state, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of preparing for the canvass of recount results; and any attorney fees incurred in

connection with the recount by the governing body responsible for the recount. (M.S. 204C.36, Subd. 4.)

If the result of the race is changed by the optional recount, the cost of the recount must be paid by the jurisdiction conducting the recount. (M.S. 204C.36, Subd. 2c.)

Time for notice of contest of a recounted school board election begins to run upon certification of the results of the recount by the school board. (M.S. 204C.36). After completion of the recount, the board should adopt a resolution similar to that in APPENDIX 56 with a change in wording from "canvass" or "canvassed" to "recount" or "recounted." Similar changes would be made in the election certificates in APPENDIX 57 and 58. **The results of the recount must be certified by the canvassing board as soon as possible (M.S. 204C.36, Subd. 2(d)).**

15.8.1 General Procedures; Recounts of School Board Elections. The school district clerk or clerk's designee is the recount official for recounts conducted by the school board (or a school district canvassing board for bond or referendum revenue authorization elections). The recount official may delegate the duty to conduct a recount to a county auditor or municipal clerk by mutual consent. When the person who would otherwise serve as recount official is a candidate or is the spouse, child, parent, grandparent, grandchild, stepparent, stepchild, sibling, half-sibling or stepsibling of a candidate for the office to be recounted, the canvassing board shall select a county auditor or municipal clerk from another jurisdiction to conduct the recount. "Legal advisor" means counsel to the recount official and the canvassing board for the office being recounted. The scope of the recount is limited to the recount of the ballots cast for the office to be recounted and a declaration of the person nominated or elected. Only the ballots cast in the election and the summary statements certified by the election judges may be considered in the recount process. The ballots in the envelope marked "original ballots from which duplicates are to be or were made" are not within the scope of the recount and this envelope may not be opened during the recount. (M.S. 204C.36, Subd. 6; Minn. Rule 8235.0200).

15.8.2 Notice. Within 24 hours after determining that an automatic recount is required or within 48 hours of receipt of a written request for a discretionary recount and filing of a security deposit if one is required, the official in charge of the recount shall send notice to the candidates for the office to be recounted and the county auditor of each county located in whole or in part within the school district. The notice must include the date, starting time, and location of the recount, the office to be recounted, and the name of the official performing the recount. The notice must state that the recount is open to the public, and in case of an automatic recount, that the losing candidate may waive the recount. (Minn. Rule 8235.0300).

15.8.3 Securing Ballots and Materials. The official who has custody of the voted ballots is responsible for keeping secure all election materials. Voter registration applications of voters who registered on election day may be processed as required by Minnesota rule. All other election materials must be kept secure by precinct as returned by the election judges until all recounts have been completed and until the time for contest of election has expired. (Minn. Rule 8235.0400).

15.8.4 Securing Voting Systems. Where electronic voting systems are used, the systems must remain sealed and locked under the supervision of the municipal or school district clerk. No one, except an election official carrying out election responsibilities, may be granted access to the voting systems. The election official having custody of the voting systems is responsible for security of the systems and restricting access to them. All counting programs for electronic voting systems must be preserved in the manner required for voted ballots, and the official in charge of the jurisdiction shall certify that the true program used in the election has not been altered in any way and is available for the recount. (Minn. Rule 8235.0500).

15.8.5 Facilities and Equipment. All recounts must be accessible to the public. Each election jurisdiction where a recount is conducted shall make available without charge to the recount official or body conducting the recount adequate accessible space and all necessary equipment and facilities. (Minn. Rule 8235.0600).

15.8.6 General Procedures. At the opening of a recount the official or legal adviser shall present the procedures contained in the rules governing recounts. The custodian of the ballots shall make available to the recount official the precinct summary statements, the precinct boxes, the sealed containers of voted ballots, and any other election materials requested by the recount official. If the recount official needs to have the room for any reason, the recount official must designate a deputy recount official to preside during the recount official's absence. A recount official must be in the room at all times. The containers of voted ballots must be unsealed and resealed within public view. No ballots or election materials may be handled by candidates, their representatives, or member of the public. There must be an area of the room from which the public may observe the recount. Cell phones and video cameras may be used in this public viewing area, as long as their use is not disruptive. The official conducting the recount must visually inspect each ballot before counting to determine if any of the marks made by the voter cannot be counted by the voting system. In every instance where a vote cannot be counted by the voting system, the official must use the criteria in M.S. 204B.22 (See 14.3 above) to determine the voter's intent (M.S. 204C.36, Subd. 6.) The recount official shall arrange the counting of the ballots so that the candidates and their representatives may observe the ballots as they are recounted. Candidates may each have one representative observe the sorting of each precinct. One additional representative per candidate may observe the ballots when they have been sorted and are being counted. Candidates may have additional representatives in the public viewing area of the room. If other election materials are handled or examined by the recount officials, the candidates and their representatives may observe them. The recount official shall ensure that public observation does not interfere with the counting of the ballots. The recount official shall prepare a summary of the recount vote by precinct. (Minn. Rule 8235.0700).

15.8.7 Breaks in Counting Process. Recount officials may not take a break either for a meal or for the day prior to the completion of the sorting, counting, review and labeling of challenges, and secure storage of the ballots for any precinct. All challenged ballots must be stored securely during breaks in the counting process. (Minn. Rule 8235.0800, Subp. 1).

15.8.8 Sorting Ballots. Ballots must be recounted by precinct. The recount official shall open the sealed container of ballots and recount them in accordance with M.S. 204C.22 which governs voter intent and is summarized in Section 14.3 above. The recount official must review each ballot and sort the ballots into piles based upon the recount official's determination as to which candidate, if any, the voter intended to vote for: one pile for each candidate that is the subject of the recount and one pile for all other ballots (those for other candidates, overvotes, undervotes, etc.). During the sorting, a candidate or candidate's representative may challenge the ballot if he or she disagrees with the recount official's determination of for whom the ballot should be counted and whether there are identifying marks on the ballot. At a recount of a ballot question, the manner in which a ballot is counted may be challenged by the person who requested the recount or that person's representative. Challenges may not be automatic or frivolous and the challenger must state the basis for the challenge pursuant to M.S. 204C.22. Challenged ballots must be placed into separate piles, one for ballots challenged by each candidate. A challenge is frivolous if it is based upon an alleged identifying mark other than a signature or an identification number written anywhere on the ballot or a name written on the ballot completely outside of the space for the name of a write-in candidate. (Minn. Rule 8235.0800, Subp. 2).

15.8.9 Counting Ballots. Once ballots have been sorted, the recount officials must count the piles using the stacking method described in M.S. 204C.21. A candidate or candidate's representative may immediately request to have a pile of 25 counted a second time if there is not agreement as to the number of votes in the pile. (Minn. Rule 8235.0800, Subp.3). The Secretary of State may conduct a recount to verify the accuracy

of vote counting and recording in one or more precincts in which an electronic voting system was used in the election. The results of the recount must be reported to the appropriate canvassing board. Time for notice of election or contest for an office recounted under this program must begin upon certification of the results of the recount by the canvassing board. (M.S. 206.88).

15.8.10 Reviewing and Labeling the Challenged Ballots. After the ballots from a precinct have been counted, the recount official may review the challenged ballots with the candidate or the candidate's representative. The candidate representative may choose to withdraw any challenges previously made. The precinct name, the reason for the challenge, and the name of the person challenging the ballot (or the candidate that person represents), and a sequential number must be placed on the back of each remaining challenged ballot before it is placed in an envelope marked "Challenged Ballots". After the count for the precinct has been determined, all ballots except the challenged ballots must be resealed in the ballot envelopes and returned with the other election materials to the custodian of the ballots. The recount official may make copies of the challenged ballots. After the count of all votes for all precincts has been determined during that day of counting, the challenged ballot envelope must be sealed and kept secure for presentation to the canvassing board. (Minn. Rule 8235.0800, Subp. 4).

15.8.11 Canvassing Board. The recount official shall present the summary statement of the recount and any challenged ballots to the canvassing board. The candidate or candidate representative who made the challenge may present the basis for the challenge to the canvassing board. The canvassing board shall rule on the challenged ballots and incorporate the results into the summary statement. The canvassing board shall certify the results of the recount. Challenged ballots must be returned to the election official who has custody of the ballots. (Minn. Rule 8235.1100).

15.8.12 Security Deposit. When a bond, cash, or surety for recount expenses is required by M.S. 204C.36, the governing body or recount official shall set the amount of security deposit at an amount which will cover expected recount expenses as specified in Section 15.8 above. The security deposit must be filed during the period for requesting an administrative recount. In determining the expenses of the recount, only the actual recount expenditures incurred by the recount official and the election jurisdiction in conducting the recount may be included. General office and operating costs may not be taken into account. (Minn. Rule 8235.1200).

#### 15.9 Recount; Certain Ballot Question.

The scope of a recount of a ballot question is limited in scope to the number of votes validly cast for the question to be recounted. Only the ballots cast in the election and the summary statements certified by the election judges may be considered in the recount process. (M.S. 204C.36, Subd. 6).

Any person eligible to vote on a ballot question may request a recount on that question if the difference between votes cast for and against the question is:

- (a) Less than one-quarter of one percent (.0025%) of total votes for more than 50,000 votes;
- (b) One half of one percent for total votes more than 400 and less than 50,000; or
- (c) Ten votes or less when the total number of votes cast for and against that question is not more than 400 votes.

A written request for a recount must be filed by the eligible voter with the school district clerk and must be accompanied by a petition containing the signatures of 25 voters eligible to vote on the question. The request, the petition and any bond, cash or surety required must be filed during the time for notice of contest of the special election. (See Section 17.3.1 below.) Upon receipt of a valid request and petition, if the vote difference is as provided above, the election shall be recounted at the expense of the district. (M.S. 204C.36, Subd. 3).

If the difference between the votes for and the votes against the questions is equal to or less than the difference provided above, the school board shall recount the votes at the expense of the school district (M.S. 204C.36, Subd. 3).

If the difference between the votes for and the votes against a question is greater than the difference provided above, the person requesting the recount must also file with the school district clerk a bond, cash or surety in an amount set by the school board for the payment of recount expenses. (M.S. 204C.36, Subd. 3).

A person requesting a discretionary recount of a ballot question is responsible for the following expenses:

The compensation of the secretary of state, or designees, and any election judge, municipal clerk, county auditor, administrator, or other personnel who participate in the recount; necessary supplies and travel related to the recount; the compensation of the appropriate canvassing board and costs of preparing for the canvass of recount results; and any attorney fees incurred in connection with the recount by the governing body responsible for the recount. (M.S. 204C.36, Subd. 4).

**15.9.1 General Procedures; Recounts of Elections Other Than On Referendum Revenue Authorizations and Bond Issues.** The procedures for the recount of a school district special election, other than an election on the approval, reduction or revocation of a referendum revenue authorization election or the approval of a bond issue, shall be as specified in Section 15.8.1 to 15.8.11 above.

**15.9.2 School District Canvassing Board for Recounts of Referendum Revenue Authorizations and Bond Issue Elections.** For purposes of a recount of an election on the approval, reduction or revocation of a referendum revenue authorization election or on the approval of a bond issue, the school district canvassing board shall not be the school board but shall rather be a canvassing board consisting of the following:

- (a) one member of the school board, other than the clerk, selected by the school board;
- (b) the clerk of the school board;
- (c) the county auditor of the county in which the greatest number of school district residents reside;
- (d) the court administrator of the judicial district in which the greatest number of school district residents reside; and
- (e) the mayor or chair of the town board of the school district's most populous municipality. (M.S. 205A.10, Subd. 5).

Any member of the canvassing board may appoint a designee to appear at the meeting of the board, except that no designee may be a candidate for public office. If one of the individuals fails to appear at the meeting of the canvassing board, the county auditor shall appoint an eligible voter of the school district, who must not be a member of the school board, to fill the vacancy. Not more than two school board members may serve on the canvassing board at one time. Four members constitute a quorum. (M.S. 205A.10, Subd. 5).

The procedures for the recount itself, as conducted by this special canvassing board shall be as specified in Sections 15.8.1 to 15.8.11 above.

#### **15.10 Destruction of Election Returns.**

Election materials, including ballots, polling place rosters, voter certificates and election returns returned to the clerk after the election, except the abstract of the canvassing board, may be destroyed at any time after twenty-two months from the date of the election. (M.S. 201.221, Subd. 3; 204B.40). If there is an election contest, however, the election materials may not be destroyed until twenty-two months after the

election or the contest has been finally determined, whichever is later. (M.S. 204B.40). Sealed envelopes containing voted ballots must be retained unopened in a secure location and the clerk shall not permit voted ballots to be tampered with or defaced. (M.S. 204B.40). The county auditor may retain election materials from school district elections. (M.S. 204B.40). Election materials must be disposed of in accordance with the laws relating to the disposal of public records in M.S. Chapter 138.

After the time for filing a notice of contest for an election has passed, the Secretary of State may, for the purpose of monitoring and evaluating election procedures, (1) open the sealed ballot envelopes and inspect the ballots for that election; (2) inspect the polling place rosters and completed voter registration applications; or (3) examine other forms required in the Minnesota election laws for use in the polling place. No inspected ballot or document may be marked or identified in any manner. After inspection, all ballots must be returned to the ballot envelope and the ballot envelope must be securely resealed. (M.S. 204B.40). Any other election materials inspected or examined must be secured or resealed. No polling place roster may be inspected until the voting history for that precinct has been posted. No voter registration application may be inspected until the information on it has been entered into the statewide registration system.

#### 15.11 Neglect of Duty; Other Offenses by Election Officials.

An election officer or other individual required by law to safely keep and produce ballots on election day or to perform any other act, who intentionally fails or refuses to perform the act required, or who is required by law to abstain from any act, and intentionally does the act, or who in either of these cases is guilty of fraud, corruption, partiality or misbehavior in conduct or aiding in the conduct of an election, or in counting or making returns of votes, or who wrongfully refuses to make or deliver a certification of election, or who falsely or corruptly performs any required act, for which a punishment has not been otherwise expressly provided for by law, is guilty of a felony. (M.S. 204C.41).

#### 15.12 No Requirement to Issue Bonds.

The Attorney General has ruled that the voters, by petition, may compel a school board to hold a special election on the question of issuance of bonds. (Op. Atty. Gen. 159-A-3, March 11, 1998). However, the Attorney General also has ruled that when a school board has been petitioned to call a special election on a question of issuing bonds, an affirmative vote in the bond election does not compel the board to issue the bonds. (Op. Atty. Gen. 159-A-3, May 25, 1970).

#### 15.13 Failure to Approve Bond Issue.

An unsuccessful referendum question for the same purpose and in the same amount may not be resubmitted within 180 days. M.S. 475.58, Subd. 1a provides:

If the electors do not approve the issuing of obligations at an election required by section 475.58, subdivision 1, the question of authorizing the obligations for the same purpose and in the same amount may not be submitted to the electors within a period of 180 days from the date the election was held. If the question of authorizing the obligations for the same purpose and in the same amount is not approved a second time it may not be submitted to the electors within a period of one year after the second election.

#### 15.14 Payment of Election Expenses.

15.14.1 School District Elections Held Alone. School districts are responsible for all expenses of school district elections not held in conjunction with state or municipal elections, including the compensation for election judges and sergeants-at-arms, the cost of printing the school district ballots, providing ballot boxes,

providing and equipping polling places, publication costs, and all other necessary expenses incurred in connection with the election. (M.S. 204B.32, Subd. 1(d)).

15.14.2 School District Elections Held in Conjunction with State Elections. When school district elections are held in conjunction with state elections (but not at the same time as city, town or county primary or general elections), the school district shall only pay the costs of printing the school district ballots, providing ballot boxes and paying all necessary election-related expenses incurred by the school district clerk. (M.S. 204B.32, Subd. 1(d)).

15.14.3 School District Elections Held in Conjunction with City, Town or County Primary or General Elections. The Secretary of State has developed guidelines for the allocation of expenses among counties, municipalities and school districts for elections that are held concurrently. See APPENDIX 66 for these guidelines. (M.S. 204B.32, Subd. 2). Note that this allocation provision is not applicable if the school district election is held in conjunction with a state election but not a county or municipal primary or general election. If the school district election is held in conjunction with the state primary and there is no county or municipal primary on that date, Section 15.14.2 above would apply rather than this section.

15.14.4 Approval of Bills. All election-related expenses, whether paid directly or as a result of an allocation, must be presented, audited and paid as in the case of other public expenses. Cities, towns and counties should thus provide formal itemized bills in the same manner as private vendors. (M.S. 204B.32, Subd. 1(d)).

#### 15.15 Help America Vote Act Complaints.

15.15.1 Procedures for Review of Complaints. The Secretary of State is required to establish a procedure for the review of complaints regarding the administration of Title III of the Help America Vote Act of 2002, Public Law 107-252, including complaints about voting system standards, computerized statewide registration lists and equipment, voter registration requirements, and other features of state implementation of that act. The Secretary of State must provide a complaint form that requires the signature of the complainant, an affidavit and notarization, and the attachment of any supporting documentation. The form must indicate that any election judge, while serving, is deemed a notary public for purposes of section 402 of that act. (M.S. 200.04, Subd. 1). The form is available on the Website of the Secretary of State.

15.15.2 Complaints Against School Districts; Hearings. The procedure developed by the Secretary of State applies if a complaint pertains to a school employee or official. (M.S. 200.04, Subd.2 (a)). The Secretary of State must provide the school district clerk with a copy of the complaint within three business days of reviewing it. (M.S. 200.04, Subd. 2(b)). The school district clerk has 20 days to either reach an agreement with the complainant or file a written response to the complaint with the Secretary of State. (M.S. 200.04, Subd. 2(c)). The Secretary of State must provide the complainant with the copy of the response and an opportunity for a hearing on the record. (M.S. 200.04, Subd. 2(d)). If a hearing on the record is requested, the school district clerk must be given notice and the opportunity to participate. (M.S. 200.04, Subd. 2(e)). The Secretary of State must issue a final determination, and, if necessary, a remedial plan, no later than 90 days after the filing of the complaint. If the Secretary of State fails to issue the determination within 90 days, the Secretary of State must provide alternative dispute resolution for the disposition of the complaint. That process must be completed within 60 days of its commencement. (M.S. 200.04, Subd. 2(f)).

15.15.3 Appeals. The determination of the Secretary of State is not an agency determination subject to appellate review. Either party may initiate an appeal from the Secretary of State's final order in the district court in the county where the school employee or official is employed. (M.S. 200.04, Subd. 5).

## 16. REPORTING OF CAMPAIGN EXPENDITURES; CAMPAIGN PRACTICES

## 16.1 General.

Minnesota Statutes, Chapters 211A and 211B are applicable to school district elections. The Legislature repealed the previous Minnesota Fair Campaign Practices Act, Minn. Stat. 210A et seq., recodified it and made it applicable to school elections and school board candidates. This action overrules the 1924 Supreme Court decision in Mathison v. Meyer, 159 Minn. 439, 199 N.W. 173 that the Corrupt Practices Act, forerunner of the Fair Campaign Practices Act, did not apply to school district elections.

## 16.2 Campaign Expenditures.

The following provisions of M.S. Chapter 211A detailed in Sections 16.2.1 through 16.2.10 below, apply to school board elections. They apply to campaign expenditures made in connection with bond propositions and other elective questions as well. As used in M.S. Chapter 211A, the terms below are defined as follows:

"Committee" means a corporation or association of persons acting together to influence the nomination, election, or defeat of a candidate or to promote or defeat a ballot question. Promoting or defeating a ballot question includes efforts to qualify or prevent a proposition from qualifying for placement on the ballot. (M.S. 211A.01, Subd. 4).

"Contribution" means anything of monetary value that is given or loaned to a candidate or committee for a political purpose. "Contribution" does not include a service provided without compensation by an individual. (M.S. 211A.01, Subd. 5).

"Disbursement" means money, property, office, position, or any other thing of value that passes or is directly or indirectly conveyed, given, promised, paid, expended, pledged, contributed or lent. Disbursement does not include payment by a county, municipality, school district, or other political subdivision for election-related expenditures required or authorized by law. (M.S. 211A.01, Subd. 6).

"Filing officer" means the officer authorized by law to accept affidavits of candidacy or nominating petitions for an office or the officer authorized by law to place a ballot question on the ballot. (M.S. 211A.01, Subd. 7). In the case of a school district, the filing officer is the school district clerk. (M.S. 205A.06, Subd. 1; 204B.09).

"Political Purposes." An act is done for political purposes if it is of a nature, done with the intent, or done in a way to influence or tend to influence, directly or indirectly, voting at a primary or an election or if it is done because a person is about to vote, has voted, or has refrained from voting at a primary or an election. (M.S. 211A.01, Subd. 8).

16.2.1 Financial Report. (a) A committee or a candidate who receives contributions or makes disbursements of more than \$750 in a calendar year shall submit an initial report to the filing officer (the school district clerk) within 14 days after the candidate or committee receives or makes disbursements of more than \$750 and shall continue to make the reports listed in paragraph (b) until a final report is filed.

(b) The committee or candidate must also file a report by January 31 of each year following the year when the initial report was filed and in a year when the candidate's name or a ballot question appears on the ballot, the candidate or committee shall file a report:

- (1) Ten days before the primary or special primary;
- (2) Ten days before the general election or special election; and

- (3) 30 days after a general or special election. (M.S. 211A.02, Subd. 1).

The report to be filed by a candidate or committee must include:

- (1) The name of the candidate or ballot question;
- (2) The printed name, address, telephone number, signature, and email address, if available, of the person responsible for filing the report;
- (3) The total cash on hand designated to be used for political purposes;
- (4) The total amount of contributions and disbursements for the period from the last previous report to five days before the current report is due;
- (5) The amount, date and purpose for each disbursement; and
- (6) The name, address, and employer, or occupation if self-employed, of any individual or committee that during the year has made one or more contributions that in the aggregate exceed \$100, and the amount and date of each contribution. (M.S. 211A.02, Subd. 2). The filing officer must restrict public access to the address of any individual who has made a contribution that exceeds \$100 and who has filed with the filing officer a written statement signed by the individual that withholding the individual's address from the financial report is required for the safety of the individual or the individual's family.

The reports to be filed may be filed electronically if so authorized by the school district clerk. (M.S. 211A.02, Subd. 5).

The school district clerk shall make all reports required to be filed with the district available on the district's website if the district maintains a website. The clerk must post the report on its website as soon as possible, but no later than 30 days after receipt of the report. The school district must make the reports available on the school district website for four (4) years from the date the report was posted on the website. The filing officer shall also provide the Campaign Finance and Public Disclosure Board with a link to the section of the website where the reports are made available. (M.S. 211A.02, Subd. 6).

16.2.2 Final Report. A candidate or committee may file a final report when all debts have been settled and all assets in excess of \$100 in the aggregate are disposed of. The final report may be filed at any time and must include the kinds of information contained in the financial statements required by M.S. 211A.02 (see Section 16.2.1 above) for the period from the last previous report to the date of the final report. (M.S. 211A.03).

16.2.3 Secretary of State's Duties. The Secretary of State shall prepare blanks for reports required by M.S. 211A.02. Copies must be furnished through the county auditor or otherwise, as the Secretary of State finds expedient, to a committee upon request or to a candidate upon filing for office. (M.S. 211A.04). (See APPENDIX 60 for a copy of the campaign financial report.)

16.2.4 Failure to File Statement. A candidate who intentionally fails to file a report required by M.S. 211A.02 (see Section 16.2.2 above) or a certification required by M.S. 211A.05 is subject to a civil penalty up to \$5,000 and is guilty of a misdemeanor. The treasurer of a committee formed to promote or defeat a ballot question who intentionally fails to file a report required by M.S. 211A.02 or a certification required by M.S. 211A.05 is subject to a civil penalty up to \$5,000 and is guilty of a misdemeanor. Each candidate or treasurer of a committee formed to promote or defeat a ballot question shall certify to the filing officer that all reports required by M.S. 211A.02 have been submitted to the filing officer or that the candidate or committee has not received contributions or made disbursements exceeding \$750 in the calendar year. The certification shall be submitted to the filing officer no later than seven days after the general or special election. (See APPENDIX 61 for form of certification.) An officer who issues a certificate of election to a candidate who has not certified that all reports required by M.S. 211A.02 have been filed is subject to a civil penalty up to \$5,000 and is guilty of a misdemeanor. (M.S. 211A.05, Subd. 1).

If a candidate or committee has filed an initial report but fails to file a subsequent report on the date it is due, the school district clerk shall immediately notify the candidate or committee of the failure to file. If a report is not filed within ten days after the notification is mailed, the clerk shall file a complaint as provided in M.S. 211B.32. (See Section 16.25.2 below) (M.S. 211A.05, Subd. 2).

16.2.5 Failure to Keep Account. A treasurer or other individual who receives money for a committee is subject to a civil penalty up to \$5,000 and is guilty of a misdemeanor if the individual:

- (1) Fails to keep a correct account as required by law;
- (2) Mutilates, defaces, or destroys an account record; or
- (3) In the case of a committee, refuses upon request to provide financial information to a candidate; and
- (4) Does any of these things with the intent to conceal receipts or disbursements, the purpose of receipts or disbursements, or the existence or amount of an unpaid debt or the identity of the person to whom it is owed. (M.S. 211A.06).

16.2.6 Bills Rendered and Paid. A person who has a bill, charge, or claim against a candidate's committee shall render it in writing to the committee within 60 days after the material or service is provided. A bill, charge, or claim that is not presented within 60 days after the material or service is provided must not be paid. (M.S. 211A.07).

16.2.7 County Attorney Prosecution. A county attorney may prosecute any violation of M.S. Chapter 211A. (M.S. 211A.08, Subd. 3). A complaint alleging a violation of Chapter 211A must be finally disposed of by the Office of Administrative Hearings before the alleged violation may be prosecuted by the county attorney. (M.S. 211B.32, Subd. 1).

16.2.8 Forfeiture of Nomination or Office. Except as provided below, if a candidate is convicted of violating a provision of M.S. Chapter 211A or if an offense was committed by another individual with the knowledge, consent, or connivance of the candidate, the court, after entering the adjudication of guilty, shall enter a supplemental judgment declaring that the candidate has forfeited the nomination or office. If the court enters the supplemental judgment, it shall transmit to the school district clerk a transcript of the supplemental judgment, the nomination or office becomes vacant, and the vacancy must be filled as provided by law. (M.S. 211A.09, Subd. 1).

16.2.8.1 Circumstances Where Nomination or Offices Not Forfeited. In a trial for a violation of M.S. Chapter 211A, the candidate's nomination or election is not void if the court finds that:

- (1) An offense, though committed by the candidate or with the candidate's knowledge, consent, or connivance, was trivial; or
- (2) An act or omission of a candidate arose from accidental miscalculation or other reasonable cause, but in any case not from a want of good faith, and that it would be unjust for the candidate to forfeit the nomination or election. (M.S. 211A.09, Subd. 2).

Neither of these findings is a defense to a conviction under M.S. Chapter 211A. (M.S. 211A.09, Subd. 2).

The Supreme Court addressed the issue of whether acts complained of are trivial or unimportant in Bank v. Egan, 240 Minn. 192, 60 N.W.2d 257 (1953). There, the court held "[T]he trial court has considerable discretion in determining whether violations of the act are trivial or unimportant and whether under the circumstances of the particular case it would be unjust that a candidate forfeit his office."

Each case will have to be determined on its specific facts and surrounding circumstances.

16.2.9 Disqualified Individuals. A candidate whose election to office has been set aside for a violation of M.S. Chapter 211A may not be appointed, during the period fixed by law as the term of the office, to fill a vacancy that may occur in the office. A candidate or other individual who is convicted of a violation of M.S. Chapter 211A may not be appointed, during the period fixed by law as the term of the office with respect to which the election was held and the offense was committed, to fill a vacancy in the office. An appointment to an office made contrary to these provisions is void. (M.S. 211A.10).

A candidate or other individual who is convicted of a violation of M.S. Chapter 211A is not qualified, during the period fixed by law as the term of the office with respect to which the election was held and the offense was committed, to fill a vacancy in an office for which the legislature may establish qualifications under Article XII, Section 3, of the Minnesota Constitution. (M.S. 211A.10).

16.2.10 Penalty. Violation of the provisions of M.S. Chapter 211A specified in Sections 16.2.1 through 16.2.9 above for which no other penalty is provided is a misdemeanor. (M.S. 211A.11).

16.2.11 Bond Issues and Other Questions; Expenditure of Funds. School boards are not authorized to use school district funds to promote an affirmative vote on a proposal. On at least two occasions, the Attorney General ruled that school boards are permitted to expend a reasonable amount of money to inform voters of the facts concerning a particular bond issue. (Op. Atty Gen. 159b-11, September 17, 1957; Op. Atty Gen. 159A-3, May 25, 1962). What is a reasonable amount is to be determined by the board. (Op. Atty Gen. 159b-11, September 17, 1957).

The Attorney General subsequently ruled that although school boards may expend reasonable amounts of school district funds to impartially place pertinent facts before the voters, school district funds cannot be used to promote an affirmative vote on the proposal. (Op. Atty Gen. 159A-3, May 24, 1966). This included paying the mailing costs of affirmative literature prepared by others.

### 16.3 Campaign Practices; Definitions.

As used in M.S. Chapter 211B, the terms below are defined as follows:

"Campaign material" means any literature, publication, or material that is disseminated for the purpose of influencing voting at a primary or other election, except for news items or editorial comments by the news media. (M.S. 211B.01, Subd. 2).

"Candidate" means an individual who seeks nomination or election to a federal, statewide, legislative, judicial, or local office including special districts, school districts, towns, home rule charter and statutory cities, and counties, except candidates for president and vice-president of the United States. (M.S. 211B.01, Subd. 3).

"Committee" means two or more persons acting together or a corporation or association acting to influence the nomination, election, or defeat of a candidate or to promote or defeat a ballot question. Promoting or defeating a ballot question includes efforts to qualify or prevent a proposition from qualifying for placement on the ballot. (M.S. 211B.01, Subd. 4).

"Disbursement" means an act through which money, property, office, or position or other thing of value is directly or indirectly promised, paid, spent, contributed, or lent, and any money, property, office, or position or other thing of value so promised or transferred. (M.S. 211B.01, Subd. 5).

An act is done for "political purposes" when the act is intended or done to influence, directly or indirectly, voting at a primary or other election. This does not include news items or editorial comments published or broadcast by the news media. (M.S. 211B.01, Subd. 6).

16.3.5 Campaign Contribution Limits. A candidate as defined above, including a candidate for school board, may not accept aggregate contributions made or delivered by an individual or committee in excess of \$600 in an election year for the office sought and \$250 in other years; except that a candidate for an office whose territory has a population over 100,000 may not accept aggregate contributions made or delivered by an individual or committee in excess of \$1,000 in an election year for the office sought and \$250 in other years. (M.S. 211A.12). These bundling limitations do not apply to delivery of contributions collected by a member of the candidate's committee, such as a block worker or volunteer who hosts a fund-raising event, to the committee's treasurer, and a delivery made by an individual on behalf of the individual's spouse.

16.3.6 Prohibited Transfers. A candidate for political subdivision office, including school board, may not accept contributions from the principal campaign committee of a candidate who seeks election to a statewide or legislative office or a judicial office. A candidate for political subdivision office may not make contributions to a principal campaign committee, unless the contribution is made from the personal funds of the candidate for political subdivision office. (M.S. 211A. 13).

#### 16.4 Paid Advertisements in News.

A newspaper, periodical, or magazine may not intentionally accept for insertion in the newspaper, magazine, or periodical a political advertisement unless the words "PAID ADVERTISEMENT," and the disclaimer required under M.S. 211B.04 (Section 16.5 below) are included at the beginning or end of the advertisement. A disclaimer must be in a legible text size and font. A radio station, television station, or cable system may not accept for broadcast a political advertisement unless the words "PAID ADVERTISEMENT" are included at the beginning or end of the advertisement. (M.S. 211B.05, Subd. 1).

16.4.1 Advertising Rates. Rates charged for advertising to support or oppose a candidate or ballot question must be the same as the charges made for any other political candidate and may be no greater than charges made for any other comparable purpose or use according to the seller's rate schedule. (M.S. 211B.05, Subd. 2).

16.4.2 Additional Compensation Prohibited. An owner, publisher, editor, reporter, agent, broadcaster, or employee of a newspaper, periodical, magazine, radio or television broadcast station, or cable system may not directly or indirectly solicit, receive, or accept a payment, promise, or compensation, nor may a person pay or promise to pay or in any manner compensate an owner, publisher, editor, reporter, agent, broadcaster, or employee directly or indirectly for influencing or attempting to influence voting at an election or primary through printed material in the newspaper or periodical, or radio, television, or cable broadcast, except as a "PAID ADVERTISEMENT" as provided in M.S. 211B.05. (M.S. 211B.05, Subd. 3).

16.4.3 Unpaid Material Identification. Unpaid material published in a newspaper, magazine, or other publication that is: (1) in unique typeset or otherwise differentiated from other unpaid material, (2) designed to influence or attempt to influence the voting at any election or the passage or defeat of legislation, and (3) not placed on the editorial page, must be clearly identified as an editorial opinion. (M.S. 211B.05, Subd. 4).

#### 16.5 Use of Term Reelect.

A person or candidate may not, in the event of redistricting, use the term "reelect" in a campaign for elective office unless the candidate is the incumbent of that office and the office represents any part of the new district. (M.S. 211B.03).

### 16.6 Campaign Literature Must Include Disclaimer. (2015 Session Change)

(a) A person who participates in the preparation or dissemination of campaign material other than as provided in M.S. 211B.05 (Section 16.3 above), that does not prominently include the name and address of the person or committee causing the material to be prepared or disseminated in a disclaimer substantially in the form provided in paragraph (b) or (c) is guilty of a misdemeanor. (M.S. 211B.04).

(b) Except in cases covered by paragraph (c), the required form of disclaimer is: "Prepared and paid for by the . . . . . committee, . . . . . (address)" for material prepared and paid for by a principal campaign committee, or "Prepared and paid for by the . . . . . committee, . . . . . (address) for material prepared and paid for by a person or committee other than a principal campaign committee. **If the material is produced and disseminated without cost, the words "paid for" may be omitted from the disclaimer.** (M.S. 211B.04).

(c) In the case of broadcast media, the required form of disclaimer is: "Paid for by the . . . . . committee." **If the material is prepared and broadcast without cost, the required form of the disclaimer is: "The . . . . . committee is responsible for the content of this message."** (M.S. 211B.04).

(d) M.S. 211B.04 does not apply to fund-raising tickets, **business cards**, personal letters, or **similar items** that are clearly being **distributed** by the candidate. (M.S. 211B.04).

(e) M.S. 211B.04 does not apply to an individual or association **that is not required to register or report under Chapter 10A or 211A.**

(f) **This section does not apply to the following:**

(1) **bumper stickers, pins, buttons, pens, or similar small items on which the disclaimer cannot be conveniently printed;**

(2) **skywriting, wearing apparel, or other means of displaying an advertisement of such a nature that the inclusion of a disclaimer would be impracticable; and**

(3) **online banner ads and similar electronic communications that link directly to an online page that includes the disclaimer.**

(g) M.S. 211B.04 does not modify or repeal M.S. 211B.06. (M.S. 211B.04(g)).

The Attorney General has ruled that this law requires the name and address of the candidate, as well as that of the committee somewhere on the face of the campaign literature which is circulated by a committee. (Op. Atty Gen. 627-J, August 10, 1962).

*Note: A similar Ohio Statute was struck down by the United States Supreme Court as a violation of the First Amendment. McIntyre v. Ohio Elections Commission, 115 S.Ct. 1511 (1995). The Legislature in 1998 adopted amendments to address problems raised in that case. The revised statute was declared unconstitutional by the Minnesota federal district court in Minnesota Citizens Concerned for Life, Inc. v Douglas A. Kelley, et al. The Legislature in 2004 adopted amendments to address problems raised in that case.*

### 16.7 False Claim of Support.

A person or candidate may not knowingly make, directly or indirectly, a false claim stating or implying that a candidate or ballot question has the support or endorsement of a major political party or party unit or of an organization. A person or candidate may not state in written campaign material that the candidate or ballot question has the support or endorsement of an individual without first getting written permission from the individual to do so (M.S. 211B.02).

The Minnesota Supreme Court has held that prominent political leaders are not "units" of a political party, nor may such prominent leaders commit party support or make party endorsement. Graves v. Meland, 264 N.W.2d 401 (1978).

## 16.8 False Political and Campaign Material.

A person is guilty of a gross misdemeanor who intentionally participates in the preparation, dissemination, or broadcast of paid political advertising or campaign material with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat a candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false. (M.S. 211B.06, Subd. 1).

A person is guilty of a misdemeanor who intentionally participates in the drafting of a letter to the editor with respect to the personal or political character or acts of a candidate, or with respect to the effect of a ballot question, that is designed or tends to elect, injure, promote, or defeat any candidate for nomination or election to a public office or to promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false. (M.S. 211B.06, Subd. 1).

The provisions of M.S. 211B.06, Subd. 1, cited above, do not apply to any person or organization whose sole act is, in the normal course of their business, the printing, manufacturing, or dissemination of the false information. (M.S. 211B.06, Subd. 2).

In an early opinion, the Supreme Court held that under the Corrupt Practices Act, a forerunner of M.S. Chapter 211B, campaign material defamatory of a candidate's supporters was not defamatory of the candidate himself and hence, no violation of the Act. Dart v. Erickson, 188 Minn. 313, 248 N.W. 706 (1933).

The Supreme Court issued an advisory opinion to the House of Representatives concerning a 1978 election contest in Scheibel v. Pavlak, 282 N.W.2d 843 (Minn. 1978). There a candidate for the Legislature in House District 67A compiled information of his incumbent opponent's voting record which he provided to a St. Paul newspaper. The newspaper used this information in an editorial just prior to the election containing an error in the date. The candidate reprinted the editorial and distributed it. The Court determined that respondent's actions constituted a violation of Minn. Stat. 210A.04 and that the violation was "deliberate, serious and material." However, the Court suggested that the election not be set aside if the defendant acted in good faith but should be overturned only if his purpose was to deceive or mislead voters.

A number of other court decisions have dealt with this issue. A candidate who denied prior knowledge of details and methods of publications of alleged false information did not violate the former Fair Campaign Practices Act. In re County Commissioner for Wright County, 289 Minn. 523, 185 N.W.2d 277 (1971). False representation concerning source of information does not violate election laws if information itself is true. Grotjohn v. McCollar, 291 Minn. 344, 191 N.W.2d 396 (1971). A campaign circular containing earlier supportive statements about a candidate is not defamatory and does not violate the election laws. Graves v. Meland, 264 N.W.2d 401 (Minn. 1978).

*Note that M.S. 211B.06, cited above was ruled unconstitutional in State v. Jude, 554 N.W.2d 750 (Minn. App. 1996). The 1998 Legislature adopted amendments to address problems raised in that case.*

## 16.9 Undue Influence on Voters.

A person may not directly or indirectly use or threaten force, coercion, violence, restraint, damage, harm, loss, including loss of employment or economic reprisal, undue influence, or temporal or spiritual injury against an individual to compel the individual to vote for or against a candidate or ballot question. Abduction, duress, or fraud may not be used to obstruct or prevent the free exercise of the right to vote of a voter at a primary or election, or compel a voter to vote at a primary or election. Violation of this law is a gross misdemeanor. (M.S. 211B.07).

#### 16.10 Solicitation of Contributions Prohibited.

A religious, charitable, or educational organization may not request a candidate or committee to contribute to the organization, to subscribe for the support of a club or organization, to buy tickets to entertainment, or to pay for space in a publication. This does not apply to:

- (1) The solicitation of a business advertisement in a periodical in which the candidate was a regular contributor, before candidacy;
- (2) Ordinary business advertisements;
- (3) Regular payments to a religious, charitable, or educational organization, of which the candidate was a member, or to which the candidate was a contributor for more than six months before candidacy; or
- (4) Ordinary contributions at church services. (M.S. 211B.08).

#### 16.11 Prohibited Public Employee Activities.

An employee or official of the state or of a political subdivision (including a school district) may not use official authority or influence to compel a person to apply for membership in or become a member of a political organization, to pay or promise to pay a political contribution, or to take part in political activity. A political subdivision may not impose or enforce additional limitations on the political activities of its employees. (M.S. 211B.09). Please note that certain county attorneys are carefully scrutinizing any complaints regarding school district employees or officials compelling school employees or other persons to take part in political activity. This could include requiring employees to write letters or emails or to take part in mandatory phone banks. School districts should scrutinize their practices carefully.

The Court of Appeals held that display of a candidate's campaign literature at the county courthouse by civil service employees did not violate the section of the Fair Campaign Practices Act prohibiting compelling the attention of other employees to influence their vote. Burns v. Valen, 400 N.W.2d 123 (Minn. App. 1987). The Court noted that no employee of the Court Administrator's office was compelled to participate in any judicial campaign activity.

#### 16.12 Inducing or Refraining Candidacy; Time Off for Meetings.

A person may not reward or promise to reward another in any manner to induce the person to be or refrain from or cease being a candidate. A person may not solicit or receive a payment, promise, or reward from another for this purpose. (M.S. 211B.10, Subd. 1).

A political party unit may not, through imposition or threatened imposition's of any fine, sanction, or other penalty, attempt to coerce an individual who does not have the party unit's official endorsement as a means to prevent the individual from filing as a candidate for office. (M.S. 211B.10, Subd. 1a).

A person elected to a public office must be permitted time off from regular employment to attend meetings required by reason of the public office. The time off may be without pay, with pay; or made up with other hours, as agreed between the employee and employer. When an employee takes time off without pay, the employer shall make an effort to allow the employee to make up the time with other hours when the employee is available. No retaliatory action may be taken by the employer for absences to attend meetings necessitated by reason of the employee's public office. (M.S. 211B.10, Subd. 2).

#### 16.13 Election Day Prohibitions.

16.13.1 Soliciting Near Polling Places. A person may not display campaign material, post signs, ask, solicit, or in any manner try to induce or persuade a voter within a polling place or within 100 feet of the

building in which a polling place is situated on primary or election day to vote for or refrain from voting for a candidate or ballot question. A person may not provide political badges, political buttons, or other political insignia to be worn at or about the polling place on the day of a primary or election. A political badge, political button, or other political insignia may not be worn at or about the polling place on primary or election day. (M.S. 211B.11, Subd. 1). A violation is a petty misdemeanor. Please note that certain county attorneys take the position that these provisions apply during any period when absentee voting is being conducted in a facility, not just on election day.

The Secretary of State may distribute stickers to the clerk which contain the words "I VOTED" and nothing more. Election judges may offer the stickers to each voter who has signed the polling place roster or voter signature certificate.

On at least two occasions the Attorney General has addressed the issue of posting signs near a polling place. There is no general election law provision totally prohibiting posting signs within 100 feet of a polling place - only that it cannot be done on primary or election day. (Op. Atty Gen. 627H, May 31, 1966). (Erecting signs prior to election day and not removing them until after the election is not a violation of this provision. (Op. Atty Gen. 627H, January 11, 1963).)

16.13.2 Election Day Campaigning. The law prohibiting broadcast or distribution of campaign material on election day was repealed by the 1997 Legislature.

16.13.3 Transportation of Voters to Polling Place. A person transporting a voter to or from a polling place may not ask, solicit, or in any manner try to induce or persuade a voter on primary or election day to vote or refrain from voting for a candidate or ballot question. (M.S. 211B.11, Subd. 3). A violation is a petty misdemeanor.

#### 16.14 Legal Expenditures. (2015 Session Change)

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns or is a noncampaign disbursement as defined in M.S. 10A.01, Subd. 10C. The following are permitted expenditures when made for political purposes:

- (1) Salaries, wages, and fees;
- (2) Communications, mailing, transportation, and travel;
- (3) Campaign advertising;
- (4) Printing;
- (5) Office and other space and necessary equipment, furnishings, and incidental supplies;
- (6) Charitable contributions of not more than \$100 to any charity organized under section 501(c)(3) of the Internal Revenue Code annually, except that the amount contributed **is not limited by this clause if the political committee, political fund, party unit**, principal campaign committee or campaign fund of a candidate for political subdivision office that **made the contribution** dissolves within one year after the contribution is made; and
- (7) Other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns. In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use. (M.S. 211B.12).

#### 16.15 Bribery, Advancing Money and Treating Prohibited.

A person who willfully, directly or indirectly, advances, pays, gives, promises, or lends any money, food, liquor, clothing, entertainment, or other thing of monetary value, or who offers, promises, or endeavors to obtain any money, position, appointment, employment, or other valuable consideration, to or from a person, in order to induce a voter to refrain from voting, or to vote in a particular way, at an election, is guilty of a felony. M.S. 211B.13 does not prevent a candidate from stating publicly preference for or support of another candidate to be voted for at the same primary or election. Refreshments of food or nonalcoholic beverages having a value of up to \$5 consumed on the premises at a private gathering or public meeting are not prohibited. (M.S. 211B.13, Subd. 1).

The Attorney General declined to give an opinion on whether distribution of objects such as matchbooks, pencils and emery boards violates the section prohibiting treating. (Op. Atty Gen. 627F-1, March 7, 1950).

16.15.1 Certain Solicitations Prohibited. A person may not knowingly solicit, receive, or accept any money, property, or other thing of monetary value, or a promise or pledge of these that is a disbursement prohibited by M.S. 211B.13 or M.S. 211B.15. (See Section 16.15 below.). (M.S. 211B.13).

#### 16.16 Corporate Political Contributions. (2015 Session Change)

"Corporation" for purposes of M.S. 211B.15 relating to corporate political contributions means a corporation organized for profit that does business in Minnesota, a nonprofit corporation that carries out activities in Minnesota, or a limited liability company formed under Minnesota Law or the laws of another state that does business in Minnesota. (M.S. 211B.15, Subd. 1).

16.16.1 Prohibited Contributions. (a) A corporation may not make a contribution or offer or agree to make a contribution, directly or indirectly, of any money, property, free service of its officers, employees or members, or thing of monetary value to a political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. (b) **A political party, organization, committee, or individual may not accept a contribution or an offer or agreement to make a contribution that a corporation is prohibited from making under paragraph (a) above.** (c) For the purposes of this subdivision, "contribution" includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate but does not include an independent expenditure. (M.S. 211B.15, Subd. 2).

In January of 2010, the United States Supreme Court decided in Citizens United v. Federal Election Commission, that certain limitations on independent political spending by corporations are unconstitutional. This ruling will be further interpreted by the courts as it applies to limitations under Minnesota law.

16.16.2 Independent Expenditures. A corporation may not make an expenditure or offer or agree to make an expenditure to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office unless the expenditure is an independent expenditure. For the purpose of this provision, "independent expenditure" had the meaning specified in M.S. 10A.01, Subd. 18. (M.S. 211B.15, Subd. 3).

16.16.3 Ballot Question. A corporation may make contributions or expenditures to promote or defeat a ballot question, to qualify a question for placement on the ballot unless otherwise prohibited by law, or to express its views on issues of public concern. A corporation may not make a contribution to a candidate for nomination, election, or appointment to a political office or to a committee organized wholly or partly to promote or defeat a candidate. (M.S. 211B.15, Subd. 4).

16.16.4 News Media. These restrictions on corporate contributions do not prohibit publication or broadcasting of news items or editorial comments by the news media. (M.S. 211B.15, Subd. 5).

16.16.5 Penalty for Individuals. (a) Civil. An officer, manager, stockholder, member, , agent, employee, attorney or other representative of a corporation acting on behalf of the corporation who violates M.S. 211B.15 is subject to a civil penalty of up to ten times the amount of the violation, but in no case more than \$10,000, imposed by the Office of Administrative Hearings under Chapter 211B.

(b) Criminal. Knowingly violating M.S. 211B.15 is a crime. An officer, manager, stockholder, member, agent, employee, attorney, or other representative of a corporation acting in behalf of the corporation who is convicted of knowingly violating M.S. 211B.15 may be fined not more than \$20,000 or be imprisoned for not more than five years, or both. (M.S. 211B.15, Subd. 6).

16.16.6 Penalty for Corporations or Limited Liability Company. (a) Civil. A corporation that violates M.S. 211B is subject to a civil penalty up to ten times the amount of the violation, but in no case more than \$10,000, imposed by the Office of Administrative Hearings under Chapter 211B.

(b) Criminal. Knowingly violating M.S. 211B.15 is a crime. A corporation convicted of knowingly violating M.S. 211B.15 is subject to a fine not greater than \$40,000. A convicted domestic corporation may be dissolved as well as fined. If a foreign or nonresident corporation is convicted, in addition to being fined, its right to do business in Minnesota may be declared forfeited. (M.S. 211B.15, Subd. 7).

16.16.7 Permitted Activity; Political Party. It is not a violation of M.S. 211B.15 for a political party, as defined in section 200.02, subdivision 7, to form a nonprofit corporation for the sole purpose of holding real property to be used exclusively as the party's headquarters. (M.S. 211B.15, Subd. 8).

16.16.7.5 Knowing Violations. An individual or a corporation knowingly violates M.S. 211B.15 if, at the time of a transaction, the individual or the corporation knew (1) that the transaction causing the violation constituted a contribution under Chapter 211B; and (2) that the contributor was a corporation subject to the prohibitions of M.S. 211B.15, Subd. 2. (M.S. 211B.15, Subd. 7b).

16.16.8 Media Projects. It is not a violation of M.S. 211B.15 for a corporation to contribute to or conduct public media projects to encourage individuals to attend precinct caucuses, register, or vote if the projects are not controlled by or operated for the advantage of a candidate, political party, or committee. (M.S. 211B.15, Subd. 9).

16.16.9 Meeting Facilities. It is not a violation of M.S. 211B.15 for a corporation to provide meeting facilities to a committee, political party, or candidate on a nondiscriminatory and nonpreferential basis. (M.S. 211B.15, Subd. 10).

16.16.10 Messages on Premises. It is not a violation of M.S. 211B.15 for a corporation selling products or services to the public to post on its public premises messages that promote participation in precinct caucuses, voter registration, or elections if the messages are not controlled by or operated for the advantage of a candidate, political party, or committee. (M.S. 211B.15, Subd. 11).

16.16.11 Violations. An individual who aids, abets or advises a violation of M.S. 211B.15 is guilty of a gross misdemeanor. (M.S. 211B.15, Subd. 13). Violations must be prosecuted in the county where the payment or contribution was made, where services were rendered, or where the money was paid or distributed.

16.16.12 Application of Penalties. No penalty may be imposed for a violation of M.S. 211B.15 that is subject to a civil penalty under M.S. 10A. 121.

16.17 County Attorney Inquiry.

A county attorney may prosecute any violation of M.S. Chapter 211B. A complaint must be finally disposed of by the Office of Administrative Hearings before the alleged violation may be prosecuted by the county attorney. (M.S. 211A.08, Subd. 3) (M.S. 211B.16, Subd. 3).

16.18 Forfeiture of Nomination or Office.

Except as provided in M.S. 211B.17, Subd. 2 (Section 16.17.1 below), if a candidate is found guilty of violating M.S. Chapter 211B or an offense was committed by another individual with the knowledge, consent, or connivance of the candidate, the court, after entering the adjudication of guilt, shall enter a supplemental judgment declaring that the candidate has forfeited the nomination or office. If the court enters the supplemental judgment, it shall transmit to the school district clerk a transcript of the supplemental judgment, the nomination or office becomes vacant, and the vacancy must be filled as provided by law. (M.S. 211B.17, Subd. 1).

16.18.1 Circumstances Where Office or Nomination is Not Forfeited. In a trial for a violation of M.S. Chapter 211B, the candidate's nomination or election is not void if the court finds that:

- (1) An offense, though committed by the candidate or with the candidate's knowledge, consent or connivance, was trivial; or
- (2) An act or omission of a candidate arose from accidental miscalculation or other reasonable cause, but in any case not from a want of good faith;

and the court also finds that it would be unjust for a candidate to forfeit the nomination or election.

None of these findings is a defense to a conviction under the M.S. Chapter 211B (M.S. 211B.17, Subd. 2).

In Schmitt v. McLaughlin, 275 N.W.2d 587 (Minn. 1979) the Supreme Court was asked to decide whether election law violations were "deliberate, serious, and material" to require forfeiture of office. The contestee, who was a candidate for Ramsey County Abstract Clerk, circulated newspaper advertisements and lawn signs with initials "DFL" following his name. He did not have the endorsement or support of the DFL party. The Court held that contestee violated the Fair Campaign Practices Act. It further held the violation was "serious, deliberate, and material." However, the Court refused to remove contestee from office because his victory was by a margin of 16,000 votes and his conduct did not arise from lack of good faith.

16.19 Disqualified Candidate May Not be Appointed During Fixed Period.

A candidate whose election to office has been set aside for a violation of M.S. Chapter 211B may not be appointed, during the period fixed by law as the term of the office, to fill a vacancy in that office. A candidate or other individual who is convicted of a violation of M.S. Chapter 211B may not be appointed, during the period fixed by law as the term of the office with respect to which the election was held and the offense was committed, to fill a vacancy that may occur in the office. An appointment to an office made contrary to these provisions is void. (M.S. 211B.18).

A candidate or other individual who is convicted of a violation of M.S. Chapter 211B is not qualified, during the period fixed by law as the term of the office with respect to which the election was held and the offense was committed, to fill a vacancy in an office for which the Legislature may establish qualifications under Article XII, Section 3, of the Minnesota Constitution. (M.S. 211B.18).

## 16.20 Denial of Access by Political Candidates to Multiple Unit Dwellings.

It is unlawful for a person, either directly or indirectly, to deny access to an apartment house, dormitory, nursing home, manufactured home park, other multiple unit facility used as a residence, or an area in which two or more single-family dwellings are located on private roadways to a candidate who has (i) organized a campaign committee under applicable federal or state law; (ii) filed a financial report as required by M.S. 211A.02; (iii) filed an affidavit of candidacy for elected office. A candidate granted access under this provision must be allowed to be accompanied by campaign volunteers.

Access to a facility or area is only required if it is located within the district or territory that will be represented by the office to which the candidate seeks election, and the candidate and any accompanying volunteers seek access exclusively for the purpose of campaigning for a candidate or registering voters. The candidate must be seeking election to office at the next general or special election to be held for that office.

A candidate and any accompanying campaign volunteers granted access under this provision must be permitted to leave campaign materials for residents at their doors, except the manager of a nursing home may direct that the campaign materials be left in a central location within the facility. The campaign materials must be left in an orderly manner.

If a facility or area contains multiple buildings, a candidate and accompanying volunteers must be permitted to access more than one building on a single visit, but access is limited to only one building at a time. If multiple candidates are traveling together, each candidate and that candidate's accompanying volunteers is limited to one building at a time, but all of the candidates and accompanying volunteers traveling together must not be restricted to accessing the same building at the same time.

A violation of this provision is a petty misdemeanor. (M.S. 211B.20, Subd. 1).

16.20.1 Exceptions. The provisions of M.S. 211B.20, Subd. 1 (Section 16.20 above) does not prohibit:

- (1) Denial of admittance into a particular apartment, room, manufactured home or personal residential unit;
- (2) Requiring reasonable and proper identification as a necessary prerequisite to admission to a multiple unit dwelling;
- (3) In the case of a nursing home or a registered housing with services establishment providing assisted living services, denial or permission to visit certain persons for valid health reasons;
- (4) Limiting visits by candidates or volunteers accompanied by the candidate to a reasonable number of persons or reasonable hours;
- (5) Requiring a prior appointment to gain access to the facility; or
- (6) Denial of admittance to or expulsion from a multiple unit dwelling for good cause. (M.S. 211B.20, Subd. 2).

## 16.21 Participation in Public Parades.

If a public parade allows candidates, a candidate must be allowed to participate for a fee that is not greater than the amount that is charged to other units participating in the parade.

## 16.22 Campaign Material that Must Include Captioning.

Campaign material that is disseminated electronically by a candidate or committee using any of the following methods must include a captioning for deaf and hard-of-hearing viewers:

- (1) television time or online video time purchased by a candidate or committee;
- (2) free time on a public access cable television channel; and

- (3) free time on a television broadcast or Web site. (M.S. 211B.22).

16.25 Violations of Campaign Finance Reporting Law and Unfair Campaign Practices Act.

16.25.1 Administrative Procedures. The Legislature in 2004 established a new administrative procedure for dealing with complaints of violations of the campaign reporting or the unfair campaign practices acts. (M.S. 211B.32-211B.37). For further information, contact the Office of Administrative Hearings at 651-631-7900, or use their Web site at [www.oah.state.mn.us](http://www.oah.state.mn.us).

16.25.2 Complaints. The Act provides that a complaint alleging a violation of Chapter 211A or 211B must be filed with the Office of Administrative Hearings (the "Office"). The complaint must be finally disposed of by the Office before the alleged violation may be prosecuted by a county attorney. (M.S. 211B.32, Subd. 1).

16.25.3 Limitation Period. The complaint must be filed with the Office within one year after the occurrence of the act or failure to act that is the subject of the complaint, except that if the act or failure to act involved fraud, concealment, or misrepresentation that could not be discovered during that one-year period, the complaint may be filed with the Office within one year after the fraud, concealment, or misrepresentation was discovered. (M.S. 211B.32, Subd. 2).

16.25.4 Form of Complaint. The complaint must be in writing, submitted under oath, and detail the factual basis for the claim that a violation of law has occurred. (M.S. 211B.32, Subd. 3).

16.25.5 Proof of Claim. The burden of proving the allegations in the complaint is on the complainant. The standard of proof of a violation of Section 211B.06 relating to false statements in paid political advertising or campaign material is clear and convincing evidence. The standard of proof of any other violation of Chapter 211A or 211B is a preponderance of the evidence. (M.S. 211B.32, Subd. 4).

16.25.6 Filing Fee; Waiver; Refund. The complaint must be accompanied by a filing fee of \$50, unless filed by a filing officer. The Office may waive the payment of a filing fee, if the individual seeking a waiver of the fee files with the Office an affidavit stating that the individual is financially unable to pay the fee. The Office may refund the filing fee of a complainant who prevails on the merits. (M.S. 211B.32, Subd. 5).

16.25.7 Service on Respondent. Upon receipt of the filed complaint, the Office must immediately notify the respondent and provide the respondent with a copy of the complaint by the most expeditious means available. (M.S. 211B.32, Subd. 6).

16.26 Prima Facie Review.

16.26.1 Time for Review. The chief administrative law judge must randomly assign an administrative law judge to review the complaint. Within one (1) business day after the complaint was filed with the Office, when practicable, but never longer than three (3) business days, the administrative law judge must make a preliminary determination for its disposition. (M.S. 211B.33, Subd. 1).

16.26.2 Recommendation. If the administrative law judge determines that the complaint does not set forth a prima facie violation of Chapter 211A or 211B, the administrative law judge must dismiss the complaint. (M.S. 211B.33, Subd. 2).

If the administrative law judge determines that the complaint sets forth a prima facie violation of Section 211B.06 and was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates, the administrative law judge must conduct an expedited probable cause hearing. (M.S. 211B.33, Subd. 2).

If the administrative law judge determines that the complaint sets forth a prima facie violation of a provision of Chapter 211A or 211B, other than Section 211B.06, and that the complaint was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates, the administrative law judge, on request of any party, must conduct an expedited probable cause hearing. (M.S. 211B.33, Subd. 2).

If the administrative law judge determines that the complaint sets forth a prima facie violation of Chapter 211A or 211B, and was filed more than 60 days before the primary or special election or more than 90 days before the general election to which the complaint relates, the administrative law judge must schedule an evidentiary hearing. (M.S. 211B.33, Subd. 2).

16.26.3 Notice to Parties. The Office must notify all parties of the determinations relating to whether or not there is a prima facie violation. If the complaint is scheduled for hearing, the notice must identify the time and place of the hearing and inform all parties that they may submit evidence, affidavits, documentation, and argument for consideration by the administrative law judge. (M.S. 211B.33, Subd. 3).

16.26.4 Joinder and Separation of Complaints. The chief administrative law judge may direct that two or more complaints be joined for disposition if the chief administrative law judge determines that the allegations in each complaint are of the same or similar character, are based on the same act or failure to act, or are based on two or more acts or failures to act constituting parts of a common scheme or plan. If one complaint contains two or more allegations, the chief administrative law judge may separate the allegations, if they are not of the same or similar character, if they are not based on the same act or failure to act, or if they are not based on two or more acts or failures to act constituting parts of a common scheme or plan. If the chief administrative law judge separates the allegations in a complaint, the assigned administrative law judge or judges may make separate recommendations for each allegation. (M.S. 211B.33, Subd. 4).

## 16.27 Probable Cause Hearing.

16.27.1 Time for Review. The assigned administrative law judge must hold a probable cause hearing on the complaint no later than three (3) business days after receiving the assignment if an expedited hearing is required, except that for good cause the administrative law judge may hold the hearing no later than seven (7) days after receiving the assignment. If an expedited hearing is not required, the administrative law judge must hold the hearing not later than 30 days after receiving the assignment. (M.S. 211B.34, Subd. 1).

16.27.2 Disposition. At the probable cause hearing, the administrative law judge must make one of the following determinations: (a) The complaint is (i) frivolous, or (ii) there is no probable cause to believe that the violation of law alleged in the complaint has occurred. If the administrative law judge makes either of these determinations, the administrative law judge must dismiss the complaint. (b) There is probable cause to believe that the violation of law alleged in the complaint has occurred. If the administrative law judge so determines, the chief administrative law judge must schedule the complaint for an evidentiary hearing. (M.S. 211B.34, Subd. 2).

16.27.3 Reconsideration. If the administrative law judge dismisses the complaint, the administrative law judge shall provide to the complainant written notice of the right to seek reconsideration of the decision on the record by the chief administrative law judge. A petition for reconsideration must be filed within two (2) business days after the dismissal. The chief administrative law judge must make a decision on the petition within three (3) business days after receiving the petition. If the chief administrative law judge determines that the assigned administrative law judge made a clear error of law and grants the petition, within five (5) business days after granting the petition, the chief administrative law judge shall schedule the complaint for an evidentiary hearing. (M.S. 211B.34, Subd. 3).

## 16.28 Evidentiary Hearing.

16.28.1 Deadline for Hearing. When the chief administrative law judge must assign the complaint to a panel of three administrative law judges for an evidentiary hearing, the hearing must be held within the following times: (1) 10 days after the complaint was assigned, if an expedited probable cause hearing was requested or required; (2) 30 days after the complaint was filed, if it was filed within 60 days before the primary or special election or within 90 days before the general election to which the complaint relates; or (3) 90 days after the complaint was filed, if it was filed at any other time. For good cause shown, the panel may extend the deadline set forth in (2) or (3) above by 60 days. (M.S. 211B.35, Subd. 1).

16.28.2 Disposition of Complaint. The panel must determine whether the violation alleged in the complaint occurred and make at least one of the following dispositions:

- (a) The panel may dismiss the complaint.
- (b) The panel may issue a reprimand.
- (c) The panel may find that a statement made in a paid advertisement or campaign material violated Section 211B.06.
- (d) The panel may impose a civil penalty of up to \$5,000 for any violation of Chapter 211A or 211B.
- (e) The panel may refer the complaint to the appropriate county attorney. (M.S. 211B.35, Subd. 2).

16.28.3 Time for Disposition. The panel must dispose of the complaint: (1) within 3 days after the hearing record closes, if an expedited probable cause hearing was required; and (2) within 14 days after the hearing record closes, if an expedited probable cause hearing was not required. (M.S. 211B.35, Subd. 3).

## 16.29 Procedures.

16.29.1 Evidence and Argument. The administrative law judge or panel may consider any evidence and arguments submitted until a hearing record is closed, including affidavits and documentation, or may continue a hearing to enable the parties to submit additional testimony. (M.S. 211B.36, Subd. 1).

16.29.2 Withdrawal of Complaint. At any time before an evidentiary hearing begins, a complainant may withdraw a complaint. After the evidentiary hearing begins, a complaint may only be withdrawn with the permission of the panel. (M.S. 211B.36, Subd. 2).

16.29.3 Costs. If the assigned administrative law judge or panel determines the complaint is frivolous, they may order the complainant to pay the respondent's reasonable attorney's fees and to pay the costs of the Office in the proceeding in which the complaint was dismissed. (M.S. 211B.36, Subd. 3).

16.29.4 Hearings Public. A probable cause or evidentiary hearing under this law may be conducted by conference telephone call or interactive television. All hearings must be open to the public. (M.S. 211B.36, Subd. 4).

16.29.5 Judicial Review. A party aggrieved by a final decision on a complaint is entitled to judicial review of the decision under the provisions applicable to appeals of contested cases; however, proceedings on a complaint are not a contested case within the meaning of Chapter 14 and are not otherwise governed by Chapter 14. (M.S. 211B.36, Subd. 5).

## 16.30 Costs Assessed.

Except as otherwise provided above, the chief administrative law judge shall assess the cost of

considering complaints filed under this law. Costs of complaints related to a ballot question or elected office that is not a statewide ballot question or election for a statewide or legislative office must be paid from appropriations to the office for this purpose. (M.S. 211B.37).

## 17. ELECTION CONTESTS

### 17.1 General. (2015 Session Change)

Minnesota law authorizes election contests. Any eligible voter, including a candidate, may contest the election of any person for whom the voter had a right to vote if that person is declared nominated for or elected to the school board, or contest the result of an election on a question voted on at an election. (M.S. 209.02, Subd. 1).

A contest may also be brought over an irregularity in the conduct of an election or canvass of votes, over the question of who received the largest number of votes legally cast, over the number of votes legally cast in favor of or against a question, or on the grounds of deliberate, serious and material violations of Minnesota election law. (M.S. 209.02, Subd. 1).

Generally, absent a showing of fraud, bad faith or some constitutional violation, courts will not invalidate an election because of minor departures from statutory regulations so long as the election results in the fair and free expression of the will of the voters. Erickson v. Sammons, 242 Minn. 345, 65 N.W.2d 198 (1954). The court usually considers whether voters votes were misled or deprived of essential information making the election results inaccurate.

Generally, statutory provisions regulating conduct of an election are considered mandatory before an election is held. Such regulations are usually construed as directory after an election has been held absent fraud, bad faith or a constitutional violation. Erickson v. Sammons, *supra*.

**See also - *In the Matter of the Contest of the Special Election held on November 4, 2014 for Independent School District No. 2310, Sibley East Public Schools, Sibley County District Court, File No. 72-CV-14-199; 2015 WL 1014155 (Minn. App. 2015), review denied (May 19, 2015).***

### 17.2 Grounds.

An election contest may be brought for a "deliberate, serious and material" violation of Minnesota election law (M.S. 209.02). Although the definitions of these terms depend on the specific facts and circumstances of each case, the Supreme Court in Daugherty v. Hillary held that the contestant of an election is not required to affirmatively show an effect on election outcome, but that violation of the section of the law regarding false statements of party support is inherently material. Daugherty v. Hillary. 344 N.W.2d 826 (Minn. 1984).

In Schmitt v. McLaughlin, 275 N.W.2d 587 (1979), the Court defined deliberate to mean intentional and intended to affect voting and serious as meaning "not trivial."

### 17.3 Procedure.

To contest an election, the contestant must initiate the challenge by serving the appropriate parties with notice of the contest in the same manner as service of a summons in a civil action (M.S. 209.021). A party to the action may not personally serve the notice of contest under Minn. R. Civ. P. 4.02, and such improper personal service may lead to dismissal of an action. Stransky v. Independent School District No. 761, 439 N.W.2d 408 (Minn. App. 1989).

17.3.1 Time. If the contest relates to nomination or election to the school board, notice must be filed with the court administrator of the district court of the county in which the contestee resides within five days after the canvass is completed in the case of a primary or within seven days after the canvass is completed in the case of a special or general election. (M.S. 209.021, Subd. 1).

If the contest is of an election that has been recounted, the time for notice of contest begins to run on certification of the results of the recount by the canvassing board. (M.S. 204C.36, Subd. 5).

If the contest relates to a question on the ballot, the contestant shall file the notice of contest with the court administrator of the district court for the county or any of the counties where the question appeared on the ballot within seven days after the canvass is completed. (M.S. 209.021, Subd. 1).

If a contest is based on a deliberate, serious and material election law violation discovered from statements of receipts and disbursements required to be filed by candidates and committees, the action must be commenced and notice served and filed within 10 days after filing of the statements in a general (or special) election or within five days after filing of the statements in a primary election. (M.S. 209.021, Subd. 1).

If a notice of contest questions only which candidate received the highest number of votes legally cast at the election, a contestee who loses may serve and file a notice of contest on any other ground during the three-day period following expiration of the time for appealing the decision on the vote count. (M.S. 209.021, Subd. 1).

#### 17.4 Notice.

The notice of contest must specify the grounds on which the contest will be made. (M.S. 209.021, Subd. 1). The notice of election contest is sufficient, if it states facts sufficient to apprise the contestee of the grounds of the contest so the contestee is given a fair opportunity to meet the asserted claims. A notice which charges election irregularities but fails to allege how the irregularities deprived voters of a fair election is not a valid notice. Greenly v. Independent School District No. 316, 395 N.W.2d 86 (Minn. App. 1986).

17.4.1 Contest of Person. In contests relating to the nomination or election of a candidate, the notice of contest must be served on the candidate who is the contestee by sending a copy of the notice to the contestee's last known address by certified mail, and a copy must be provided to the school official authorized to issue the certificate of election (the school district clerk). If personal or substituted service on the contestee cannot be made, an affidavit of the attempt, by the person attempting to make service, and the affidavit of the person who sent the copy by certified mail, is adequate to confer jurisdiction upon the court to decide the contest. (M.S. 209.021, Subd. 3).

17.4.2 Contest of Question. If the election contest relates to a question submitted to the voters in only one school district, a copy of the contest notice must be served on the school district clerk who is the contestee. (M.S. 209.021, Subd. 3).

If the question is upon the question of reorganization or consolidation of a school district, a copy of the notice of contest must be served on the county auditor authorized by law to issue the order. (M.S. 209.021, Subd. 3).

Personal service of the notice of contest may not be done on state holidays. Lebens v. Harbeck, 308 Minn. 433, 243 N.W.2d 128 (1976).

17.4.3 Contest of Bond Issue; Surety Bond. If an election approving the issuance of bonds by a school

district is contested, the contestant shall file in the district court a surety bond of at least \$5,000 or a greater amount determined necessary by the court to provide security for costs of the contest to the school district, including any additional costs that may be incurred by the school district if the bond issue is delayed. The court may waive the requirements of this subdivision to the extent it finds that there is a reasonable likelihood that the contestant will prevail and that filing the bond would impose an undue hardship. If the surety bond is not filed within the time allowed by the court, the contest shall be dismissed with prejudice. (M.S. 209.07, Subd. 4).

#### 17.5 Answer.

It is not necessary for a contestee to file an answer in an election contest when the only issue is which candidate received the highest number of votes legally cast, or on the number of votes legally cast in favor of or against a question, unless the contestee wishes to raise issues not specified in the notice of contest. (M.S. 209.03, Subd. 1).

For all other contests of general or special elections, the answer must be filed and served within seven days after service of the notice of contest. (M.S. 209.03, Subd. 2). An answer is the contestee's response to the contest prepared by the district's legal counsel in compliance with the Minnesota Rules of Civil Procedure.

If the contest involves a primary election, the answer must be filed within the time set by the court, but no more than five days after service of the notice of contest. (M.S. 209.03, Subd. 2).

The answer must be served in the same manner as a civil action and must so far as practicable conform to the rules of pleading in civil actions. (M.S. 209.03, Subd. 2).

The Court of Appeals has held that a request for a recount tolls the seven-day period of M.S. 209.02 regarding the time for filing notice of an election contest, until certification of the recount results are completed. Kearin v. Roach, 381 N.W.2d 531 (Minn. App. 1986) petition for rev. denied (Minn. 1986). In that case, the contestant filed notice of contest seven days after certification of a recount. The Court determined the filing was timely.

#### 17.6 Guarding the Ballots.

In any election, upon demand made of the clerk and upon notice to a candidate's opponents, a candidate may keep a continuous visual guard over the ballots until the expiration of the time for initiating contests expires. In case of contest, the contestant or contestee may visually guard the ballots. The guard may be maintained by the candidate, contestant, contestee or an authorized agent, not exceeding two at a time for each party to the contest. If any of the parties seek to guard the ballots, the school district clerk shall also appoint an individual to guard the ballots so they are not in the sole custody of the candidate, contestant, contestee or their agents. (M.S. 209.05).

#### 17.7 Pretrial Inspection of Ballots.

After instituting an election contest, either party may have the ballots inspected before preparing for trial. The party requesting inspection shall file with the district court where the contest is brought a verified petition that the case cannot properly be prepared for trial without an inspection of the ballots and designating the precincts for which an inspection is desired.

The Court will appoint as many sets of three inspectors as necessary to count and inspect the ballots expeditiously. Each party chooses an inspector, and the two inspectors chosen select a third inspector. If

either party fails to name an inspector, the judge shall appoint an inspector. Inspectors are paid the same as referees, unless otherwise stipulated. (M.S. 209.06, Subd. 1).

17.7.1 Cost Bond. The party requesting the inspection must file a \$250 bond if the contest is in a single county. Otherwise the bond shall be in an amount set by the court with sureties approved by the court and conditioned that the party seeking inspection will pay the administrative costs and expenses of the inspection if that party loses the contest. (M.S. 209.06, Subd. 2).

If the party requesting the inspection loses the contest, that party must pay the inspection costs. (M.S. 209.06, Subd. 2). If the contestant wins, the contestee must pay inspection costs except the court may order the school district to pay the costs if it is responsible for the errors in counting ballots. (M.S. 209.07, Subd. 3).

17.7.2 Report of Inspectors. The inspection must be made in the office of and in the presence of the school district custodian of ballots (school district clerk). The counting procedure is the same as for original counting. (See Section 14 above.)

Inspectors shall examine and report all undisputed ballots, disputed ballots, absentee ballot return envelopes and applications and rejected ballots. They must report the number of votes cast for each candidate or each side of the question in each precinct inspected and indicate any disputed ballots upon which they cannot agree. Reports must be made in writing. (M.S. 209.06, Subd. 3).

#### 17.8 Pleadings and Trial Procedure.

The notice of contest and answer are pleadings in an election contest case. As such, they may be amended at the Court's discretion. The case must be brought on for trial as soon as practicable within 20 days after filing notice of the contest. (M.S. 209.065). The contest is tried to the court without a jury. (M.S. 209.07).

#### 17.9 Contest Results.

There are a number of possible results from an election contest depending on the grounds for the contest.

##### 17.9.1 Determining Which Candidate or Side of an Issue Received the Greatest Number of Validly Cast Votes.

If a nomination is contested after a primary election, the court shall decide which candidate, if any, was nominated and is entitled to be named in print on the official ballots at the general election. (M.S. 209.07, Subd. 1).

If the contestant wins, the court may invalidate and revoke the contestee's election certificate and order the school election official to issue a new one to the contestant. (M.S. 209.07, Subd. 1). However, the contestant, if successful, is not entitled to the certificate of election until expiration of the time to appeal from the district court's decision or after the judicial determination is made final. (M.S. 209.07, Subd. 1).

If the contest involved an error in counting the ballots, the official authorized to issue the certificate of election shall issue the certificate to the person entitled to it. (M.S. 209.07, Subd. 1).

In a contest, if the court finds serious and material ballot defects changed the election outcome, the election must be declared invalid for the contested office. (M.S. 209.07, Subd. 2).

17.9.2 Election Irregularity - Defective Ballots. If the issue in the contest does not involve a determination of which candidate received the highest number of votes cast and the contestant wins, the contestant is not entitled to a certificate of election. (M.S. 209.07, Subd. 1).

If the court decides that there were material and serious defects in ballots that changed the election outcome for the contested office, the election must be declared invalid for that office and a new election held. (M.S. 209.07, Subd. 2).

17.9.3 Costs of Contest. In general, election contest costs must be paid by the losing party. If the contestee succeeds, costs of the contest must be paid by the contestant. If the contestant succeeds, costs of the contest must be paid by the contestee. However, if the contestee loses because of an error in counting of ballots or canvass of returns, or because of any other procedural irregularity, the court has the discretion to order the costs to be paid by the school district if it is the election jurisdiction responsible for the errors which results in the reversal. (M.S. 209.07, Subd. 3).

#### 17.10 Appeals.

In the case of an appeal of a primary election contest, the appeal must be served and filed in the Court of Appeals no later than five days after entry of the district court decision. (M.S. 209.09).

In the case of an appeal of a general or special election contest, the appeal must be served and filed in the Court of Appeals no later than 10 days after entry of the district court decision. (M.S. 209.09).

The record on appeal must be made, certified and filed with the Court of Appeals within 15 days after service of the notice of appeal. The appeal may be heard by the court at any time, upon notice by any party, as the court determines and may be heard and determined summarily. (M.S. 209.09).

When a district court decision in an election contest is appealed, the appellant is required to file a \$500 bond to cover costs incurred by the respondent if appellant loses the appeal. (M.S. 209.09). Presumably this is also applicable to a special election contest.

#### 17.11 Strict Interpretation of Contest Procedure.

Both the right to contest an election and the authority vested in courts to entertain election contest is purely statutory, and, without statutory authorization, the courts do not have jurisdiction to entertain such proceedings. Schmitt v. McLaughlin, Minn. 275 N.W.2d 587 (1979); Phillips v. Ericson, 248 Minn. 452, 80 N.W.2d 513 (1957). The courts have, therefore, employed strict interpretations of applicable election contest statutes. The Minnesota Supreme Court in Christenson v. Allen, 264 Minn. 395, 119 N.W.2d 35 (1963), affirmed the dismissal of an election contest because the Notice of Election did not comply with the applicable statutes relating to election contest proceedings. The Supreme Court held:

Much as we regret to decide any case on a question of pleading, we are constrained to hold that a notice of contest designed to limit the contest to a recount of the votes cast, which fails to allege any irregularities either in the conduct of an election or the canvass of votes, or any violation of the election law, by a plain statement showing that the contestant is entitled to a decree changing the declared result of the election, is a nullity and insufficient to invoke the jurisdiction of the court. It is to be emphasized that we are not declaring what must be alleged but that what was alleged is insufficient.

See also, O'Loughlin v. Otis, Minn. 276 N.W.2d 38 (1979) in which the court stated that it would require "strict" rather than "substantial" compliance with statutory procedures in election contests.

### 17.12 Declared Result is Final Unless Set Aside by Court.

The result of an election as declared by the school board is final until set aside by court action. The Attorney General has ruled as follows:

The two men declared elected are entitled to qualify as members of the board, unless an election contest shall be duly instituted and the court render judgment to the contrary . . . The declared result of the canvass of a vote is final until set aside by court action. (Op. Atty Gen. 187-A-4, July 25, 1930).

An earlier Attorney General Opinion articulated the same position:

It is for the judges of election at the school district election in question to count the ballots and declare the result. If this duty has not been performed, it should be performed forthwith. The one declared elected should qualify and assume office at the beginning of the term for which elected. (Op. Atty Gen. 187-A-4, July 23, 1921).

However, where an election contest is filed and the Court revokes or invalidates a previously issued election certificate, a new certificate of election may not issue until the contest is finally determined. Matter of Ryan, 303 N.W.2d 462 (Minn. 1981).

## 18. ORGANIZATIONAL MEETING OF THE NEW BOARD

### 18.1 Date of Taking Office; Term. (2015 Session Change)

The terms of all school board members expire on the first Monday in January of the year in which they expire. (M.S. 123B.09, Subd. 1).

A school board member is elected to fill a vacancy on the board caused by the expiration of a term. The term of office of a board member is four years and until a successor qualifies (except as may be otherwise provided by a transition schedule from odd to even-numbered year elections or from even to odd numbered year elections). (M.S. 123B.09, Subd. 1).

If a member is elected to fill a vacancy caused by the expiration of a term and the member has qualified, the member takes office for a term beginning the first Monday in January . (M.S. 123B.09, Subd. 1; 205A.04; Op. Atty Gen. 161C-23, August 17, 1962). The member takes office on that date regardless of the date of the organizational meeting.

If a member is elected to fill a vacancy for the unexpired part of a term, the member takes office as soon as he or she qualifies, not on the following first Monday in January.

The school district clerk shall issue a certificate of election to the successful candidate and deliver it to the successful candidate by personal service or certified mail. The person certified must file an acceptance and oath of office in writing within 30 days of the mailing or personal service of the certificate. A person who fails to qualify prior to the specified time shall be deemed to have refused to serve, but that filing may be made any time before action has been taken to fill the vacancy. (M.S. 205A.10, Subd. 3).

### 18.2 Date of Organizational Meeting.

The board members of independent school districts must meet and organize annually on the first Monday in January or as soon thereafter as practicable. (M.S. 123B.14, Subd. 1).

### 18.3 Business of Organizational Meeting.

A chair, a clerk and a treasurer (and any other officers of the board) are selected at the organizational meeting. (M.S. 123B.14, Subd. 1). The board should set a schedule for regular school board meetings to be held during the year (which designates the date, time and place for such meetings) and conduct other business necessary.

### 18.4 Quorum.

A majority of the voting members of the board shall constitute a quorum. (M.S. 123B.09, Subd. 6). On either a 6 or 7 member board, a quorum of the full board is 4 members. Therefore, the board can legally hold its organizational meeting if less than the full membership participates and attends so long as all members have had notice. When a quorum is present, the majority vote of those actually voting is sufficient to pass a motion. If 6 or 7 members are present, 4 votes are necessary. If 4 or 5 members are present, 3 votes are necessary. See Op. Atty Gen. 161-a-20, June 3, 1987. Abstentions are counted with the majority.

### 18.5 Salaries and Expenses.

School board members shall receive such compensation as may be fixed by the board. (M.S. 123B.09, Subd. 12). Expenses of the school board are to be paid as other expenses of the school district. Mileage may be paid as determined by the board. (M.S. 471.665).

## 19. PROHIBITED SCHOOL BOARD MEETINGS; USE OF PUBLIC FACILITIES

### 19.1 Prohibited School Board Meetings and School Activities on Election Days.

School boards are prohibited from holding a meeting between 6:00 p.m. and 8:00 p.m. on the day that a state, county, city, township, school district or other political subdivision election is held within the boundaries of the district. (M.S. 204C.03, Subd. 1).

Except for regularly scheduled classes, a public elementary or secondary school may not hold a school-sponsored event between 6:00 p.m. and 8:00 p.m. on the day that a regularly scheduled election is held in any political subdivision in which that school is located. (M.S. 204C.03, Subd. 3). Note that this provision only applies to regularly scheduled elections such as primary or general elections. It is determined on a school by school basis since school districts may overlap multiple cities.

### 19.2 Prohibited School Board Meetings and School Activities on Political Party Precinct Caucus Day.

A school board may not hold a meeting after 6:00 p.m. on the day of a major political party precinct caucus. (M.S. 202A.19, Subd. 1). No public elementary or secondary school may hold a school sponsored event after 6:00 p.m. on the day of a major political party precinct caucus. (M.S. 202A.19, Subd. 5).

Precinct caucuses are held at 7:00 p.m. on the date jointly determined by the chairs of the two major political parties in every general election year. (M.S. 202A.14). If the chairs of the two major political parties are unable to agree upon a date by March 1 of the odd-numbered year, the date shall be the first Tuesday in February. The Secretary of State may postpone a precinct caucus for one week in counties where weather conditions make travel especially dangerous. The postponed caucus may also be postponed.

Any person eligible to attend a precinct caucus may be absent from work to attend the caucus when scheduled without a penalty other than a deduction in salary for the time of absence from employment. The employee must notify the employer in writing at least 10 days in advance of his intent to be absent from

work. (M.S. 202A.19, Subd. 2).

### 19.3 Prohibited School Board Meeting on Holidays.

No public business shall be transacted on any holiday, except in cases of necessity. (M.S. 645.44, Subd. 5). (See Section 3.5 for a listing of legal holidays in Minnesota.)

### 19.4 Public Facilities Available for Precinct Caucuses.

No school official may deny the use of a public school building for the holding of a political party precinct caucus if the school office has received a written request for the use of the school building 30 days or more prior to the date of the caucus. (M.S. 202A.19, Subd. 4).

Every statutory city, home rule charter city, county, town, school district and other public agency, including the University of Minnesota and other public colleges and universities, shall make the facilities available for the holding of precinct caucuses and legislative district or county conventions required by Chapter 202A. A charge for the use of the facilities may be imposed in an amount that does not exceed the lowest amount charged to any public or private group. (M.S. 202A.192).

### 19.5 Public Facilities Available for Elections.

Every statutory city, home rule charter city, county, town, school district, and other public agency, including the University of Minnesota and other public colleges and universities, shall make their facilities, including parking, available for the holding of city, county, school district, state, and federal elections subject to the approval of the local election official. A charge for the use of the facilities may be imposed in an amount that does not exceed the lowest amount charged to any public or private group. (M.S. 204B.16, Subd. 6).

These facilities must be sufficient in size to accommodate all election activities. The space must be separated from other activities within the building. The local election official in charge of the election may approve space in two connecting rooms for registration and balloting activities.

Except in the event of an emergency making the approved space unusable, the public facility may not move the election from the space approved by the local election official without prior approval. In addition to the requirements otherwise in law, the public facility must make remaining parking spaces not in use for regularly scheduled activities available for voters (M.S. 204B.16, Subd. 7).

## 20. ELECTION TIMETABLES

20.1 Election Timetables. (2015 Session Change)

Specific dates for referendum revenue authorization elections are found in the Chapter 13 school law bulletin entitled, "School District Referendum Revenue Authorization Procedure and Capital Project Levy Procedure."

Dates of importance for **November 3, 2015**, school board general election for a District **WITH** a Primary:

April 15, 2015	Last day to pass a resolution making the district subject to the primary election system.
May 5, 2015	Last day to publish notice of filing dates for general election if your district is subject to the primary system (at least two weeks before first day to file affidavits of candidacy). Also, last day to designate location for absentee voting for General Election (at least 14 weeks before the date of the next election).
May 9, 2015	Last day to post notice of filing period for general election if your district is subject to the primary system (at least 10 days before first day to file affidavits of candidacy).
May 19-June 2, 2015	Filing period for general election if your district is subject to the primary election system (not less than 84 days before and 70 days before the primary election).
May 29, 2015	Last day to notify auditors of primary elections and offices to be voted on, if required (not less than 74 days before primary). Last day to cancel special election to be held in conjunction with the primary.
June 4, 2015	Last day to file affidavit of withdrawal if your district is subject to the primary election system.
June 12, 2015	Last day to mail absentee ballot applications to voters on the permanent list in school districts with a primary (at least 60 days before the primary).
June 26, 2015	First day absentee ballots must be available for primary election (46 days prior to date of election).
July 17, 2015	Last day to appoint election judges (25 days prior to date of election).
July 21, 2015	Last day to preregister for primary election, if required (at least 21 days prior to date of election).
July 22, 2015	First day to conduct health care facility absentee voting for primary election (during the 20 days preceding an election). Also, last day for operator of a residential facility to provide a certified list of employees eligible to vouch for residents of the facility.
July 28, 2015	Last day to publish first notice of primary election, if required. Also, last day for county auditor to designate location for absentee voting for general election (14 weeks before election).
August 1, 2015	Last day to post notice of primary election, if required (at least 10 days prior to date of election). Also, candidate campaign finance reports due (pre-primary).
August 4, 2015	Last day to publish second notice of primary election, if required. Also, first day agent delivery of absentee ballots to voters unable to get to the polls (during the seven days preceding an election and until 2 p.m. on Election Day).
August 7, 2015	Last day to post sample ballot for primary election, if required (at least four days prior to date of primary election).

<b>August 10, 2015</b>	Last day to apply for absentee ballot for primary election, if required (day prior to date of election). Also, last day to conduct public accuracy test of optical scan voting equipment.
<b>August 11, 2015</b>	Primary Election, if required. Also, no public meetings or school events may be held between 6 p.m. and 8 p.m.
<b>August 13, 2015</b>	Last day to return rosters and completed voter registration cards to county auditor.
<b>August 14, 2015</b>	Required date to adopt resolution canvassing primary election.
<b>August 19, 2015</b>	Last day for candidate to request a recount in writing (within 5 days of canvass).
<b>August 21, 2015</b>	Last day to adopt resolution calling general election. Last day to notify county auditors with written notice of general election. (74 days before the general election). Last day to cancel special election scheduled in conjunction with General Election.
<b>September 18, 2015</b>	First day absentee ballots must be available for general election (46 days prior to date of election).
<b>October 9, 2015</b>	Last day to appoint election judges (25 days prior to date of election).
<b>October 13, 2015</b>	Last day to preregister for general election (at least 21 days prior to date of election).
<b>October 14, 2015</b>	Last day for the operator of a residential facility to provide to the county a certified list of employees eligible to vouch for residents of the facility (at least 20 days before the election). Also, first day election judges shall deliver absentee ballots to eligible voters who are temporary or permanent residents in a healthcare facility or hospital in the school district.
<b>October 20, 2015</b>	Last day to publish first notice of November general election.
<b>October 23, 2015</b>	Last day to post notice of November election (at least 10 days prior to date of the election). Campaign finance reports due if spent or received more than \$750.
<b>October 27, 2015</b>	Last day to publish second notice of November general election. Also, first day agent delivery of absentee ballots to voters unable to get to the polls (during the seven days preceding an election and until 2 p.m. on Election Day).
<b>October 30, 2015</b>	Last day to post sample ballot of November general election (at least 4 days prior to date of election).
<b>November 2, 2015</b>	Last day to apply for absentee ballot for November general election (day prior to date of election). Also, last day to do public accuracy test of electronic voting equipment.
<b>November 3, 2015</b>	General Election Day. No public meetings or school events may be held between 6 p.m. and 8 p.m.
<b>November 6-13, 2015</b>	Time period to canvass results of the General Election (between the third and 10th day following the General Election).
<b>November 10, 2015</b>	Last day for candidates to file Campaign Financial Report Certification of Filing form (within 7 days of General Election).
<b>November 13-20, 2015</b>	Last day for candidate to request a recount (Within 7 days of canvass).
<b>December 3, 2015</b>	Campaign finance reports due. (30 days after General Election).
<b>January 4, 2016</b>	Terms begin for members elected at <b>2015</b> general election.

Dates of importance for November **3, 2015**, school board general election for a District **WITHOUT** a Primary:

July <b>14, 2015</b>	Last day to publish notice of filing (at least 2 weeks before filing opens).
July <b>17, 2015</b>	Last day for school district to post notice of filing period (10 days before filing period begins).
July <b>28, 2015</b>	Last day for county auditor to designate location for absentee voting for general election (14 weeks before election).
July <b>28-Aug. 11, 2015</b>	Candidate filing period for General Election (not less than 98 days before and 84 days before the election).
August <b>13, 2015</b>	Last day for candidates to withdraw (no later than 5 p.m. two days after filing closes).
August <b>21, 2015</b>	Last day to notify county auditors with written notice of November election. (74 days before the General Election). Last day to cancel a special election scheduled for General Election Day.
September <b>18, 2015</b>	First day absentee ballots must be available for general election (46 days prior to date of election).
October <b>9, 2015</b>	Last day to appoint election judges (25 days prior to date of election).
October <b>13, 2015</b>	Last day to preregister for general election (at least 21 days prior to date of election).
October <b>14, 2015</b>	Last day for the operator of a residential facility to provide to the county a certified list of employees eligible to vouch for residents of the facility (at least 20 days before the election). Also, first day election judges shall deliver absentee ballots to eligible voters who are temporary or permanent residents in a healthcare facility or hospital in the school district.
October <b>20, 2015</b>	Last day to publish first notice of November general election.
October <b>23, 2015</b>	Last day to post notice of November election (at least 10 days prior to date of the election). Campaign finance reports due if spent or received more than \$750.
October <b>27, 2015</b>	Last day to publish second notice of November general election. Also, first day agent delivery of absentee ballots to voters unable to get to the polls (during the seven days preceding an election and until 2 p.m. on Election Day).
October <b>30, 2015</b>	Last day to post sample ballot of November general election (at least 4 days prior to date of election).
November <b>2, 2015</b>	Last day to apply for absentee ballot for November general election (day prior to date of election). Also, last day to do public accuracy test of electronic voting equipment.
November <b>3, 2015</b>	General Election Day. No public meetings or school events may be held between 6 p.m. and 8 p.m.
November <b>6-13, 2015</b>	Time period to canvass results of general election (between the 3rd and 10th day following general election).
November <b>10, 2015</b>	Last day for candidates to file Campaign Financial Report Certification of Filing form (within 7 days of General Election).
November <b>13-20, 2015</b>	Last day for candidate to request a recount (Within 7 days of canvass).
December <b>3, 2015</b>	Campaign finance reports due. (30 days after General Election).
January <b>4, 2016</b>	Terms begin for members elected at <b>2015</b> general election.

## RECENT ELECTION LAW CHANGES

1. All elections will now require 74 days notice (no more 67 or 53 day provisions).
2. If the school district (or a city located in the school district) has a regularly scheduled primary in the odd-numbered year, no election may be held the 56 days before and the 56 days after that primary and the 56 days before and the 56 days after the general election. However, an election may be held in conjunction with the primary or the general election.
3. If the school district (or a city located in the school district) has not opted into the primary, but has its general election in the odd-numbered year, no elections may be held the 56 days before and the 56 days after that general election. However, an election may be held in conjunction with the general election.
4. If the school district (or a city located in the school district) does not have primary or general elections, elections may continue to be held on any date from January 2 to December 31 that is not a holiday or on the day of a township election in March.
5. If there are township elections held in any township located in whole or in part in the school district on the second Tuesday in March, no elections may be held the 30 days before and the 30 days after that election . Also, an election may not be held on the second Tuesday in March in conjunction with the township election. **(This results in an at least 61 day blackout period for holding special elections.)**

## 21. FORMS

21.1 Use of Forms.

A number of resolutions, ballots, affidavits, certificates and other forms are needed for conducting school elections. The following is a list of the appendixes contained in this election manual. These are suggested forms that are commonly used in school elections. Caution should be used in adopting any of these forms to a particular school district. Forms are merely aids that often need to be redrafted and "tailormade" for particular situations. In many cases, the forms will contain blanks or items in parentheses that will need to be completed by the district. They may also need to be revised if the school district is conducting its election in conjunction with another election jurisdiction. As forms are provided by the Secretary of State, statutes are adopted and court decisions and opinions of the Attorney General are rendered, alterations and modifications may become necessary. If in doubt, the particular document should be reviewed by school district legal counsel.

21.2 Appendix Listing. (2015 Session Change)

1. Resolution establishing combined polling places for multiple precincts and designating hours during which the polling places will remain open for voting for school district elections not held on the day of a statewide election. (Page A-1)
2. Affidavit of posting - notice of change of polling place location. (Page A-2)
- 2a. Notice of change of polling place location. (Page A-3)
- 2b. Certificate of Mailing. (Page A-3)
3. Form of ballot for establishing election districts. (Page A-4) **(2015 change)**
4. Contingent resolution relating to choosing nominees for election to the school board and calling the school district primary election. (Page A-5) **(2015 change)**
- 4a. Resolution Establishing School District Primary Election System. (Page A-9)
5. Resolution relating to the election of school board members and calling the school district general election. (Page A-10) **(2015 change)**
- 5a. Reserved for future use. (Page A-14)
6. Resolution relating to the issuance of school building bonds and calling an election thereon. (Page A-14) **(2015 change)**
7. Reserved for future use. (Page A-17)
8. Form of ballot question to submit question of seven member board to voters. (Page A-18) **(2015 change)**
- 8a. Reserved for future use. (Page A-18)
9. Notice of primary election. (Page A-19) **(2015 change)**

10. Notice of general election. (Page A-20) **(2015 change)**
11. Notice of special election. (Page A-21) **(2015 change)**
12. Affidavit of posting - notice of election. (Page A-22)
13. Affidavit of posting - sample ballot. (Page A-23)
14. Oath of Vouching to Voter's Eligibility. (Page A-24)
- 14a. Precinct List of Persons Vouching. (Page A-25)
- 14b. Residential Facility Oath of Vouching to Voter's Eligibility. (Page A-26)
- 14c. Residential Facility Precinct List of Persons Vouched For. (Page A-27)
15. Oath of Challenge to Voters Eligibility. (Page A-28)
16. Resolution establishing dates for filing affidavits of candidacy. (Page A-29)
- 17a. Minnesota affidavit of candidacy for school board. (Page A-30) **(2015 change)**
- 17b. Address of residence form. (Page A-31) **(2015 change)**
18. Petition in place of \$2 filing fee. (Page A-32)
19. Affidavit of withdrawal. (Page A-33) **(2015 change)**
20. Resolution filling school board vacancy by appointment. (Page A-33) **(2015 change)**
21. Resolution calling special election to fill school board vacancy. (Page A-34) **(2015 change)**
22. Affidavit of preparation of substitute official ballots. (Page A-36)
23. Reserved for future use. (Page A-37)
24. Reserved for future use. (Page A-37)
25. Reserved for future use. (Page A-37)
26. Reserved for future use. (Page A-38)
27. Resolution establishing ballot board. (Page A-38) **(2015 change)**
28. Reserved for future use. (Page A-38)
29. Reserved for future use. (Page A-39)
30. Reserved for future use. (Page A-39)
31. Reserved for future use. (Page A-39)

- 32a. Reserved for future use. (Page A-40)
- 32b. Reserved for future use. (Page A-40)
- 33. Reserved for future use. (Page A-40)
- 33a. Absentee Ballot Agent Return Record. (Page A-41)
- 33b. Voter Request for Agent Delivery of Absentee Ballot. (Page A-42)
- 34. Oath of office - appointed election judge. Oath of office - election judge elected to fill vacancy. (Page A-43)
- 35. Reserved for future use. (Page A-43)
- 36. Reserved for future use. (Page A-43)
- 37. Reserved for future use. (Page A-43)
- 38. Reserved for future use. (Page A-43)
- 39. Resolution authorizing use of electronic voting system. (Page A-44)
- 40. Certification of adoption of electronic voting system. (Page A-44)
- 40a. Notice of testing of optical scan voting system. (Page A-45)
- 40b. Notice of location where ballots will be counted. (Page A-45)
- 41. Certificate of judges as to uncounted ballots. (Page A-46)
- 42. Sample precinct summary statement for general election not held on day of statewide election. (Page A-47)
- 43. Sample precinct summary statement for special election not held on day of statewide election. (Page A-48) **(2015 change)**
- 44. Reserved for future use. (Page A-49)
- 44a. Reserved for future use. (Page A-49)
- 45. Reserved for future use. (Page A-49)
- 46. Certificate of election judges - optical scan precinct. (Page A-50)
- 47. Reserved for future use. (Page A-50)
- 48. Reserved for future use. (Page A-50)
- 49. Ballot envelope. (Page A-51)

50. Resolution canvassing returns of votes of school district primary election. (Page A-52)
51. Resolution canvassing returns of votes of school district general election. (Page A-53)
52. Resolution canvassing returns of votes of school district special election. (Page A-54)
53. Sample abstract and return of votes cast for general election not held on day of statewide election. (Page A-55)
54. Sample abstract and return of votes cast for special election not held on day of statewide election. (Page A-56) **(2015 change)**
55. Clerk's certificate as to abstract and return of votes cast. (Page A-57)
56. Resolution authorizing issuance of certificates of election and directing school district clerk to perform other election related duties. (Page A-58)
57. Certificate of election (full 4 year term). (Page A-59)
58. Certificate of election (unexpired term expiring). (Page A-59) **(2015 change)**
59. Acceptance of office and oath of office. (Page A-60)
60. Campaign financial report. (Page A-61)
61. Campaign financial report - certification of filing. (Page A-63)
62. Mail ballot procedures. (Page A-64)
63. Form of instructions to mail voters. (Page A-65)
64. Form of mail voter's certificate. (Page A-66)
65. Replacement mail ballot affidavit of. (Page A-67)
- 65a. Resolution authorizing mail ballot special election. (Page A-68)
66. Cost allocation procedures for election expenses. (Page A-69)

RESOLUTION ESTABLISHING COMBINED POLLING PLACES FOR MULTIPLE PRECINCTS AND DESIGNATING HOURS DURING WHICH THE POLLING PLACES WILL REMAIN OPEN FOR VOTING FOR SCHOOL DISTRICT ELECTIONS NOT HELD ON THE DAY OF A STATEWIDE ELECTION

BE IT RESOLVED by the School Board of Independent School District No. \_\_\_\_\_, State of Minnesota, as follows:

1. Pursuant to Minnesota Statutes, Section 205A.11, the precincts and polling places for school district elections are those precincts or parts of precincts located within the boundaries of the school district which have been established by the cities or towns located in whole or in part within the school district. The board hereby confirms those precincts and polling places so established by those municipalities.

2. Pursuant to Minnesota Statutes, Section 205A.11, the board may establish a combined polling place for several precincts for school elections not held on the day of a statewide election. The following combined polling places are established to serve the precincts specified for all school district special and general elections not held on the same day as a statewide election:

(Set forth each combined polling place explaining which precincts are being served, such as:)

Combined Polling Place: \_\_\_\_\_ Name and address of combined polling place

"This combined polling place serves all territory in Independent School District No. \_\_\_\_\_ located in \_\_\_\_\_ Township; \_\_\_\_\_ Township, Precinct 1; the City of \_\_\_\_\_; the City of \_\_\_\_\_, Precinct 2; and the City of \_\_\_\_\_, Ward VI, Precinct 4; \_\_\_\_\_ County, Minnesota."

\*3. Pursuant to Minnesota Statutes, Section 205A.09, the polling places will remain open for voting for school district elections not held on the same day as a statewide election between the hours of \_\_\_\_\_ o'clock \_\_.m. and 8:00 o'clock p.m.

\*Note: See Section 3.6 of the Election Manual as to certain restrictions on voting hours.

4. The clerk is directed to file a certified copy of this resolution with the county auditors of each of the counties in which the school district is located in whole or in part within 30 days after its adoption.

5. As required by Minnesota Statutes, Section 204B.16, Subdivision 1a, the clerk is hereby authorized and directed to give written notice of new polling place locations to all registered voters in the school district whose school district polling place locations have been changed. The notice must be a nonforwardable notice mailed at least twenty-five (25) days before the date of the first election to which it will apply. A notice that is returned as undeliverable must be forwarded immediately to the appropriate County Auditor, who shall change the registrant's status to "challenged" in the statewide registration system.

(If a combined polling place is changed, the change must be adopted at least ninety days prior to the first election where it will be used unless that polling place has become unavailable for use.)





FORM OF BALLOT FOR ESTABLISHING ELECTION DISTRICTS


SPECIAL ELECTION BALLOT

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_  
(NAME OF DISTRICT)

\_\_\_\_\_, 20 \_\_\_\_

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**INSTRUCTIONS TO VOTERS:**

**To vote, completely fill in the oval(s) next to your choice(s) like this:** 

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To vote for a question, fill in the oval next to the word "Yes" on that question.  
To vote against a question, fill in the oval next to the word "No" on that question.

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**SCHOOL DISTRICT QUESTION 1  
APPROVAL OF REORGANIZATION OF THE  
SCHOOL DISTRICT INTO ELECTION DISTRICTS**

**Yes**

Shall the school district be reorganized into election districts with boundaries as established in resolution No. \_\_\_\_\_ of the school board, dated \_\_\_\_\_?

**No**

SAMPLE RESOLUTION FOR PRIMARY ELECTIONS FOR  
DISTRICTS THAT HAVE OPTED INTO PRIMARY LAW

CONTINGENT RESOLUTION RELATING TO CHOOSING NOMINEES FOR ELECTION  
TO THE SCHOOL BOARD AND CALLING  
THE SCHOOL DISTRICT PRIMARY ELECTION

BE IT RESOLVED by the School Board of Independent School District No. \_\_\_\_\_, State of Minnesota, as follows:

1. It is necessary to elect (three) school board members for four year terms at the 20 \_\_\_\_ general election. If more than two candidates for a specified school board position or more than twice as many candidates as there are at-large school board positions available file affidavits of candidacy, Minnesota Statutes, Section 205A.03 requires that nominees must be chosen at a primary election. If a primary election is so required, the clerk shall include the names of the individuals who file affidavits of candidacy during the filing period on the primary election ballot as though they had been included by name in this resolution.

2. Odd Year: The primary election is hereby called and directed to be held on Tuesday, the \_\_\_\_ day of August, 20 \_\_\_\_, between the hours of \_\_\_\_ o'clock \_\_\_\_m. and 8:00 o'clock p.m.

Even Year: The primary election is hereby called and directed to be held in conjunction with the state primary election on Tuesday, the \_\_\_\_ day of August, 20 \_\_\_\_.

3. Odd Year: Pursuant to Minnesota Statutes, Section 205A.11, the school district combined polling places and the precincts served by those polling places, as previously established and designated by school board resolution for school district elections not held on the day of a statewide election, are hereby designated for this primary election.

Even Year: Pursuant to Minnesota Statutes, Section 205A.11, the precincts and polling places for this primary election are those polling places and precincts or parts of precincts located within the boundaries of the school district and which have been established by the cities or towns located in whole or in part within the school district. The voting hours at those polling places shall be the same as for the state primary election.

4. The clerk is hereby authorized and directed to cause written notice of said primary election to be provided to the county auditor of each county in which the school district is located, in whole or in part, at least seventy-four (74) days before the date of said primary election. The notice shall include the date of said election and the office or offices to be voted on at said primary election. Any notice given prior to the date of the adoption of this resolution is ratified and confirmed in all respects.

The clerk is hereby authorized and directed to cause notice of said primary election to be posted at the administrative offices of the school district at least ten (10) days before the date of said primary election.

The clerk is hereby authorized and directed to cause a sample ballot to be posted at the administrative offices of the school district at least four (4) days before the date of said primary election and to cause two sample ballots to be posted in each polling place on election day. The sample ballot shall not be printed on the same color paper as the official ballot. The sample ballot for a polling place must reflect the offices, candidates, and rotation sequence on the ballots used in that polling place.

The clerk is hereby authorized and directed to cause notice of said primary election to be published in the official newspaper of the school district for two (2) consecutive weeks with the last publication being at least one (1) week before the date of said election.

The notice of election so posted and published shall state the offices to be filled set forth in the form of ballot below, and shall include information concerning each established precinct and polling place.

The clerk is hereby authorized and directed to cause the rules and instructions for use of the optical scan voting system to be posted in each polling place on election day.

5. The clerk is authorized and directed to acquire and distribute such election materials as may be necessary for the proper conduct of this primary election, and generally to cooperate with election authorities conducting other elections on that date. The clerk and members of the administration are authorized and directed to take such actions as may be necessary to coordinate this election with those other elections, including entering into agreements or understandings with appropriate election officials regarding preparation and distribution of ballots, election administration and cost sharing.

6. The clerk is further authorized and directed to cause or to cooperate with the proper election officials to cause ballots to be prepared for use at said election in substantially the following form, with such changes in form, color and instructions as may be necessary to accommodate an optical scan voting system.

**PRIMARY ELECTION BALLOT**  
**INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_**  
**(NAME OF DISTRICT)**

AUGUST \_\_\_\_, 20 \_\_\_\_

---

**INSTRUCTIONS TO VOTERS:**

To vote, completely fill in the oval(s) next to your choice(s) like this: 

---

**SCHOOL BOARD MEMBER**

**Vote for up to three\***

---

- Candidate S
  - Candidate T
  - Candidate U
  - Candidate V
  - Candidate W
  - Candidate X
  - Candidate Y
  - Candidate Z
- 

\* If four members are to be elected to four year terms, this would say “Vote for up to four.”

Optical scan ballots must be printed in black ink on white material, except that marks to be read by the automatic tabulating equipment may be printed in another color ink. The name of the precinct and machine-readable identification must be printed on each ballot. Voting instructions must be printed at the top of the ballot on each side that includes ballot information. The instructions must include an illustration of the proper mark to be used to indicate a vote. Lines for initials of at least two election judges must be printed on one side of the ballot so that the judges' initials are visible when the ballots are enclosed in a secrecy sleeve.

7. The name of each candidate for office at this election shall be rotated with the names of the other candidates for the same office in the manner specified in Minnesota law.

8. If the school district will be contracting to print the ballots for this election, the clerk is hereby authorized and directed to prepare instructions to the printer for layout of the ballot. Before a contract in excess of \$1,000 is awarded for printing ballots, the printer shall, if requested by the election official, furnish, in accordance with Minnesota Statutes, Section 204D.04, a sufficient bond, letter of credit, or certified check acceptable to the clerk in an amount not less than \$1,000 conditioned on printing the ballots in conformity with the Minnesota election law and the instructions delivered. The clerk shall set the amount of the bond, letter of credit, or certified check in an amount equal to the value of the purchase.

9. Odd Year: The clerk is hereby authorized and directed to provide for testing of the optical scan voting system within fourteen (14) days prior to the primary election date. The clerk shall cause notice of the time and place of the test to be given at least two (2) days in advance **by publishing the Notice of Testing** once in the official newspaper, and by **causing the notice to be posted in the office of the county auditor, the administrative offices of the school district, and the office of any other local election official conducting the test.**

10. Odd Year: The clerk is hereby authorized and directed to cause notice of the location of the counting center or the place where the ballots will be counted to be published in the official newspaper at least once during the week preceding the week of the primary election and in the newspaper of widest circulation once on the day preceding the primary election, or once the week preceding the primary election if the newspaper is a weekly.

11. Odd Year: As required by Minnesota Statutes, Section 203B.121, the Board hereby establishes a ballot board to process, accept and reject absentee ballots at school district elections not held in conjunction with the state primary or state general election or that are conducted by a municipality on behalf of the school district and generally to carry out the duties of a ballot board as provided by Minnesota Statutes, Section **203B.121** and other applicable laws. The ballot board must consist of a sufficient number of election judges trained in the handling of absentee ballots. The ballot board may include deputy county auditors or deputy city clerks who have received training in the processing and counting of absentee ballots. The clerk or the clerk's designee is hereby authorized and directed to appoint the members of the ballot board. The clerk or the clerk's designee shall establish, maintain and update a roster of members appointed to and currently serving on the ballot board and shall report to the Board from time to time as to its status. Each member of the ballot board shall be paid reasonable compensation for services rendered during an election at the same rate as other election judges; provided, however, if a staff member is already being compensated for regular duties, additional compensation shall not be paid for ballot board duties performed during that staff member's duty day.

12. Odd Year: The following individuals, each of whom is qualified to serve as an election judge, are hereby appointed as judges of election, to act as such at the respective polling places listed below:

Polling Place	Election Judges
_____	Head Election Judge - _____
	_____
	_____

The election judges shall act as clerks of election, count the ballots cast and submit the results to the school board for canvass in the manner provided for other school district elections. The primary election must be canvassed on the second or third day following the primary.

Even Year: The individuals designated as judges for the state primary election shall act as election judges for this primary election at the various polling places and shall conduct said election in the manner described by law. The election judges shall act as clerks of election, count the ballots cast and submit them to the school board for canvass in the manner provided for other school district elections. Except as provided in Minnesota Statutes, Section 205A.03, Subd. 4(b), the primary election must be canvassed on the third day after the primary.

13. The School District clerk shall make all Campaign Financial Reports required to be filed with the school district under Minnesota Statutes, Section 211A.02, and received on or after May 17, 2014, available on the school district's website. The clerk must post the report on the school district's website as soon as possible, but no later than thirty (30) days after the date of the receipt of the report. The school district must make a report available on the school district's website for four years from the date the report was posted to the website. The clerk must also provide the Campaign Finance and Public Disclosure Board with a link to the section of the website where reports are made available.

14. The provisions of this resolution shall only be effective if, as a result of filings, a primary election is required by law.

RESOLUTION ESTABLISHING SCHOOL DISTRICT  
PRIMARY ELECTION SYSTEM

WHEREAS, the board wishes elections in Independent School District No. \_\_\_\_\_ to be subject to the primary election system;

NOW THEREFORE, BE IT RESOLVED by the School Board of Independent School District No. \_\_\_\_\_, State of Minnesota, as follows:

1. The school board hereby determines that nominees for school board office at the 20\_\_\_\_ general election and thereafter shall be chosen by primary election.

2. The school district primary election shall be held on the date specified by law for school district primary elections. The filing periods shall be a specified by law.

3. If in any year there are more than two candidates for a specified school board position or there are more than twice as many school board candidates as there are at-large school board positions available, a primary election must be held that year.

4. The school district primary elections shall be conducted pursuant to Minnesota Statutes, Section 205A.03, as amended, and the Minnesota election laws generally. The school district clerk is authorized and directed to take such actions as necessary to be prepared to conduct primary elections.

5. This resolution is effective for all ensuing elections of school board members unless it is revoked.

Note: This resolution must be adopted by April 15 of the year of the school district general election to make the district subject to the primary beginning that year.

## SAMPLE RESOLUTION FOR GENERAL ELECTIONS

RESOLUTION RELATING TO THE ELECTION OF SCHOOL BOARD MEMBERS  
AND CALLING THE SCHOOL DISTRICT GENERAL ELECTION

BE IT RESOLVED by the School Board of Independent School District No. \_\_\_\_\_, State of Minnesota as follows:

(a) 1. It is necessary for the school district to hold its general election for the purpose of electing (three \*) school board members for terms of four (4) years each.

[Insert the following if no primary is required]

(b) The clerk shall include on the ballot the names of the individuals who file or have filed affidavits of candidacy during the period established for filing such affidavits, as though they had been included by name in this resolution. The clerk shall not include on the ballot the names of individuals who file timely affidavits of withdrawal in the manner specified by law.

[Insert the following if a primary has been held]

(b) The clerk shall include the names of the nominees chosen at the primary election as though they had been included by name in this resolution.

2. Odd Year: The general election is hereby called and directed to be held on Tuesday, the \_\_\_\_\_ day of November, 20 \_\_\_\_, between the hours of \_\_\_\_\_ o'clock \_\_m. and 8:00 o'clock p.m.

Even Year: The general election is hereby called and elected to be held in conjunction with the state general election on Tuesday, the \_\_\_\_\_ day of November, 20\_\_\_\_\_.

3. Odd Year: Pursuant to Minnesota Statutes, Section 205A.11, the school district combined polling places and the precincts served by those polling places, as previously established and designated by school board resolution for school district elections not held on the day of a statewide election, are hereby designated for said general election.

Even Year: Pursuant to Minnesota Statutes, Section 205A.11, the precincts and polling places for this general election are those polling places and precincts or parts of precincts located within the boundaries of the school district and which have been established by the cities or towns located in whole or in part within the school district. The voting hours at those polling places shall be the same as for the state general election.

4. The clerk is hereby authorized and directed to cause written notice of said general election to be provided to the county auditor of each county in which the school district is located, in whole or in part, at least seventy-four (74) days before the date of said election. The notice shall include the date of said general election and the office or offices to be voted on at said general election. Any notice given prior to the date of the adoption of this resolution is ratified and confirmed in all respects.

The clerk is hereby authorized and directed to cause notice of said general election to be posted at the administrative offices of the school district at least ten (10) days before the date of said general election.

The clerk is hereby authorized and directed to cause a sample ballot to be posted at the administrative offices of the school district at least four (4) days before the date of said general election and to cause two sample ballots to be posted in each polling place on election day. The sample ballot shall not be printed on the same

color paper as the official ballot. The sample ballot for a polling place must reflect the offices, candidates and rotation sequence on the ballots used in that polling place.

The clerk is hereby authorized and directed to cause notice of said general election to be published in the official newspaper of the school district for two (2) consecutive weeks with the last publication being at least one (1) week before the date of said election.

The notice of election so posted and published shall state the offices to be filled set forth in the form of ballot below, and shall include information concerning each established precinct and polling place.

The clerk is authorized and directed to cause the rules and instructions for use of the optical scan voting system to be posted in each polling place on election day.

5. The clerk is authorized and directed to acquire and distribute such election materials as may be necessary for the proper conduct of this election, and generally to cooperate with election authorities conducting other elections on that date. The clerk and members of the administration are authorized and directed to take such actions as may be necessary to coordinate this election with those other elections, including entering into agreements or understandings with appropriate election officials regarding preparation and distribution of ballots, election administration and cost sharing.

6. The clerk is further authorized and directed to cause or to cooperate with the proper election officials to cause ballots to be prepared for use at said election in substantially the following form, with such changes in form, color and instructions as may be necessary to accommodate an optical scan voting system.

GENERAL ELECTION BALLOT

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_  
(NAME OF DISTRICT)

NOVEMBER \_\_, 20 \_\_

**INSTRUCTIONS TO VOTERS:**

To vote, completely fill in the oval(s) next to your choice(s) like this: 

**SCHOOL BOARD MEMBER**

Vote for up to three\*

- Candidate U
- Candidate V
- Candidate W
- Candidate X
- \_\_\_\_\_  
write-in, if any
- \_\_\_\_\_  
write-in, if any
- \_\_\_\_\_  
write-in, if any

\* If four members are up, this would state **vote for up to four** and there would be four lines for write-ins.

Optical scan ballots must be printed in black ink on white material, except that marks to be read by the automatic tabulating equipment may be printed in another color ink. The name of the precinct and machine-readable identification must be printed on each ballot. Voting instructions must be printed at the top of the ballot on each side that includes ballot information. The instructions must include an illustration of the proper mark to be used to indicate a vote. Lines for initials of at least two election judges must be printed on one side of the ballot so that the judges' initials are visible when the ballots are enclosed in a secrecy sleeve.

7. The name of each candidate for office at this election shall be rotated with the names of the other candidates for the same office in the manner specified in Minnesota law.

8. If the school district will be contracting to print the ballots for this election, the clerk is hereby authorized and directed to prepare instructions to the printer for layout of the ballot. Before a contract in excess of \$1,000 is awarded for printing ballots, the printer shall, if requested by the election official, furnish, in accordance with Minnesota Statutes, Section 204D.04, a sufficient bond, letter of credit, or certified check acceptable to the clerk in an amount not less than \$1,000 conditioned on printing the ballots in conformity with the Minnesota election law and the instructions delivered. The clerk shall set the amount of the bond, letter of credit, or certified check in an amount equal to the value of the purchase.

9. Odd Year: The clerk is hereby authorized and directed to provide for testing of the optical scan voting system within fourteen (14) days prior to the general election date. The clerk shall cause notice of the time and place of the test to be given at least two (2) days in advance **by publishing the Notice of Testing** once in the official newspaper and by **causing the notice to be posted in the office of the county auditor, the administrative offices of the school district, and the office of any other local election official conducting the test.**

10. Odd Year: The clerk is hereby authorized and directed to cause notice of the location of the counting center or the place where the ballots will be counted to be published in the official newspaper at least once during the week preceding the week of the general election and in the newspaper of widest circulation once on the day preceding the general election, or once the week preceding the general election if the newspaper is a weekly.

11. Odd Year: As required by Minnesota Statutes, Section 203B.121, the Board hereby establishes a ballot board to process, accept and reject absentee ballots at school district elections not held in conjunction with the state primary or state general election or that are conducted by a municipality on behalf of the school district and generally to carry out the duties of a ballot board as provided by Minnesota Statutes, Section **203B.121** and other applicable laws. The ballot board must consist of a sufficient number of election judges trained in the handling of absentee ballots. The ballot board may include deputy county auditor or deputy city clerks who have received training in the processing and counting of absentee ballots. The clerk or the clerk’s designee is hereby authorized and directed to appoint the members of the ballot board. The clerk or the clerk’s designee shall establish, maintain and update a roster of members appointed to and currently serving on the ballot board and shall report to the Board from time to time as to its status. Each member of the ballot board shall be paid reasonable compensation for services rendered during an election at the same rate as other election judges; provided, however, if a staff member is already being compensated for regular duties, additional compensation shall not be paid for ballot board duties performed during that staff member’s duty day.

12. Odd Year: The following individuals, each of whom is qualified to serve as an election judge, are hereby appointed as judges of election, to act as such at the respective polling places listed below:

Polling Place	Election Judges
	Head Election Judge - _____
	_____
	_____

The election judges shall act as clerks of election, count the ballots cast and submit the results to the school board for canvass in the manner provided for other school district elections. The general election must be canvassed between the third and the tenth day following the general election.

Even Year: The individuals designated as judges for the state general election shall act as election judges for this election at the various polling places and shall conduct said election in the manner described by law. The election judges shall act as clerks of election, count the ballots cast and submit them to the school board for canvass in the manner provided for other school district elections. The general election must be canvassed between the third and the tenth day following the general election.

13. The School District clerk shall make all Campaign Financial Reports required to be filed with the school district under Minnesota Statutes, Section 211A.02, and received on or after May 17, 2014, available on the school district’s website. The clerk must post the report on the school district’s website as soon as possible, but no later than thirty (30) days after the date of the receipt of the report. The school district must make a report available on the school district’s website for four years from the date the report was posted to the website. The clerk must also provide the Campaign Finance and Public Disclosure Board with a link to the section of the website where reports are made available.

RESERVED FOR FUTURE USE

APPENDIX 6 (rev. 6/15)

SAMPLE RESOLUTION CALLING SPECIAL ELECTION (BOND ISSUE)\*

RESOLUTION RELATING TO THE ISSUANCE OF SCHOOL BUILDING BONDS  
AND CALLING AN ELECTION THEREON

BE IT RESOLVED by the School Board of Independent School District No.\_\_\_\_\_, State of Minnesota, as follows:

1. The board hereby finds and determines that it is necessary and expedient for the school district to borrow money in an aggregate amount not to exceed \$\_\_\_\_\_, and not to exceed any limitation upon the incurring of indebtedness which shall be applicable on the date or dates of the issuance of such bonds, for the purpose of providing funds for the acquisition and betterment of school sites and facilities, including \_\_\_\_\_. The question on the borrowing of funds for these purposes shall be School District Question 1 on the school district ballot at the special election held to authorize said borrowing.

2. The project has received a positive review and comment from the Commissioner of Education. The actions of the administration in consulting with the Minnesota Department of Education, causing a proposal to be prepared for submission on behalf of the board to the Commissioner of Education for the Commissioner's Review and Comment and taking such other actions as necessary to comply with the provisions of Minnesota Statutes, Section 123B.71, as amended, are hereby ratified and approved in all respects.

The clerk is hereby authorized and directed to cause the Commissioner's Review and Comment to be published in the legal newspaper of the district at least twenty (20) but not more than sixty (60) days prior to the date of the special election as specified in paragraph 3 of this resolution.

3. The question of the borrowing of said funds in the maximum amount of \$\_\_\_\_\_ shall be submitted to the qualified voters of the school district at a special election, which is hereby called and directed to be held on \_\_\_\_\_, the \_\_\_ day of \_\_\_\_\_, 20 \_\_\_, between the hours of \_\_\_ o'clock \_\_\_.m. and 8:00 o'clock p.m.

\*(See Chapter 13, School Law Bulletin entitled "School District Referendum Revenue Authorization Procedures and Capital Project Levy Procedure" for Form of Resolution Calling Referendum Levy Election.)

4. Pursuant to Minnesota Statutes, Section 205A.11, the school district combined polling places and the precincts served by those polling places, as previously established and designated by school board resolution for school district elections not held on the day of a statewide election, are hereby designated for this special election.

The clerk is hereby authorized and directed to prepare a notice to any voters who will be voting at a combined polling place for this special election. The notice must be sent by nonforwardable mail to every affected household in the school district with at least one registered voter. The notice must be mailed no later than fourteen (14) days before the date of the election. A notice that is returned as undeliverable must be forwarded immediately to the appropriate county auditor. The notice must include the following information: the date of the election, the hours of voting and the location of the voter's polling place. This notice may be in the same form as the notice of special election to be published and posted.

*\* Note that this preceding paragraph is not necessary if the special election is held on the day of the school district primary or general election, the second Tuesday in August, the Tuesday following the first Monday in November, or for a special election conducted entirely by mail.*

5. The clerk is hereby authorized and directed to cause written notice of said special election to be provided to the county auditor of each county in which the school district is located, in whole or in part, and to the Commissioner of Education at least seventy-four (74) before the date of said special election. The notice shall include the date of said special election and the title and language for each ballot question to be voted on at said special election.

The clerk is hereby authorized and directed to cause notice of said special election to be posted at the administrative offices of the school district at least ten (10) days before the date of said special election.

The clerk is hereby authorized and directed to cause a sample ballot to be posted at the administrative offices of the school district at least four (4) days before the date of said special election and to cause a sample ballot to be posted in each polling place on election day. The sample ballot shall not be printed on the same color paper as the official ballot.

The clerk is hereby authorized and directed to cause notice of said special election to be published in the official newspaper of the school district, for two (2) consecutive weeks with the last publication being at least one (1) week before the date of said special election.

The notice of election so posted and published shall state the question to be submitted to the voters as set forth in the form of ballot below, and shall include information concerning each established precinct and polling place.

The clerk is hereby authorized and directed to cause the rules and instructions for use of the optical scan voting system to be posted in each polling place or combined polling place on election day.

6. The clerk is authorized and directed to acquire and distribute such election materials as may be necessary for the proper conduct of this special election.

7. The clerk is further authorized and directed to cause or to cooperate with the proper election officer's to cause ballots to be prepared for use at said election in substantially the following form, with such changes in form, color and instructions as may be necessary to accommodate an optical scan voting system.

SPECIAL ELECTION BALLOT

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_  
(NAME OF DISTRICT)

\_\_\_\_\_, 20 \_\_\_\_

**INSTRUCTIONS TO VOTERS:**

To vote, completely fill in the oval(s) next to your choice(s) like this: 

To vote for a question, fill in the oval next to the word "Yes" on that question.  
To vote against a question, fill in the oval next to the word "No" on that question.

**SCHOOL DISTRICT QUESTION 1  
APPROVAL OF SCHOOL DISTRICT BOND ISSUE**

**Yes** Shall the school board of Independent School District No. \_\_\_\_\_ (Name of District) be authorized to issue its general obligation school building bonds in an amount not to exceed \$\_\_\_\_\_ to provide funds for the acquisition and betterment of school sites and facilities, including \_\_\_\_\_?

**No** **BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING FOR A PROPERTY TAX INCREASE.**

Optical scan ballots must be printed in black ink on white material, except that marks to be read by the automatic tabulating equipment may be printed in another color ink. The name of the precinct and machine-readable identification must be printed on each ballot. Voting instructions must be printed at the top of the ballot on each side that includes ballot information. The instructions must include an illustration of the proper mark to be used to indicate a vote. Lines for initials of at least two election judges must be printed on one side of the ballot card so that the judges' initials are visible when the ballots are enclosed in a secrecy sleeve.

8. If the school district will be contracting to print the ballots for this special election, the clerk is hereby authorized and directed to prepare instructions to the printer for layout of the ballot. Before a contract in excess of \$1,000 is awarded for printing ballots, the printer shall, at the request of the election official, furnish, in accordance with Minnesota Statutes, Section 204D.04, a sufficient bond, letter of credit, or certified check acceptable to the clerk in an amount not less than \$1,000 conditioned on printing the ballots in conformity with the Minnesota election law and the instructions delivered. The clerk shall set the amount of the bond, letter of credit, or certified check in an amount equal to the value of the purchase.

9. The clerk is hereby authorized and directed to provide for testing of the optical scan voting system within fourteen (14) days prior to the election date. The clerk shall cause notice of the time and place of the test to be given at least two (2) days in advance **by publishing the Notice of Testing** once in the official newspaper and by **causing the notice to be posted in the office of the county auditor, the administrative offices of the school district, and the office of any other local election official conducting the test.**

10. The clerk is hereby authorized and directed to cause notice of the location of the counting center or the places where the ballots will be counted to be published in the official newspaper at least once during the week preceding the week of the election and in the newspaper of widest circulation once on the day preceding the election, or once the week preceding the election if the newspaper is a weekly.

11. Election not in conjunction with state primary or general: As required by Minnesota Statutes, Section 203B.121, the Board hereby establishes a ballot board to process, accept and reject absentee ballots at school district elections not held in conjunction with the state primary or state general election or that are conducted by a municipality on behalf of the school district and generally to carry out the duties of a ballot board as provided by Minnesota Statutes, Section **203B.121** and other applicable laws. The ballot board must consist of a sufficient number of election judges trained in the handling of absentee ballots. The ballot board may include deputy county auditors or deputy city clerks who have received training in the processing and counting of absentee ballots. The clerk or the clerk’s designee is hereby authorized and directed to appoint the members of the ballot board. The clerk or the clerk’s designee shall establish, maintain and update a roster of members appointed to and currently serving on the ballot board and shall report to the Board from time to time as to its status. Each member of the ballot board shall be paid reasonable compensation for services rendered during an election at the same rate as other election judges; provided, however, if a staff member is already being compensated for regular duties, additional compensation shall not be paid for ballot board duties performed during that staff member’s duty day.

12. The following individuals, each of whom is qualified to serve as an election judge, are hereby appointed as judges of election, to act as such at the respective polling places listed below:

<u>Polling Place</u>	<u>Election Judges</u>
_____	Head Election Judge - _____ _____ _____

The election judges shall act as clerks of election, count the ballots cast and submit the results to the school board for canvass in the manner provided for other school district elections. The election must be canvassed between the third and the tenth day following the election.

13. The School District clerk shall make all Campaign Financial Reports required to be filed with the school district under Minnesota Statutes, Section 211A.02, and received on or after May 17, 2014, available on the school district’s website. The clerk must post the report on the school district’s website as soon as possible, but no later than thirty (30) days after the date of the receipt of the report. The school district must make a report available on the school district’s website for four years from the date the report was posted to the website. The clerk must also provide the Campaign Finance and Public Disclosure Board with a link to the section of the website where reports are made available.

FORM OF BALLOT QUESTION TO SUBMIT QUESTION OF SEVEN  
MEMBER BOARD TO VOTERS


SPECIAL ELECTION BALLOT

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_  
(NAME OF DISTRICT)

\_\_\_\_\_, 20 \_\_\_\_

---

**INSTRUCTIONS TO VOTERS:**

**To vote, completely fill in the oval(s) next to your choice(s) like this:** 

---

To vote for a question, fill in the oval next to the word "Yes" on that question.  
To vote against a question, fill in the oval next to the word "No" on that question.

---

**SCHOOL DISTRICT QUESTION  
APPROVAL OF SEVEN MEMBER SCHOOL BOARD**

**Yes**      Shall the school board of Independent School District No. \_\_\_\_\_ consist of seven members?


**No**

NOTICE OF PRIMARY ELECTION

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_  
(NAME OF DISTRICT)  
STATE OF MINNESOTA

NOTICE IS HEREBY GIVEN, that the primary election has been called and will be held in and for Independent School District No. \_\_\_\_\_ (\_\_\_\_\_), State of Minnesota, on \_\_\_\_\_, the \_\_\_\_\_ day of August, 20 \_\_\_\_, for the purpose of choosing twice the number of individuals to be elected as nominees for election as school board members for four year terms. The ballot shall provide as follows:

**INSTRUCTIONS TO VOTERS:**

To vote, completely fill in the oval(s) next to your choice(s) like this: 

**SCHOOL BOARD MEMBER**

Vote for up to three\*

Candidate S

Candidate T

Candidate U

Candidate V

Candidate W

Candidate X

Candidate Y

Candidate Z

The combined polling places for this election and the precincts served by those polling places will be as follows: - SPECIFY COMBINED POLLING PLACES AND PRECINCTS SERVED BY THOSE POLLING PLACES- *Note: This will be adjusted for elections held in conjunction with the state primary election.*

Any eligible voter residing in the school district may vote at said election at the polling place designated above for the precinct in which he or she resides. The polls for said election will open at \_\_\_\_\_ o'clock \_\_.m. and will close at 8:00 o'clock p.m. on the date of said election.

A voter must be registered to vote to be eligible to vote in this election. An unregistered individual may register to vote at the polling place on election day.

Dated: \_\_\_\_\_

BY ORDER OF THE SCHOOL BOARD

/s/ \_\_\_\_\_

School District Clerk

\* If four members are to be elected to four year terms, this would say "**Vote for up to four.**"




NOTICE OF SPECIAL ELECTION

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_  
(NAME OF DISTRICT)  
STATE OF MINNESOTA

NOTICE IS HEREBY GIVEN, that a special election has been called and will be held in and for Independent School District No. \_\_\_\_\_ (\_\_\_\_\_), State of Minnesota, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ for the purpose of voting on the following question:

---

**INSTRUCTIONS TO VOTERS:**

**To vote, completely fill in the oval(s) next to your choice(s) like this: **

---

To vote for a question, fill in the oval next to the word "Yes" on that question.  
To vote against a question, fill in the oval next to the word "No" on that question.

---

**SCHOOL DISTRICT QUESTION \_\_\_\_\_**  
**TITLE**  
[INSERT FORM OF QUESTION]

**Yes**

**No**

---

The combined polling places for this election and the precincts served by those polling places will be as follows:

[SPECIFY COMBINED POLLING PLACES AND PRECINCTS SERVED BY THOSE POLLING PLACES]

Any eligible voter residing in the school district may vote at said election at the polling place or combined polling place designated above for the precinct in which he or she resides. The polls for said election will open at \_\_\_\_\_ o'clock \_\_.m. and will close at 8:00 o'clock p.m. on the date of said election.

A voter must be registered to vote to be eligible to vote in this election. An unregistered individual may register to vote at the polling place on election day.

Dated: \_\_\_\_\_ BY ORDER OF THE SCHOOL BOARD

\_\_\_\_\_  
/s/  
School District Clerk

AFFIDAVIT OF POSTING

NOTICE OF ELECTION

STATE OF MINNESOTA )  
 )SS  
COUNTY OF \_\_\_\_\_ )

AFFIDAVIT SHOWING POSTING OF  
NOTICE OF ELECTION WITHIN  
INDEPENDENT SCHOOL DISTRICT  
NO. \_\_\_\_ (\_\_\_\_\_)  
STATE OF MINNESOTA

\_\_\_\_\_, being first duly sworn, upon oath deposes and says that he did on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, which date is at least ten (10) days prior to the date of the election, cause the Notice of Election, a true and correct copy of which is hereby attached and by reference made a part hereof, to be posted at each of the following public and conspicuous places within Independent School District No. \_\_\_\_ (\_\_\_\_\_), State of Minnesota, including the administrative offices of the school district, to wit:

- One at
- One at
- One at
- One at
- One at
- One at
- One at

Further affiant saith not.

\_\_\_\_\_  
School District Clerk

Subscribed and sworn to before  
me this \_\_\_\_ day of \_\_\_\_\_,  
20 \_\_.

\_\_\_\_\_  
Notary Public

AFFIDAVIT OF POSTING

SAMPLE BALLOT

STATE OF MINNESOTA )  
 )SS  
COUNTY OF \_\_\_\_\_ )

AFFIDAVIT SHOWING POSTING OF  
SAMPLE BALLOTS WITHIN  
INDEPENDENT SCHOOL DISTRICT  
NO. \_\_\_\_\_ (\_\_\_\_\_)  
STATE OF MINNESOTA

\_\_\_\_\_, being first duly sworn, upon oath deposes and says that he did on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, which date is at least four (4) days prior to the date of the election, cause the Sample Ballot, a true and correct copy of which is hereby attached and by reference made a part hereof, to be posted at the administrative offices of the school district, and did cause two Sample Ballots to be posted at each polling place or combined polling place for said election on or prior to \_\_\_\_\_, 20 \_\_, the date of the election. The Sample Ballots were posted at the following places within the school district:

One at

One at

One at

One at

One at

One at

One at

Further affiant saith not.

\_\_\_\_\_  
School District Clerk

Subscribed and sworn to before  
me this \_\_\_\_ day of \_\_\_\_\_,  
20 \_\_.

\_\_\_\_\_  
Notary Public

*Note: The sample ballot posted in a polling place or combined polling place must reflect the rotational sequence on the ballot at that polling place.*



# Oath of Vouching to Voter's Eligibility

I swear or affirm that (Check one)

- I am a pre-registered voter in this precinct

Voter ID # \_\_\_\_\_

- I registered to vote in this precinct today, and did not have another person vouch for me.

- I am an employee of a residential facility

\_\_\_\_\_  
(Name of residential facility)

Residential Address of Voucher or Address of Residential Facility

\_\_\_\_\_  
Street Address City

Telephone number: (\_\_\_\_) \_\_\_\_\_

Email address (optional): \_\_\_\_\_

I personally know that \_\_\_\_\_  
(Name of person registering)

is a resident of this precinct.

\_\_\_\_\_  
Signature of Voucher

Subscribed and Sworn to before me

\_\_\_\_/\_\_\_\_/\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Election Judge

The above oath shall be attached to the voter registration application and retained for at least 22 months.



# Precinct List of Persons Vouching

City/Town \_\_\_\_\_ Ward \_\_\_\_\_ Precinct \_\_\_\_\_

For election judges' use in recording the number of individuals for whom a voter signs proof-of-residence oaths (vouches for) on Election Day. Cross out a number for every individual for whom a voter registered in that precinct vouches. Unless vouching for residential facility residents pursuant to 8200.5100, subpart 1, item E, a voter who is registered to vote in the precinct may sign no more than 15 proof-of-residence oaths (Minnesota Statutes, Section 201.061).

Voucher's Name	Voucher's Voter ID No.	Number Vouched for on Election Day
Example: John Doe	1234567	<del>1</del> 2 3 4 5 6 7 8 9 10 11 12 13 14 15
1. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
2. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
3. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
4. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
5. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
6. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
7. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
8. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
9. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
10. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
11. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
12. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
13. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
14. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
15. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
16. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
17. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
18. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
19. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
20. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
21. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
22. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
23. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
24. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
25. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
26. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
27. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
28. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
29. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15
30. _____	_____	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15

Certified by the Head Election Judge of the Precinct:

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## Residential Facility Oath of Vouching to Voter's Eligibility

Attention: Pursuant to Minn. Stat. § 201.061, a resident of a residential facility may prove residence for purposes of registering to vote by having an employee of a residential facility (as defined by statute) in the precinct, who has been certified to the county auditor by the operator of the facility, sign an oath in the presence of the election judge vouching that the employee personally knows that the individual is a resident of the precinct.

I, \_\_\_\_\_ swear or affirm that  
(Print name of person vouching as listed on Residential Facility List)

my name appears on the certified list of employees of a residential facility in this  
precinct and I am vouching for a resident of that facility and that I personally know

that \_\_\_\_\_ is a resident of  
(Print name of person as listed on voter-registration-application)

(Precinct) \_\_\_\_\_ (City/Township) \_\_\_\_\_

(County) \_\_\_\_\_.

\_\_\_\_\_  
Signature of person vouching

I reside at: \_\_\_\_\_ in \_\_\_\_\_  
Street Address or Route No. City or Township

I receive mail at: \_\_\_\_\_  
Street Address or Route No. City or Township

\_\_\_\_\_ Daytime Phone: (\_\_\_\_\_) \_\_\_\_\_  
State Zip

Subscribed and sworn before me on \_\_\_\_/\_\_\_\_/\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature of Election Judge

The above oath shall be attached to the voter registration card.



# Residential Facility Precinct List of Persons Vouched For

For election judges to use in recording the individuals for whom an employee of a residential facility signs proof-of-residence oaths (vouches for) on Election Day.

*ATTENTION: Pursuant to Minn. Stat. § 201.061, an employee of a residential facility who has been certified to the county auditor by the operator of the facility twenty days or more before election day may vouch for facility residents for voter registration, as statutorily permitted. Attach additional signed forms as necessary.*

To the Auditor of \_\_\_\_\_ County, Minnesota.

\_\_\_\_\_, is an employee of \_\_\_\_\_, a  
Print name of person vouching Print name of residential facility  
residential facility located at \_\_\_\_\_,

Street address or Route No. City State Zip  
in \_\_\_\_\_, and has vouched for the following voters. Plainly print below the name of each

Precinct  
person vouched for as listed on the voter-registration-application (VRA) card

- |                                                                       |                                                                       |
|-----------------------------------------------------------------------|-----------------------------------------------------------------------|
| 1. _____<br>(Print name of person vouched for as listed on VRA Card)  | 16. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 2. _____<br>(Print name of person vouched for as listed on VRA Card)  | 17. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 3. _____<br>(Print name of person vouched for as listed on VRA Card)  | 18. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 4. _____<br>(Print name of person vouched for as listed on VRA Card)  | 19. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 5. _____<br>(Print name of person vouched for as listed on VRA Card)  | 20. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 6. _____<br>(Print name of person vouched for as listed on VRA Card)  | 21. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 7. _____<br>(Print name of person vouched for as listed on VRA Card)  | 22. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 8. _____<br>(Print name of person vouched for as listed on VRA Card)  | 23. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 9. _____<br>(Print name of person vouched for as listed on VRA Card)  | 24. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 10. _____<br>(Print name of person vouched for as listed on VRA Card) | 25. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 11. _____<br>(Print name of person vouched for as listed on VRA Card) | 26. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 12. _____<br>(Print name of person vouched for as listed on VRA Card) | 27. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 13. _____<br>(Print name of person vouched for as listed on VRA Card) | 28. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 14. _____<br>(Print name of person vouched for as listed on VRA Card) | 29. _____<br>(Print name of person vouched for as listed on VRA Card) |
| 15. _____<br>(Print name of person vouched for as listed on VRA Card) | 30. _____<br>(Print name of person vouched for as listed on VRA Card) |

Signature of Election Judges \_\_\_\_\_  
Date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



# Oath of Challenge to Voter's Eligibility

I, \_\_\_\_\_, do hereby state under oath,  
Name of person making challenge

I am:

- an election judge.
- a challenger authorized by Minnesota Statutes, Section 204C.07.
- a Minnesota voter.

I reside at \_\_\_\_\_,  
Street Address City or Township

Telephone number: \_\_\_\_\_

E-mail address (optional): \_\_\_\_\_

I challenge the registration of \_\_\_\_\_ whose registration lists his  
Name of challenged voter  
or her residence as

\_\_\_\_\_  
Street Address City of Township

This challenge is based on my personal knowledge. The grounds for my challenge are:

\_\_\_\_\_  
\_\_\_\_\_

(attach additional sheets of signed statement if necessary).

I swear or affirm that the information stated here is truthful.

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date Signature of Challenger

Signed and sworn to or affirmed before me

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Date Signature of Election Judge

**For Election Judge Use Only:**

Challenge was administered by Election Judge: \_\_\_\_\_

Time: \_\_\_\_\_

- Voter refused to take challenge oath.
- Challenge was dismissed. Voter passed challenge and voted.
- Challenge was sustained. Voter failed challenge and did not vote.

Additional Comments:

RESOLUTION ESTABLISHING DATES FOR FILING AFFIDAVITS OF CANDIDACY

BE IT RESOLVED by the School Board of Independent School District No. \_\_\_\_\_, State of Minnesota, as follows:

1. The period for filing affidavits of candidacy for the office of school board member of Independent School District No. \_\_\_\_\_ shall begin on \_\_\_\_\_, 20 \_\_\_\_ and shall close on \_\_\_\_\_, 20 \_\_\_\_.

2. The clerk is hereby authorized and directed to cause notice of said filing dates to be published in the official newspaper of the district, at least two (2) weeks prior to the first day to file affidavits of candidacy.

3. The clerk is hereby authorized and directed to cause notice of said filing dates to be posted at the administrative offices of the school district at least ten (10) days prior to the first day to file affidavits of candidacy.

4. The notice of said filing dates shall be in substantially the following form:

NOTICE OF FILING DATES FOR ELECTION TO THE SCHOOL BOARD INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_ (NAME OF DISTRICT) STATE OF MINNESOTA

NOTICE IS HEREBY GIVEN that the period for filing affidavits of candidacy for the office of school board member of Independent School District No. \_\_\_\_\_ shall begin on \_\_\_\_\_, 20 \_\_\_\_, and shall close at 5:00\*\* o'clock p.m. on \_\_\_\_\_, 20 \_\_\_\_.

The general election shall be held on Tuesday, November \_\_\_\_, 20 \_\_\_\_.

Affidavits of Candidacy are available from the school district clerk, (address) \_\_\_\_.

The affidavits of candidacy must be filed in the office of the school district clerk and the filing fee paid prior to 5:00\*\* o'clock p.m. on \_\_\_\_\_, 20 \_\_\_\_.

Dated: \_\_\_\_\_, 20 \_\_\_\_

BY ORDER OF THE SCHOOL BOARD /s/ School District Clerk

\*\* the Secretary of State's office takes the position that the office must be open until 5:00 p.m. to receive filings on the last day for filing.

The adoption of this resolution is discretionary; the publication of the notice is mandatory.

\* Note that the filing dates in districts that have opted into the primary law shall be between 70 and 84 days before the second Tuesday in August.



**Office of the Minnesota Secretary of State**  
**AFFIDAVIT OF CANDIDACY**

Filing # _____
Cash/Check # _____
Amount \$ _____

**Instructions**

All information on this form is available to the public. Information provided will be published on the [Secretary of State's website](#). If filing for partisan office and not a major party candidate, you must file both an affidavit of candidacy and a nominating petition. (*Minn. Stat.* 204B.03)

**Candidate Information**

**Name and Office**

Candidate Name (as it will appear on the ballot) \_\_\_\_\_

Office Sought \_\_\_\_\_ District # \_\_\_\_\_

For Partisan Office, Provide Political Party or Principle \_\_\_\_\_

For Judicial Office, Provide Name of Incumbent \_\_\_\_\_

**Residence Address**

Do not complete if residence address is to be private and checkbox below is marked. All address and contact information is optional for federal, judicial, county attorney, and county sheriff office candidates.

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**My residence address is to be classified as private data.** I certify a police report has been submitted or I have an order for protection for my (or my family's) safety, or my address is otherwise private by Minnesota law. I have attached a separate form listing my residence address.

**Campaign Address and Contact**

Candidate Phone Number (Required) \_\_\_\_\_

Campaign Contact Address (Required for those who have checked the box above):

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Website \_\_\_\_\_ Email \_\_\_\_\_

**Affirmation**

**For all offices, I swear (or affirm) that this is my true name or the name by which I am generally known in the community.**

**If filing for a state or local office, I also swear (or affirm) that:**

- I am eligible to vote in Minnesota;
- I have not filed for the same or any other office at the upcoming primary or general election (except as provided in *M.S.* 204B.06, subd. 1 (2) );
- I am, or will be on assuming office, 21 years of age or more;
- I will have maintained residence in this district for at least 30 days before the general election; and
- If a major political party candidate, I either participated in the party's most recent precinct caucuses or intend to vote for a majority of that party's candidates at the next general election.

**If filing for one of the following offices, I also swear (or affirm) that I meet the requirements listed below:**

- **United States Senator** – I will be an inhabitant of this state when elected and I will be at least 30 years old and a citizen of the United States for not less than nine years on the next January 3rd, or if filled at special election, within 21 days after the election.
- **United States Representative** – I will be an inhabitant of this state when elected and I will be at least 25 years old and a citizen of the United States for not less than seven years on the next January 3rd, or if filled at special election, within 21 days after the election.
- **Governor or Lieutenant Governor** – I will be at least 25 years old on the first Monday of the next January and a resident of Minnesota for not less than one year on election day. I am filing jointly with \_\_\_\_\_
- **Supreme Court Justice, Court of Appeals Judge, District Court Judge, or County Attorney** – I am learned in the law and licensed to practice law in Minnesota. My Minnesota attorney license number is \_\_\_\_\_ and a copy of my license is attached.
- **State Senator or State Representative** – I will be a resident of Minnesota not less than one year and of this district for six months on the day of the general or special election.
- **County Sheriff** – I am a licensed peace officer in Minnesota. My Board of Peace Officer Standards and Training license number is \_\_\_\_\_ and a copy of my license is attached.
- **School Board Member** – I have not been convicted of an offense for which registration is required under *Minn. Stat.* 243.166.
- **County, Municipal, School District, or Special District Office** – I meet any other qualifications for that office prescribed by law.

Candidate Signature \_\_\_\_\_ Date \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Notary public or other officer empowered to take and certify acknowledgement

(Notary stamp)

White Copy – Filing Officer

Yellow Copy – CFPD Board

Pink Copy – Public Information

Goldenrod Copy – Candidate

Rev. 5/2015

## Office of the Minnesota Secretary of State

**ADDRESS OF RESIDENCE FORM****Instructions**

This form is to be attached to the Affidavit of Candidacy when a candidate has checked the Private Data box.

The address of residence is classified as private data at the request of the candidate. The address of residence is used by the filing officer who received the affidavit of candidacy, upon written request of a registered voter, to determine whether the address of residence listed by the candidate is actually located in the area represented by the office sought, pursuant to *Minnesota Statutes*, section 204B.06, subd. 1b (b). While the candidate is not required to provide the address of residence, failure to provide the address of residence will result in an incomplete affidavit of candidacy and the rejection of the affidavit of candidacy, which will result in the omission of the candidate's name from any ballot in the election for which the candidate attempts to file the affidavit of candidacy and pay the filing fee. This information will be available to the filing officer to whom the written request is delivered, to employees of that filing officer and to other elections officials with whom that filing officer consults in order to obtain information necessary to make the determination whether the address of residence listed by the candidate is actually located in the area represented by the office sought.

**Candidate and Address of Residence**

Candidate Name	<input type="text"/>		
Office Sought	<input type="text"/>		
Street Address	<input type="text"/>		
City	<input type="text"/>	MN	ZIP Code <input type="text"/>

**Statement**

Pursuant to *Minnesota Statutes* 204B.06, subd. 1b (c), I have requested that my address of residence be classified as private data. I certify that a police report has been submitted, or I have an order for protection regarding my safety or my family's safety.

Signature of candidate  Date

PETITION IN PLACE OF \$2 FILING FEE

Pursuant to the provisions of Minnesota Statutes, Section 205A.06, Subd. 4, the undersigned eligible voters of Independent School District No.\_\_\_\_, hereby petition the school board to permit (name) to file as candidate for school board at the 20 \_\_\_\_ primary or general election without payment of the \$2 filing fee required by Minnesota Statutes, Section 205A.06, Subd. 3.

Name (print) \_\_\_\_\_ Address (no., street, city) \_\_\_\_\_ Signature (ink) \_\_\_\_\_

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

I personally have circulated this petition. All signatures were made in my presence. I believe that the signers signed their own names and that each person who has signed is eligible to vote in a school district election according to Minnesota election law.

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_  
Signature of petition circulator

Note: Petition must be signed by the lesser of 500 signatures or 5% of the total number of votes cast in the school district or election district at the preceding general election at which that office was on the ballot.

AFFIDAVIT OF WITHDRAWAL

I, (name of candidate), certify that I filed an affidavit of candidacy for the office of school board member of Independent School District No.\_\_\_\_, on \_\_\_\_\_, 20\_\_\_\_. I request that my name be withdrawn from the ballot pursuant to Minnesota Statutes, Section 204B.12, Subdivision 1.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

This affidavit must be filed in the office of the school district clerk by 5:00 p.m. two days after the last day for filing affidavits of candidacy.

APPENDIX 20 (rev. 6/15)

RESOLUTION FILLING SCHOOL BOARD VACANCY BY APPOINTMENT

WHEREAS, a vacancy exists in the office of school board member with a term expiring the first Monday in January, \_\_\_\_\_; and

WHEREAS, less than **one year remains** in the unexpired term **and the vacancy has not occurred within ninety days of the next school district general election;** and

**WHEREAS, a public hearing on the appointment has been held pursuant to Minnesota Statutes, Section 123B.09, Subd. 4; and**

WHEREAS, (name)\_\_\_\_\_ meets the qualifications established by Minnesota law to serve as a school board member;

NOW THEREFORE BE IT RESOLVED by the School Board of Independent School District No.\_\_\_\_, State of Minnesota, as follows:

Pursuant to Minnesota Statutes, Section 123B.09, Subd. 5, (name)\_\_\_\_\_ is hereby appointed to fill the vacancy and to serve the remainder of the unexpired term ending the first Monday in January, \_\_\_\_\_ and until a successor is elected and qualifies.

## RESOLUTION CALLING SPECIAL ELECTION TO FILL SCHOOL BOARD VACANCY

WHEREAS, a vacancy exists in the office of school board member with a term expiring the first Monday in January, \_\_\_\_ ; and

WHEREAS, **one year or more remains** in the unexpired term;

NOW THEREFORE, BE IT RESOLVED by the School Board of Independent School District No. \_\_\_\_, State of Minnesota, as follows:

1. The clerk shall accept affidavits of candidacy for this office during the same filing period as applicable to the school district general election.

2. It is necessary to hold a special election to elect an individual to fill the vacancy in the term of School Board Member expiring the first Monday in January, 20 \_\_\_\_.

3. The special election shall be held in conjunction with the November \_\_\_\_, 20 \_\_\_\_ school district general election and the polling places, precincts served, hours of voting, and election judges shall be the same as at the general election. **(This applies if the election is held with the general.)**

4. The clerk is hereby authorized and directed to cause written notice of said special election to be provided to the county auditor of each county in which the school district is located, in whole or in part, at least seventy-four (74) days before the date of said special election. The notice shall include the date of said special election and the office to be voted on at said special election. The clerk may combine this notice with the notice of the general election.

The clerk is hereby authorized and directed to cause notice of said special election to be posted at the administrative offices of the school district at least ten (10) days before the date of said election.

The clerk is hereby authorized and directed to cause a sample ballot to be posted at the administrative offices of the school district at least four (4) days before the date of said election and to cause two sample ballots to be posted in each polling place on election day. The sample ballot shall not be printed on the same color paper as the official ballot. The sample ballot for a polling place shall reflect the offices, candidates and rotation sequence on the ballot used in that polling place.

The clerk is hereby authorized and directed to cause notice of said special election to be published in the official newspaper of the district, for two (2) consecutive weeks with the last publication being at least one (1) week before the date of said election.

The clerk is authorized and directed to cause the rules and instructions for use of the optical scan voting system to be posted in each polling place one election day.

The notice of election so posted and published shall state the office to be filled as set forth in the form of ballot below, and shall include information concerning each established precinct and polling place.

The notices to be posted and published may be combined with the Notice of General Election **if the general and special election are held together.**

5. The names of candidates to fill a vacancy who have filed an affidavit of candidacy must be listed on the ballot under the separate heading "SPECIAL ELECTION FOR SCHOOL BOARD MEMBER to fill vacancy in term expiring January \_\_\_\_, 20 \_\_\_\_." Their names must be listed as though they had been included by name in this resolution. The clerk shall not include on the ballot the names of individuals who file timely affidavits of withdrawal in the manner specified by law.

6. The name of each candidate to fill the vacancy in office at this special election shall be rotated with the names of the other candidates to fill the vacancy in office in the manner specified in Minnesota law.

7. The ballot shall be in substantially the following form:

ELECTION BALLOT

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_  
(NAME OF DISTRICT)

NOVEMBER \_\_\_\_, 20 \_\_\_\_

**INSTRUCTIONS TO VOTERS:**

To vote, completely fill in the oval(s) next to your choice(s) like this: 

**SCHOOL BOARD MEMBER**

Vote for up to three

[INSERT GENERAL ELECTION BALLOT QUESTION - SEE APPENDIX 5] (if applicable)

**SPECIAL ELECTION  
FOR SCHOOL BOARD MEMBER to fill vacancy  
in term expiring January \_\_\_\_, 20 \_\_\_\_**


**INSTRUCTIONS TO VOTERS:**

To vote, completely fill in the oval(s) next to your choice(s) like this: 

Vote for one\*

 Name

 Name

 \_\_\_\_\_  
write in, if any

**\*When more than one vacancy exists in an office elected at large, voters must be instructed to vote for up to the number of vacancies to be filled.**

8. The school district clerk shall make all Campaign Financial Reports required to be filed with the school district under Minnesota Statutes, Section 211A.02, and received on or after May 17, 2014, available on the school district’s website. The clerk must post the report on the school district’s website as soon as possible, but no later than thirty (30) days after the date of the receipt of the report. The school district must make a report available on the school district’s website for four years from the date the report was posted to the website. The clerk must also provide the Campaign Finance and Public Disclosure Board with a link to the section of the website where reports are made available.

AFFIDAVIT OF PREPARATION OF  
SUBSTITUTE OFFICIAL BALLOTS

STATE OF MINNESOTA     )  
                                          )SS  
COUNTY OF \_\_\_\_\_     )

AFFIDAVIT OF PREPARATION OF  
SUBSTITUTE OFFICIAL BALLOTS

I the undersigned clerk of Independent School District No. \_\_\_\_\_, being first duly sworn, upon oath do hereby certify as follows:

1. I am the school district election official in charge of causing the preparation of official ballots for the \_\_\_\_\_, 20\_\_ school district election;

2. I have caused (number) of substitute official ballots to be prepared in compliance with Minnesota Statutes, Section 204B.39 and to be delivered to the appropriate election officials for this election;

3. The reasons the official ballots were not ready for delivery or available at the appropriate time are as follows:

(Specify reasons such as lost, stolen, destroyed,  
not enough originally printed, etc.)

Further affiant saith not.

\_\_\_\_\_  
Affiant

Subscribed and sworn before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

RESERVED FOR FUTURE USE

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APPENDIX 24

RESERVED FOR FUTURE USE

---

APPENDIX 25

RESERVED FOR FUTURE USE

RESERVED FOR FUTURE USE

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APPENDIX 27 (rev. 6/15)

SAMPLE RESOLUTION ESTABLISHING BALLOT BOARD

RESOLUTION ESTABLISHING BALLOT BOARD

BE IT RESOLVED by the School Board of Independent School District No. \_\_\_\_\_, State of Minnesota, as follows:

1. As required by Minnesota Statutes, Section 203B.121, the Board hereby establishes a ballot board to process, accept and reject absentee ballots at school district elections not held in conjunction with the state primary or state general election or that are conducted by a municipality on behalf of the school district and generally to carry out the duties of a ballot board as provided by Minnesota Statutes, Section **203B.121** and other applicable laws.
  2. The ballot board must consist of a sufficient number of election judges trained in the handling of absentee ballots. The ballot board may include deputy county auditors or deputy city clerks who have received training in the processing and counting of absentee ballots.
  3. The clerk or the clerk's designee is hereby authorized and directed to appoint the members of the ballot board. The clerk or the clerk's designee shall establish, maintain and update a roster of members appointed to and currently serving on the ballot board and shall report to the Board from time to time as to its status.
  4. Each member of the ballot board shall be paid reasonable compensation for services rendered during an election at the same rate as other election judges; provided, however, if a staff member is already being compensated for regular duties, additional compensation shall not be paid for ballot board duties performed during that staff member's duty day.
- 

APPENDIX 28

RESERVED FOR FUTURE USE

RESERVED FOR FUTURE USE

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RESERVED FOR FUTURE USE

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RESERVED FOR FUTURE USE

RESERVED FOR FUTURE USE

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APPENDIX 32b

RESERVED FOR FUTURE USE

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APPENDIX 33

RESERVED FOR FUTURE USE

# ABSENTEE BALLOT AGENT RETURN RECORD

**Instructions to the Agent:**

1. Complete the following information.

2. Show identification containing your name and signature.

<b>Date</b>	
<b>Print Agent Name</b>	
<b>Print Agent Address including City, State, Zip</b>	
<b>Print Absent Voter Name</b>	
<b>Print Absent Voter Address</b>	
<b>Agent Signature</b>	

<b>Date</b>	
<b>Print Agent Name</b>	
<b>Print Agent Address including City, State, Zip</b>	
<b>Print Absent Voter Name</b>	
<b>Print Absent Voter Address</b>	
<b>Agent Signature</b>	

<b>Date</b>	
<b>Print Agent Name</b>	
<b>Print Agent Address including City, State, Zip</b>	
<b>Print Absent Voter Name</b>	
<b>Print Absent Voter Address</b>	
<b>Agent Signature</b>	

<b>Date</b>	
<b>Print Agent Name</b>	
<b>Print Agent Address including City, State, Zip</b>	
<b>Print Absent Voter Name</b>	
<b>Print Absent Voter Address</b>	
<b>Agent Signature</b>	



# Request for Agent Delivery of Absentee Ballot

# Office of the Minnesota Secretary of State

In accordance with Minnesota Statute 203B.11, subdivision 4,

I, \_\_\_\_\_, certify that I:  
(Name of Voter)

am a patient in \_\_\_\_\_  
Health care facility (M.S. 144.50 and M.S. 144A.02)

am a resident in \_\_\_\_\_  
Residential facility, shelter for battered women, or assisted living facility  
(M.S. 245A.02 Subd. 14) (M.S. 611A.37 Subd. 4) (M.S. 144G)

would have difficulty getting to the polls because of incapacitating health reasons or have a disability.

and request that the auditor or clerk provide the absentee ballot in a sealed transmittal envelope to,

\_\_\_\_\_ for delivery to me during the  
(Name of agent)

seven days before the election or before 2:00 p.m. on election day. I certify that I have a pre-existing relationship with this person.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature of Voter)

NOTE: This form must be accompanied by an absentee ballot application in order for the ballot to be released to the agent.

OATH OF OFFICE

APPOINTED ELECTION JUDGE

I, \_\_\_\_\_, solemnly swear (or affirm) that I will perform the duties of election judge  
(name of judge)

according to law and the best of my ability and will diligently endeavor to prevent fraud, deceit and abuse in conducting this election. I will perform my duties in a fair and impartial manner and will not attempt to create an advantage for my party or for any candidate.

\_\_\_\_\_  
Election Judge

(Attach signed copy to Summary Statement)

OATH OF OFFICE

ELECTION JUDGE ELECTED TO FILL VACANCY

I, \_\_\_\_\_, solemnly swear (or affirm) that I have been elected to fill a vacancy as  
an  
(name of judge)

election judge and that I will perform the duties of election judge according to law and the best of my ability and will endeavor to prevent fraud, deceit and abuse in conducting this election. I will perform my duties in a fair and impartial manner and will not attempt to create an advantage for my party or for any candidate.

\_\_\_\_\_  
Election Judge

(Attach signed copy to Summary Statement)

RESOLUTION AUTHORIZING USE OF ELECTRONIC VOTING SYSTEM

BE IT RESOLVED by the School Board of Independent School District No.\_\_\_\_, State of Minnesota, as follows:

1. Pursuant to Minnesota Statutes, Section 206.58, the school board deems it desirable that electronic voting systems be authorized for use at all polling places (or specify which) at the election to be held on \_\_\_\_\_, 20 \_\_, and at all subsequent elections in the school district, subject to approval by the county auditor of each county in which an affected precinct is located.

2. The clerk is hereby authorized and directed to disseminate information to the public concerning use of the electronic voting system at least 60 days prior to the election. The clerk shall cause the certification of adoption of electronic voting system, attached hereto, to be published in the official newspaper of the district at least 60 days prior to the election.

3. The clerk is hereby authorized and directed to provide instruction for voters in the use of the system by placing an electronic voting system at the school district offices for six consecutive weeks preceding the first election at which the electronic voting system will be used.

4. The clerk is authorized and directed to certify to the Secretary of State within 30 days of the passage of this resolution that the school board adopted use of the electronic voting system commencing with the \_\_\_\_\_, 20 \_\_ election.

5. The rules and instructions, attached hereto, are hereby established as the rules and instructions for use of the electronic voting system. The clerk is authorized and directed to submit the instructions to the secretary of state for approval.

6. The clerk is authorized and directed to post in a prominent place in the polling place a printed copy of the approved rules and instructions for use of the electronic voting system. These rules and instructions shall remain posted for inspection by the voters throughout election day.

CERTIFICATION OF ADOPTION OF ELECTRONIC VOTING SYSTEM

This is to certify as follows:

1. The school board of Independent School District No.\_\_\_\_ on \_\_\_\_\_, 20 \_\_, passed a resolution authorizing the use of electronic voting systems in the school district.

2. Use of such system will commence with the election on \_\_\_\_\_, 20 \_\_.

By authority of the School Board of Independent School District No.\_\_\_\_, pursuant to resolution dated \_\_\_\_\_, 20 \_\_.

Dated: \_\_\_\_\_

Chair

Dated: \_\_\_\_\_

Clerk

NOTICE OF TESTING OF OPTICAL SCAN VOTING SYSTEM  
INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_  
(NAME OF DISTRICT)  
STATE OF MINNESOTA

NOTICE IS HEREBY GIVEN that Independent School District No. \_\_\_\_\_ shall perform a public accuracy test of the optical scan voting system to be used in the District's \_\_\_\_\_, 20 \_\_\_\_, \_\_\_\_\_ election. The test shall be conducted at \_\_\_\_\_, Minnesota on \_\_\_\_\_, 20 \_\_ at \_\_\_\_ o'clock \_\_.m. Interested individuals are authorized to attend and observe. If you have any questions, please contact \_\_\_\_\_.

Dated: \_\_\_\_\_, 20 \_\_\_\_

BY ORDER OF THE SCHOOL BOARD

By/s/ \_\_\_\_\_  
Clerk  
Independent School District No. \_\_\_\_\_

NOTICE OF LOCATION WHERE BALLOTS WILL BE COUNTED  
INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_  
(NAME OF DISTRICT)  
STATE OF MINNESOTA

NOTICE IS HEREBY GIVEN that the election judges for Independent School District No. \_\_\_\_\_ shall count the ballots cast by optical scan voting systems in the School District's \_\_\_\_\_, 20 \_\_\_\_, \_\_\_\_\_ election at the following locations for the polling places specified.

Polling place (specify)

Polling place (specify)

Polling place (specify)

Dated: \_\_\_\_\_, 20 \_\_\_\_

BY ORDER OF THE SCHOOL BOARD

By/s/ \_\_\_\_\_  
Clerk  
Independent School District No. \_\_\_\_\_

CERTIFICATE OF JUDGES AS TO UNCOUNTED BALLOTS

We, the undersigned judges of the election held in and for Independent School District No.\_\_\_\_, State of Minnesota, on \_\_\_\_\_, 20 \_\_\_\_, do hereby certify pursuant to Minnesota Statutes, Section 204C.20, Subd. 4, that the attached (number)\_\_\_\_\_ ballots were not counted by the election judges for the following reasons:

Specify, i.e. :

\_\_\_\_\_ multiple ballots folded together cast by same voter;

\_\_\_\_\_ ballots not properly marked by election judges;

\_\_\_\_\_ excess ballots removed from ballot box;

\_\_\_\_\_ other (specify)

WITNESS OUR HANDS as such election officers this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach uncounted ballots)

SAMPLE PRECINCT SUMMARY STATEMENT FOR  
GENERAL ELECTION NOT HELD ON DAY OF STATEWIDE ELECTION

Page \_\_\_\_ of \_\_\_\_

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_ (\_\_\_\_\_  
STATE OF MINNESOTA

PRECINCT SUMMARY STATEMENT  
GENERAL ELECTION  
NOVEMBER \_\_\_\_, 20 \_\_\_\_

COUNTY: \_\_\_\_\_ PRECINCT NO.: \_\_\_\_\_ POLLING PLACE: \_\_\_\_\_

**Registration Statistics**

Number of persons registered at 7 a.m. \*1. \_\_\_\_\_  
Number of new registrants on election day \*2. \_\_\_\_\_

**Ballots delivered to the precinct**

Ballots delivered as certified by the clerk 3. \_\_\_\_\_  
Ballot count adjustments from incident log (+/-) 4. \_\_\_\_\_  
Number of unofficial ballots made 5. \_\_\_\_\_  
Number of absentee ballots delivered 6. \_\_\_\_\_  
Total number of ballots delivered to precinct (3+4+5+6 = A) A

**Ballots not in the ballot box**

Number of spoiled ballots \*7. \_\_\_\_\_  
Number of originals for which duplicates made \*8. \_\_\_\_\_  
Number of rejected absentees \*9. \_\_\_\_\_  
Number of unused ballots 10. \_\_\_\_\_  
Total number of ballots not in the ballot box (7+8+9+10 = B) B

**Ballots cast in the ballot box**

Number of signatures on roster (preregistered + EDR) \*11. \_\_\_\_\_  
Number of accepted regular, military and overseas absentee ballots \*12. \_\_\_\_\_  
Number of accepted federal only absentee ballots \*13. 0 \_\_\_\_\_  
Number of accepted presidential only absentee ballots \*14. 0 \_\_\_\_\_  
Total number of ballots in the ballot box (= persons voting) (11+12+13+14 = C) C

**Ballots returned to Auditor/Clerk**

Ballots returned from the precinct (B + C = D) D   
Difference for auditor/clerk notation on delivery record (A - D = E) E

\* are entered into ERS stats

SCHOOL BOARD MEMBER

CANDIDATE X \_\_\_\_\_  
CANDIDATE Y \_\_\_\_\_  
CANDIDATE Z \_\_\_\_\_  
Write-ins \_\_\_\_\_  
Overvotes/Defective \_\_\_\_\_  
Undervotes \_\_\_\_\_  
TOTAL FOR THIS OFFICE \_\_\_\_\_

(Attach Certificate of Election Judges and each judge's signed oath of office)

SAMPLE PRECINCT SUMMARY STATEMENT FOR  
SPECIAL ELECTION NOT HELD ON DAY OF STATEWIDE ELECTION

Page \_\_\_\_ of \_\_\_\_

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_ (\_\_\_\_\_)   
STATE OF MINNESOTA

PRECINCT SUMMARY STATEMENT  
SPECIAL ELECTION  
\_\_\_\_\_, 20\_\_

COUNTY: \_\_\_\_\_ PRECINCT NO.: \_\_\_\_\_ POLLING PLACE: \_\_\_\_\_

**Registration Statistics**

Number of persons registered at 7 a.m. \*1. \_\_\_\_\_  
Number of new registrants on election day \*2. \_\_\_\_\_

**Ballots delivered to the precinct**

Ballots delivered as certified by the clerk 3. \_\_\_\_\_  
Ballot count adjustments from incident log (+/-) 4. \_\_\_\_\_  
Number of unofficial ballots made 5. \_\_\_\_\_  
Number of absentee ballots delivered 6. \_\_\_\_\_  
Total number of ballots delivered to precinct (3+4+5+6 = A) A

**Ballots not in the ballot box**

Number of spoiled ballots \*7. \_\_\_\_\_  
Number of originals for which duplicates made \*8. \_\_\_\_\_  
Number of rejected absentees \*9. \_\_\_\_\_  
Number of unused ballots 10. \_\_\_\_\_  
Total number of ballots not in the ballot box (7+8+9+10 = B) B

**Ballots cast in the ballot box**

Number of signatures on roster (preregistered + EDR) \*11. \_\_\_\_\_  
Number of accepted regular, military and overseas absentee ballots \*12. \_\_\_\_\_  
Number of accepted federal only absentee ballots \*13. \_\_\_\_\_ 0 \_\_\_\_\_  
Number of accepted presidential only absentee ballots \*14. \_\_\_\_\_ 0 \_\_\_\_\_  
Total number of ballots in the ballot box (= persons voting) (11+12+13+14 = C) C

**Ballots returned to Auditor/Clerk**

Ballots returned from the precinct (B + C = D) D   
Difference for auditor/clerk notation on delivery record (A - D = E) E

\* are entered into ERS stats

SCHOOL DISTRICT QUESTION \_\_\_\_\_  
PROPOSITION ON ISSUANCE OF  
SCHOOL BUILDING BONDS

Yes \_\_\_\_\_  
No \_\_\_\_\_  
Completely Blank Ballots \_\_\_\_\_  
Completely Defective Ballots \_\_\_\_\_  
TOTAL BALLOTS COUNTED FOR THIS QUESTION \_\_\_\_\_

(Attach Certificate of Election Judges and each judge's signed oath of office)

RESERVED FOR FUTURE USE

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APPENDIX 45

RESERVED FOR FUTURE USE

CERTIFICATE OF ELECTION JUDGES  
PRECINCT COUNT OPTICAL SCAN PRECINCT

We the undersigned election judges who served at the polling place hereby certify (please place an "X" next to those items that apply)

- \_\_\_\_\_ that the national flag of the United States was displayed on a suitable staff during voting hours;
- \_\_\_\_\_ that the number of ballots entered on this summary statement correctly show the number of votes cast for each candidate and for and against each question;
- \_\_\_\_\_ that the order of the offices and questions to be voted on and the candidates' names on the ballots was the same as on the zero tape and the sample ballot;
- \_\_\_\_\_ that the number of ballots entered on this summary statement correctly show the number of ballots in the transfer case;
- \_\_\_\_\_ that the ballots have been counted and agree with the number of names as shown on the summary statement or that any discrepancy has been noted on the incident report;
- \_\_\_\_\_ that the number of excess ballots, if any, is \_\_\_\_\_;
- \_\_\_\_\_ that all ballots requiring duplication were duplicated and are in the proper envelope;
- \_\_\_\_\_ that the number of write-in votes for each office has been properly recorded, if this process was done at the polling place;
- \_\_\_\_\_ that all ballots used in the election and all ballots that have been duplicated have been placed in the transfer case and that the case was securely sealed with an official seal in such a manner as to render it impossible to open the case without breaking the seal; and
- \_\_\_\_\_ that the numbers of any seals used to seal the transfer case or cases are \_\_\_\_\_.

\_\_\_\_\_  
(signature of election judge)

\_\_\_\_\_  
(signature of election judge)

\_\_\_\_\_  
(signature of election judge)

\_\_\_\_\_  
(signature of election judge)

\_\_\_\_\_  
(signature of election judge)

\_\_\_\_\_  
(signature of election judge)

\_\_\_\_\_  
(signature of election judge)

\_\_\_\_\_  
(signature of election judge)

BALLOT ENVELOPE

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_ (            )  
SCHOOL DISTRICT SPECIAL ELECTION BALLOTS  
(COUNTED BALLOTS)

Precinct No. \_\_\_\_\_

Polling Place \_\_\_\_\_

Number of Ballots \_\_\_\_\_

---

BALLOT ENVELOPE

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_ (            )  
SCHOOL DISTRICT SPECIAL ELECTION BALLOTS  
(SPOILED BALLOTS)

Precinct No. \_\_\_\_\_

Polling Place \_\_\_\_\_

Number of Ballots \_\_\_\_\_

---

BALLOT ENVELOPE

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_ (            )  
SCHOOL DISTRICT SPECIAL ELECTION BALLOTS  
(UNUSED BALLOTS)

Precinct No. \_\_\_\_\_

Polling Place \_\_\_\_\_

Number of Ballots \_\_\_\_\_

RESOLUTION CANVASSING RETURNS  
OF VOTES OF SCHOOL DISTRICT PRIMARY ELECTION

BE IT RESOLVED by the School Board of Independent School District No. \_\_\_\_\_, State of Minnesota, as follows:

1. It is hereby found, determined and declared that the primary election of the voters of the district held on August \_\_\_\_\_, 20 \_\_\_\_, was in all respects duly and legally called and held.

2. As specified in the attached Abstract and Return of Votes Cast, a total of \_\_\_\_\_ voters of the district voted at said primary election to choose nominees for election as school board members for (three) four year terms, as follows:

Candidate S \_\_\_\_\_

Candidate T \_\_\_\_\_

Candidate U \_\_\_\_\_

Candidate V \_\_\_\_\_

Candidate W \_\_\_\_\_

Candidate X \_\_\_\_\_

Candidate Y \_\_\_\_\_

Candidate Z \_\_\_\_\_

3. Twice the number of individuals to be elected are to be chosen as nominees. Candidates S, T, U, V, W and X, having received the highest number of votes, are nominees for school board office and their names shall be placed on the school district general election ballot. \*

4. The school district clerk is hereby authorized to certify the results of the election to the county auditor of each county in which the school district is located in whole or in part.

(Attach Abstract and Return of Votes Cast)

\* If four members are to be elected to four year terms, the top eight vote getters would be nominees.

RESOLUTION CANVASSING RETURNS  
OF VOTES OF SCHOOL DISTRICT GENERAL ELECTION

BE IT RESOLVED by the School Board of Independent School District No.\_\_\_\_\_, as follows:

1. It is hereby found, determined and declared that the general election of the voters of the district held on November \_\_\_\_, 20 \_\_\_\_, was in all respects duly and legally called and held.

2. As specified in the attached Abstract and Return of Votes Cast, a total of \_\_\_\_\_ voters of the district voted at said election on the election of (three) school board members for four year term vacancies on the board caused by expiration of term on the first Monday in January next following the general election as follows:

Candidate S \_\_\_\_\_

Candidate T \_\_\_\_\_

Candidate U \_\_\_\_\_

Candidate V \_\_\_\_\_

Candidate W \_\_\_\_\_

Candidate X \_\_\_\_\_

3. Candidate S, Candidate T, and Candidate U, having received the highest number of votes, are elected to four year terms beginning the first Monday in January, 20\_\_\_\_\_.

4. The school district clerk is hereby authorized to certify the results of the election to the county auditor of each county in which the school district is located in whole or in part.

(Attach Abstract and Return of Votes Cast)

RESOLUTION CANVASSING RETURNS  
OF VOTES OF SCHOOL DISTRICT SPECIAL ELECTION

BE IT RESOLVED by the School Board of Independent School District No. \_\_\_\_\_, as follows:

1. It is hereby found, determined and declared that the special election of the voters of this district held on \_\_\_\_\_, 20 \_\_\_\_, was in all respects duly and legally called and held.
2. As specified in the attached Abstract and Return of Votes Cast, a total of \_\_\_\_\_ voters of the district voted at said election on the question of \_\_\_\_\_(insert brief description of question voted upon)\_\_\_\_\_ (School District Question \_\_\_\_\_), of which \_\_\_\_\_ voted in favor, \_\_\_\_\_ voted against the same, and there were \_\_\_\_\_ completely blank or defective ballots relating to this question.
3. Said proposition, having (not) received the approval of at least a majority of such votes, is hereby declared to have carried (failed).
- \* 4. The school district clerk is hereby directed to certify the results of the election to the county auditor of each county in which the school district is located in whole or in part.

(Attach Abstract and Return of Votes Cast)

\* NOTE: The results of referendum levy elections must also be reported to the Commissioner of Education not more than 15 days after the results of the election have been certified by the school board. The results of bond elections must also be reported to the Commissioner.

SAMPLE ABSTRACT AND RETURN OF VOTES CAST  
FOR GENERAL ELECTION  
NOT HELD ON DAY OF STATEWIDE ELECTION

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_ ( \_\_\_\_\_ )  
STATE OF MINNESOTA

ABSTRACT AND RETURN OF VOTES CAST  
GENERAL ELECTION  
NOVEMBER \_\_\_\_\_, 20 \_\_\_\_

**Registration Statistics**

Number of persons registered at 7 a.m. \*1. \_\_\_\_\_  
Number of new registrants on election day \*2. \_\_\_\_\_

**Ballots delivered to the precinct**

Ballots delivered as certified by the clerk 3. \_\_\_\_\_  
Ballot count adjustments from incident log (+/-) 4. \_\_\_\_\_  
Number of unofficial ballots made 5. \_\_\_\_\_  
Number of absentee ballots delivered 6. \_\_\_\_\_  
Total number of ballots delivered to precinct (3+4+5+6 = A) A

**Ballots not in the ballot box**

Number of spoiled ballots \*7. \_\_\_\_\_  
Number of originals for which duplicates made \*8. \_\_\_\_\_  
Number of rejected absentees \*9. \_\_\_\_\_  
Number of unused ballots 10. \_\_\_\_\_  
Total number of ballots not in the ballot box (7+8+9+10 = B) B

**Ballots cast in the ballot box**

Number of signatures on roster (preregistered + EDR) \*11. \_\_\_\_\_  
Number of accepted regular, military and overseas absentee ballots \*12. \_\_\_\_\_  
Number of accepted federal only absentee ballots \*13. 0 \_\_\_\_\_  
Number of accepted presidential only absentee ballots \*14. 0 \_\_\_\_\_  
Total number of ballots in the ballot box (= persons voting) (11+12+13+14 = C) C

**Ballots returned to Auditor/Clerk**

Ballots returned from the precinct (B + C = D) D   
Difference for auditor/clerk notation on delivery record (A - D = E) E

\* are entered into ERS stats

SCHOOL BOARD MEMBER

CANDIDATE S \_\_\_\_\_  
CANDIDATE T \_\_\_\_\_  
CANDIDATE U \_\_\_\_\_  
CANDIDATE V \_\_\_\_\_  
CANDIDATE W \_\_\_\_\_  
CANDIDATE X \_\_\_\_\_  
Write-ins \_\_\_\_\_  
Overvotes/Defective \_\_\_\_\_  
Undervotes \_\_\_\_\_  
TOTAL FOR THIS OFFICE \_\_\_\_\_

SAMPLE ABSTRACT AND RETURN OF VOTES CAST  
FOR SPECIAL ELECTION  
NOT HELD ON DAY OF STATEWIDE ELECTION

INDEPENDENT SCHOOL DISTRICT NO. \_\_\_\_\_ ( \_\_\_\_\_ )  
STATE OF MINNESOTA

ABSTRACT AND RETURN OF VOTES CAST  
SPECIAL ELECTION  
\_\_\_\_\_, 20 \_\_\_\_

**Registration Statistics**

Number of persons registered at 7 a.m. \*1. \_\_\_\_\_  
Number of new registrants on election day \*2. \_\_\_\_\_

**Ballots delivered to the precinct**

Ballots delivered as certified by the clerk 3. \_\_\_\_\_  
Ballot count adjustments from incident log (+/-) 4. \_\_\_\_\_  
Number of unofficial ballots made 5. \_\_\_\_\_  
Number of absentee ballots delivered 6. \_\_\_\_\_  
Total number of ballots delivered to precinct (3+4+5+6 = A) A

**Ballots not in the ballot box**

Number of spoiled ballots \*7. \_\_\_\_\_  
Number of originals for which duplicates made \*8. \_\_\_\_\_  
Number of rejected absentees \*9. \_\_\_\_\_  
Number of unused ballots 10. \_\_\_\_\_  
Total number of ballots not in the ballot box (7+8+9+10 = B) B

**Ballots cast in the ballot box**

Number of signatures on roster (preregistered + EDR) \*11. \_\_\_\_\_  
Number of accepted regular, military and overseas absentee ballots \*12. \_\_\_\_\_  
Number of accepted federal only absentee ballots \*13. \_\_\_\_\_ 0 \_\_\_\_\_  
Number of accepted presidential only absentee ballots \*14. \_\_\_\_\_ 0 \_\_\_\_\_  
Total number of ballots in the ballot box (= persons voting) (11+12+13+14 = C) C

**Ballots returned to Auditor/Clerk**

Ballots returned from the precinct (B + C = D) D   
Difference for auditor/clerk notation on delivery record (A - D = E) E

\* are entered into ERS stats

SUMMARY OF ELECTION TOTALS

SCHOOL DISTRICT QUESTION \_\_\_\_\_  
PROPOSITION ON ISSUANCE OF  
SCHOOL BUILDING BONDS

Yes \_\_\_\_\_  
No \_\_\_\_\_  
Completely Blank Ballots \_\_\_\_\_  
Completely Defective Ballots \_\_\_\_\_

TOTAL BALLOTS COUNTED FOR THIS QUESTION \_\_\_\_\_



RESOLUTION AUTHORIZING ISSUANCE OF CERTIFICATES  
OF ELECTION AND DIRECTING SCHOOL DISTRICT CLERK  
TO PERFORM OTHER ELECTION RELATED DUTIES

WHEREAS, the board has canvassed the general election for school board members held on November \_\_\_\_\_, 20 \_\_\_\_.

NOW THEREFORE, BE IT RESOLVED by the School Board of Independent School District No. \_\_\_\_\_ , State of Minnesota, as follows:

1. The chair and clerk are hereby authorized to execute certificates of election on behalf of the school board of Independent School District No. \_\_\_\_\_ to the following candidates:

- a. candidate S
- b. candidate T
- c. candidate U

who have received a sufficiently large number of votes to be elected to fill vacancies on the board caused by expiration of term on the first Monday in January next following the election, based on the results of the canvass.

2. The certificate of election shall be in substantially the form attached hereto (see APPENDIX 57 and 58 for samples).

3. After the time for contesting the election has passed and the candidate has filed all campaign financial reports required by Minnesota Statutes, Chapter 211A, the clerk of the school board is hereby directed to deliver the certificates to the persons entitled thereto personally or by certified mail.

4. The clerk is hereby directed to enclose with the certificate a form of acceptance of office and oath of office in substantially the form attached hereto (see APPENDIX 59 for sample forms).

CERTIFICATE OF ELECTION  
(Full 4 Year Term)

This is to certify as follows:

1. The School Board of Independent School District No.\_\_\_\_ on \_\_\_\_\_, 20 \_\_\_\_, canvassed the general election of school board members held on November \_\_\_\_\_, 20 \_\_\_\_.
2. \_\_\_\_\_ received the (largest/second largest/third largest) number of votes cast for the office of school board member of Independent School District No.\_\_\_\_\_ for a full four year term.
3. There are (one/two/three) full four year term vacancies on the board caused by expiration of term on the first Monday in January next following the election.
4. Therefore \_\_\_\_\_ is elected to the office of school board member of Independent School District No.\_\_\_\_\_ for a full four year term beginning the first Monday in January, 20\_\_\_\_ and expiring the first Monday in January, 20 \_\_\_\_.

By authority of the School Board of Independent School District No.\_\_\_\_\_, pursuant to resolution dated \_\_\_\_\_, 20\_\_\_\_\_.

Dated: \_\_\_\_\_  
 \_\_\_\_\_  
 Chair

Dated: \_\_\_\_\_  
 \_\_\_\_\_  
 Clerk

CERTIFICATE OF ELECTION  
(Unexpired Term Expiring January \_\_\_\_, 20 \_\_\_\_)

This is to certify as follows:

1. The School Board of Independent School District No.\_\_\_\_ on \_\_\_\_\_, 20 \_\_\_\_, canvassed the special election of school board members held on \_\_\_\_\_, 20 \_\_\_\_.
2. \_\_\_\_\_ received the largest number of votes cast for the office of school board member of Independent School District No.\_\_\_\_\_ for an unexpired term expiring the first Monday in January, 20\_\_\_\_\_.
3. Therefore \_\_\_\_\_ is elected to the office of school board member of Independent School District No.\_\_\_\_\_ for an unexpired term expiring the first Monday in January, 20\_\_\_\_\_.

By authority of the School Board of Independent School District No.\_\_\_\_\_, pursuant to resolution dated \_\_\_\_\_, 20 \_\_\_\_.

Dated: \_\_\_\_\_  
 \_\_\_\_\_  
 Chair

Dated: \_\_\_\_\_  
 \_\_\_\_\_  
 Clerk

ACCEPTANCE OF OFFICE  
AND OATH OF OFFICE

To: [The recipient of the Certificate of Election]

The following acceptance and oath of office must be filed with the school district clerk within 30 days of the date of mailing or personal service of the certificate of election.

ACCEPTANCE OF OFFICE

I hereby accept the office of school board member of Independent School District No. \_\_\_\_\_ for a term beginning the first Monday in January, 20\_\_\_\_ and expiring the first Monday in January, 20\_\_\_\_ .

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

STATE OF MINNESOTA     )  
                                          )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by (name of candidate).

\_\_\_\_\_  
Notary Public

OATH OF OFFICE

I swear/affirm that I will support the Constitution of the United States and of this state, and that I will discharge faithfully the duties of the office of school board member of Independent School District No. \_\_\_\_\_ to the best of my judgment and ability.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

STATE OF MINNESOTA     )  
                                          )  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ by (name of candidate).

\_\_\_\_\_  
Notary Public

## CAMPAIGN FINANCIAL REPORT

*(All of the information in this report is public information)*

Name of candidate, committee or corporation \_\_\_\_\_

Office sought or ballot question \_\_\_\_\_ District \_\_\_\_\_

Type of report \_\_\_\_\_ Candidate report  
 \_\_\_\_\_ Campaign committee report  
 \_\_\_\_\_ Association or corporation report  
 \_\_\_\_\_ Final report

Period of time covered by report:  
 from \_\_\_\_\_ to \_\_\_\_\_

### CONTRIBUTIONS RECEIVED

Give the total for all contributions received during the period of time covered by this report. Contributions should be listed by type (money or in-kind) rather than contributor. See note on contribution limits on the back of this form. Use a separate sheet to itemize all contributions from a single source that exceeded \$100 during the calendar year. This itemization must include name, address, employer or occupation if self-employed, amount and date for these contributions.

CASH	\$ _____	TOTAL CASH-ON-HAND	\$ _____
IN-KIND	+ \$ _____		
TOTAL AMOUNT RECEIVED	= \$ _____		

### EXPENDITURES

Include the amount, date and purpose for all expenditures made during the period of time covered by report. Attach additional sheets if necessary.

Date	Purpose	Amount
<b>TOTAL</b>		

### CORPORATE PROJECT EXPENDITURES

Corporations must list any media project or corporate message project for which contribution(s) or expenditure(s) total more than \$200. Submit a separate report for each project. Attach additional sheets if necessary.

Project title or description \_\_\_\_\_

Date	Purpose	Name and Address of Recipient	Expenditure or Contribution Amount
<b>TOTAL</b>			

I certify that this is a full and true statement. \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_ Telephone \_\_\_\_\_ Email (if available) \_\_\_\_\_

Address \_\_\_\_\_

Report

Office

Name

For Office Use Only:

## INSTRUCTIONS

(Reference: Minnesota Statutes, Chapters 211A and 211B)

This CAMPAIGN FINANCIAL REPORT is for use by candidates and committees for county, municipal, school district and special district office who receive contributions or make disbursements of more than \$750 in a calendar year; committees or corporations spending more than \$750 for or against a ballot question in a calendar year; and corporations spending more than \$200 on activities to encourage participation in precinct caucuses, voter registration or voting.

**Where to file this report:**

Hospital Districts	The municipal (city or town) clerk – same place where filed affidavit of candidacy
Park Districts	The county auditor or municipal clerk – same place where filed affidavit of candidacy
School Districts	School district clerk
Townships	Town clerk
Cities	City clerk
Soil & Water Conservation Districts	County auditor
Counties	County auditor

**Candidate or committee report:** The initial report must be filed within 14 days after the candidate or committee receives contributions or makes disbursements of more than \$750 in a calendar year. Subsequent reports must be filed.

**During an Election Year** - An "election year" is any year in which the candidate's name or a question appears on the ballot.

In such a year (if an initial report has been filed) reports are required to be filed:

- 10 days before the primary or special primary
- 30 days after a general election or special election
- 10 days before the general election or special election
- By January 31 of each year following the year when the initial report was filed.

**During a non-election year** - By January 31 of each year following the year when the initial report was filed.

**Once a final report\* is filed, no further subsequent reports are required to be filed.**

**CONTRIBUTIONS:** Means anything of monetary value that is given or loaned to a candidate or committee for a political purpose. "Contribution" does not include a service provided without compensation by an individual. **Each candidate or committee must list the total amount of cash-on-hand as of the close of the reporting period.**

**CONTRIBUTION LIMITS:** Candidates or candidate's committees for county, municipal, school district offices may not accept aggregate contributions in excess of \$600 in an election year or in excess of \$250 in a non-election year made or delivered by an individual or committee. However, candidates seeking election from districts with a population in excess of 100,000 may not accept aggregate contributions in excess of \$1,000 in an election year and \$250 in a non-election year.

**BALLOT QUESTIONS:** Any political committee, association or corporation that makes a contribution or expenditure to promote or defeat a ballot question as defined in Minnesota Statutes, section 211A.01 shall file reports with the filing officer responsible for placing the question on the ballot. Reports must be filed within 14 days of receiving contributions or making disbursements of more than \$750 in one calendar year, using the same schedule as above.

**CONGRESSIONAL CANDIDATES:** Candidates for election to the United States House of Representatives and Senate and any committee raising funds exclusively on behalf of any one of those candidates may file copies of the reports required by federal law in lieu of those required by Minnesota Statutes Chapter 211A.

**CORPORATE ACTIVITIES TO ENCOURAGE PARTICIPATION:** Corporations may contribute to or conduct public media projects to encourage individuals to attend precinct caucuses, register or vote if the projects are not controlled by or operated for the advantage of a candidate, political party or committee. The total amount of expenditures or contributions for any one project greater than \$200, together with the date, purpose and the names and addresses of the persons receiving the contribution or expenditures must be reported. Reports must be filed with the Secretary of State, 180 State Office Building, St. Paul, MN 55155-1299, using the same schedule as above.

**\*FINAL REPORT:** A final report may be filed any time after the candidate, committee or corporation has settled all debts and disposed of all assets in excess of \$100 in the aggregate. Check final report under "type of report".

**PROHIBITED TRANSFERS:** Candidates for county, municipal, school district or special district offices may not accept contributions from the principal campaign committees of any candidate for legislative, judicial or state constitutional office. In addition, a candidate may not make contributions to the principal campaign committee of any candidate for legislative, judicial or state constitutional office unless the contributions are made from the candidate's personal funds.

**STATE CANDIDATES:** Candidates and committees for state constitutional offices, the state legislature, supreme court, court of appeals, district court and committees for state constitutional amendments are governed by Minnesota Statutes Chapter 10A. Contact the State Campaign Finance and Public Disclosure Board for further information at (651) 539-1180.

**Note:** The filing officer must restrict public access to the address of any individual who has made a contribution that exceeds \$100 and who has filed with the filing officer a written statement signed by the individual that withholding the individual's address from the financial report is required for the safety of the individual or the individual's family.

Updated 5/20/2014

CAMPAIGN FINANCIAL REPORT  
CERTIFICATION OF FILING

Each county, municipal or school district level candidate or treasurer of a committee formed to promote or defeat a ballot question shall certify to the filing officer that all reports required by Minnesota Statutes 211A.02 have been submitted to the filing officer or that the candidate or committee has not received contributions or made disbursements exceeding \$750 in the calendar year. The certification shall be submitted to the filing officer no later than seven days after the general or special election. (Minnesota Statutes 211A.05, subdivision 1).

Name of candidate or committee \_\_\_\_\_

Office sought by candidate \_\_\_\_\_  
(if applicable)

or

Identification of ballot question \_\_\_\_\_ (if applicable)

Check appropriate box below:

I do swear (or affirm) that all campaign financial reports required by Minnesota Statutes 211A.02 have been submitted to the filing officer.

I do swear (or affirm) that campaign contributions or disbursements did not exceed \$750 in the calendar year.

\_\_\_\_\_  
(Signature of candidate or committee treasurer)

\_\_\_\_\_  
(Date)

Telephone \_\_\_\_\_ Email, if available \_\_\_\_\_

## MAIL BALLOT PROCEDURES

1. These procedures shall be applicable to the special election of Independent School District No. \_\_\_\_\_ (*name of district*) to be held \_\_\_\_\_, 20 \_\_\_\_.
2. This special election will be conducted by mail. The \_\_\_\_\_ (County Auditor) (school district clerk) shall mail ballots to all registered voters in the school district who are registered by the 21st day before the election (\_\_\_\_\_, 20 \_\_\_\_).
3. The ballots will be mailed no earlier than **forty-six (46)** days and no later than fourteen (14) days before the date of the special election. The ballot will be addressed to the voter at the voter's residence as shown on the registration file unless the voter requests, in writing, that the ballot be mailed to the voter at a different address.
4. A registered voter who will be absent from the district when the ballots are to be mailed may file a request, in writing, to the \_\_\_\_\_ (County Auditor) (school district clerk) at least twenty-one (21) days before the date of the election requesting that the ballot be mailed to the voter at a different address.
5. A voter who is not registered to vote in the district on the 21st day before the special election may submit by mail or in person an application for absentee ballots to the \_\_\_\_\_ (County Auditor) (school district clerk) and receive voter registration forms and an absentee ballot for this special election. The mail balloting process for voters whose registrations are incomplete will be administered as if the voter is not registered to vote.
6. Mail or absentee ballots must be returned to the \_\_\_\_\_ (County Auditor) (school district clerk) by mail, in person or by designated agent until 8:00 o'clock p.m. on the day of the election. If by mail, the ballots must be returned in the ballot secrecy envelope and return envelope provided by the school district. The mail voter's certificate on the return envelope must be completed by the voter and the voter's witness. If in person or by designated agent, the ballots must be returned to the offices of the \_\_\_\_\_ (County Auditor) (school district clerk) at \_\_\_\_\_ in \_\_\_\_\_, Minnesota.
7. The polling place for this election will be at administrative offices of the school district in (name of building) \_\_\_\_\_, Minnesota. The polls will be open from \_\_\_\_\_ o'clock \_\_\_\_ m. to 8:00 o'clock p.m. at the polling place on the day of the election.
8. The ballots will be counted in the \_\_\_\_\_ room at the \_\_\_\_\_ in \_\_\_\_\_, Minnesota, after 8:00 o'clock p.m. on \_\_\_\_\_, 20 \_\_\_\_\_. The mail and absentee ballots must be counted together and be reported as one vote total.
9. Additional information concerning this election may be received from \_\_\_\_\_ at (\_\_\_\_)\_\_\_\_-\_\_\_\_ or \_\_\_\_\_, \_\_\_\_\_ County Auditor, at (\_\_\_\_)\_\_\_\_-\_\_\_\_\_.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

BY ORDER OF THE SCHOOL BOARD

/S/ \_\_\_\_\_

School District Clerk

Independent School District No. \_\_\_\_\_

(*name of district*)

State of Minnesota

## FORM OF INSTRUCTIONS TO MAIL VOTERS

## Instructions on how to vote by mail ballot.

Get ready. You will need:

- Ballot
- Tan ballot envelope
- White signature envelope
- Pen with black ink
- Witness

Anyone registered to vote in Minnesota, *including your spouse or relative, or a notary public, or a person with the authority to administer oaths.*

## Step 1. Vote!

- Show your witness your blank ballot, then mark your votes in private.
- Follow the instructions on the ballot.
- Do not write your name or ID number anywhere on the ballot.
- Do not vote for more candidates than allowed. *If you do, your votes for that office will not count.*

See the other side if you make a mistake on your ballot

## Step 2. Seal your ballot in the tan ballot envelope.

- Do not write on this envelope.

## Step 3. Put the tan ballot envelope into the white signature envelope.

Step 4. **Fill out** the white signature envelope.

- If there is no label, print your name and Minnesota address.
- Read and sign the oath and write the date.
- Ask your witness to print their name and Minnesota address and sign their name.  
*If your witness is an official or notary, they must print their title instead of an address.  
Notaries must also affix their stamp.*
- Seal the envelope.

Step 5. Return your ballot by election day to the address on the signature envelope. You have three options:

- Send it so it arrives by election day, using U.S. mail or a package delivery service,
- Deliver it in person by 8:00 p.m. on election day, or
- Ask someone to deliver it by 8:00 p.m. on election day. This person cannot deliver more than three ballots.

If you have questions, please call ( ) \_\_\_\_\_ - \_\_\_\_\_.

See the other side for special instructions if you have a disability.

**Correcting a mistake:**

- Completely erase the mistake, or
- Completely cross out the name of the candidate you accidentally marked and then mark your ballot for the candidate you prefer (do not initial your corrections), or
- Ask for a new ballot from your election office. Their contact information can be found in the return address section of the envelope in which you received these materials.

**If you have a disability:**

If you have a disability or cannot mark your ballot, your witness may assist you by marking your ballot at your direction, assembling the materials, and filling out the forms for you. When signing the envelope, Minnesota law says you may:

- Sign the return envelope yourself, or
- Make your mark, or
- Ask your witness to sign for you in your presence. (Have your witness sign their own name as well.)
- If you have adopted the use of a signature stamp for all purposes of signature, you may use your signature stamp or ask your witness to use your signature stamp in your presence. Minnesota Statutes, Section 645.44, subdivision 14.

Please note: Voting is not covered by power of attorney. A person with power of attorney may only sign for you in your presence as outlined above.

FORM OF MAIL VOTER'S CERTIFICATE

Voter Completes this Section (Please print clearly)

Voter's Name \_\_\_\_\_

Voter's MN Address \_\_\_\_\_  
\_\_\_\_\_ MN

I certify that on election day I will meet all the legal requirements to vote.

Voter's Signature X \_\_\_\_\_

Date \_\_\_\_\_

Witness Completes this Section

Witness Name \_\_\_\_\_

MN street address or title, if an official or notary \_\_\_\_\_ MN

I certify that:

- the voter showed me the blank ballots before voting;
- the voter marked the ballots in secrecy or, if physically unable to mark the ballots, the ballots were marked as directed by the voter;
- the voter enclosed and sealed the ballots in the ballot envelope; and
- I am or have been registered to vote in Minnesota, or am a notary, or am authorized to give oaths.

Witness Signature X \_\_\_\_\_

If notary, must affix stamp

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_  
(Notary Public)

REPLACEMENT MAIL BALLOT AFFIDAVIT OF

\_\_\_\_\_  
(print or type legal name of voter)

\_\_\_\_\_  
(print or type legal address)

I certify that I am a resident and eligible voter in \_\_\_\_\_ (name of township or territory).

I certify that I am requesting a replacement ballot because I spoiled, lost or did not receive the ballot mailed to me.

I certify that if I spoiled the ballot, I have returned the spoiled ballot to the official who issued the ballot or that it is enclosed with this affidavit.

I certify that if I receive both ballots or find the first ballot, I will destroy the unused ballot and will vote only once.

I understand that voting twice is a felony punishable by not more than five years imprisonment and a fine of not more than \$10,000, or both.

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(legal signature of voter)

\*RESOLUTION AUTHORIZING  
MAIL BALLOT SPECIAL ELECTION

BE IT RESOLVED by the School Board of Independent School District No. \_\_\_\_, State of Minnesota, as follows:

1. Pursuant to Minnesota Statutes, Section 204B.46, the clerk is authorized and directed to conduct a special election by mail on \_\_\_\_\_, 20 \_\_\_\_, with no polling place other than the administrative offices of the school district in the \_\_\_\_\_. The authorization shall only be in effect for the school district's \_\_\_\_\_, 20 \_\_\_\_ special election. This resolution is revoked for any subsequent election. The clerk shall notify the County Auditors of each county in which the school district is located, in whole or in part, of said election at least **seventy-four (74)** days before the date of the election. The notice shall specify the date of the election and the question to be voted on at said special election.

2. The clerk shall give the County Auditors of each county in which the school district is located, in whole or in part, notice of the district's intention to conduct this special election by mail. Said notice shall be given within two (2) weeks after the date of the adoption of this resolution and may be given by providing a copy of this resolution to each auditor.\*

3. The clerk shall prepare a Notice of Mail Ballot Procedures in compliance with Minnesota Rule 8210.3000, subpart 3. The clerk shall post said Notice at the administrative offices of the school district at least six (6) weeks before the date of the election. The clerk is further authorized and directed to cause said Notice of Mail Ballot Procedures to be published in the official newspaper of the district prior to the date of the election. This notice may be combined with the Notice of Special Election.

*\* Note that these provisions are often incorporated into the resolution calling the election, which is then provided in its entirety to the applicable county auditors.*

*See also Chapter 13, School Law Bulletin entitled "School District Referendum Revenue Authorization Procedure and Capital Project Levy Procedure" for a resolution calling a mail ballot referendum revenue authorization election*

# MINNESOTA

## ELECTION EXPENSE COST ALLOCATION PROCEDURES

February 2003

### INTRODUCTION

The Secretary of State has developed the following procedures for allocating election costs among local governmental units as required by Minnesota Statutes, Section 204B.32, Subd. 2. The procedures must be followed in determining the election costs to be paid by counties, municipalities, school districts and hospital districts *unless* they have voluntarily entered into an agreement to assume or share election expenses in another manner.

#### GENERAL FORMULA

When a single election process is shared among multiple governments (e.g., county, municipal, school district, or hospital district), total election costs are allocated according to each jurisdiction's share of eligible voters and its share of the total ballot (measured as a percent of the total "column inches" of ballot). Therefore, the general cost allocation formula is:

$$\text{Jurisdiction share} = (\text{total election costs}) \\ \times (\% \text{ voters in your jurisdiction}) \times (\text{your} \\ \% \text{ of ballot}).$$

Where precincts are split by one or more school district boundaries, the allocation of the school district share of costs must be distributed among the affected school districts in proportion to the percentage of the total number of registered voters in the precinct who reside in each school district.

An exception to this general rule is the cost of paper ballots, which are usually paid for directly by the municipality or school district. With this exception, percentage allocations of total ballot inches can be used as the basis for allocating all election expenses covered by this procedure. Here are two examples of how this formula works.

#### EXAMPLE ONE

A school district election conducted in conjunction with a municipal election on an optical scan ballot. All residents of the municipality live in the school district. The front of the ballot contains three columns, each 15 inches long. For this example the back of the ballot was not used. The total ballot has 45 inches of offices and questions, (3 X 15). The school district offices and questions are 10 inches long. So in this example, the school district pays 22% (10/45) of the cost of the election.

#### EXAMPLE TWO

A school district conducting its election in conjunction with a municipal election on paper ballots. One third of the municipality's registered voters live in the school district. All of the paper ballots (blue, green, buff, goldenrod, etc.) are pasted together as a single ballot. The total combined length is 30 inches long. Of those 30 inches, the school district offices and questions take up 5 inches. The percentage of ballot length used by the school district is 16.5% (5/30). But because the municipality contains more than one school district, the percentage of ballot length is divided by the percentage of registered voters who reside in the school district. So in this example the school district is responsible for 5.5% of the total election cost, (16.5% x 33%).

There are, of course, more complicated situations than presented in these two examples. By keeping

the basic formula in mind, Jurisdiction share = (total election costs) x (% voters in your jurisdiction) x (your % of ballot), you should be able to fairly allocate the election expenses.

### APPLICABILITY

These procedures are applicable for any election in which offices or questions for more than one of the following categories are voted on.

<u>Category A:</u> federal offices state legislative offices state constitutional offices state constitutional amendments judicial offices county offices & ballot questions soil and water district offices & questions	<u>Category B:</u> municipal offices & ballot questions
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------

<u>Category C:</u> school district offices & ballot questions	<u>Category D:</u> hospital district offices & ballot questions
---------------------------------------------------------------------	-----------------------------------------------------------------------

The terms “county offices” and “county ballot questions” in Category A include county park district offices and ballot questions. The terms “municipal offices” and “municipal ballot questions” in Category C include municipal park board, library board, and other municipal-level elected offices and related ballot questions.

### BALLOT PREPARATION

Where electronic voting systems are used, the county auditor shall determine the number of column inches devoted to offices and questions in each applicable category. If no offices or questions from Category A are on the ballot, the county auditor may delegate these duties to the municipal clerk. The county auditor shall determine the proportion of the ballot covered by each of these categories as a percentage of the total number of column inches devoted to offices and questions on the ballot.

The county auditor shall pay the cost of the portion of the ballot used for Category A. The municipal clerk shall pay the cost of the portion of the ballot used for Category B. The school district clerk shall pay the cost of the portion of the ballot used for

Category C. The hospital district clerk shall pay the cost of the portion of the ballot used for Category D.

The cost of the optical scan ballot includes the programming, layout, proofing, and printing required to produce the ballot in the manner required by the Minnesota election law.

The costs of paper ballots are to be paid by the election jurisdiction preparing the ballots.

### PREPARATION AND TESTING OF ELECTRONIC VOTING SYSTEMS

The county auditor shall determine the total cost required to prepare the program, conduct the preliminary test and perform the public accuracy test for each ballot counter to be used in an election. When federal, state, or county offices or questions are not on the ballot, the county auditor may delegate this responsibility to the appropriate municipal, school district or hospital district clerk.

The county auditor shall pay the percentage of the costs of programming and testing determined for Category A. The municipal clerk shall pay the percentage of the costs of programming and testing determined for Category B. The school district clerk shall pay the percentage of the costs of programming and testing determined for Category C. The hospital district clerk shall pay the percentage of costs of programming and testing determined for Category D. By mutual agreement, the county auditor and the municipal, school district and hospital district clerks may adopt an alternate method of paying the costs of programming and testing of electronic voting systems.

### PREPARATION OF POLLING PLACES

The municipal clerk shall determine the total cost required to set up and equip each polling place in the manner required by the Minnesota election law.

Minnesota Statutes Section 204B.31, subdivision 1 requires the municipality to pay the percentage of costs of preparation of the polling places determined for Categories A and B, except for special county elections. The school district clerk shall pay the percentage of costs of preparation of the polling places determined for Category C. The hospital district clerk shall pay the percentage of costs of

preparation of the polling places determined for Category D.

For precincts in unorganized territories, the county auditor shall pay the percentage of costs of preparation of the polling places determined for Categories A and B.

#### POSTAGE FOR ABSENTEE BALLOTS AND APPLICATIONS

When federal, state, or county offices or questions are on the ballot, the county auditor shall determine the total cost of postage required to mail absentee ballots and absentee ballot applications. For other elections, the county auditor may delegate this responsibility to the municipal clerk.

The county auditor shall pay the percentage of the costs of postage determined for Category A. The municipal clerk shall pay the percentage of the costs of postage determined for Category B. The school district clerk shall pay the percentage of the costs of postage determined for Category C. The hospital district clerk shall pay the percentage of costs of postage determined for Category D. The county auditor may choose to assume all the postage costs for absentee ballot requests for which applications were submitted to the county auditor.

When the responsibility to administer absentee voting in state and county elections has been delegated to a municipality, the municipal clerk shall also pay the percentage of costs determined for Category A.

#### ELECTION NOTICE PUBLICATION COSTS

The following two sections apply only to those election jurisdictions that have entered into an agreement to prepare and publish election notices jointly.

##### State and County Elections

The county auditor shall determine the total cost of preparing and publishing the notice of election for all state and county elections.

The county auditor shall pay the percentage of the costs of the election notices determined for Category A. The municipal clerk shall pay the percentage of the costs of the election notices determined for Category B. The school district clerk shall pay the percentage of the costs of the election notices determined for Category C. The hospital district clerk shall pay the percentage of costs of the election notices determined for Category D.

##### Municipal Elections not Held with State and County Elections

The municipal clerk shall determine the total cost of preparing and publishing the notice of election for all municipal elections held on a day other than the day when a state or county election is held.

The municipal clerk shall pay the percentage of the costs of the election notices determined for Category B. The school district clerk shall pay the percentage of the costs of the election notices determined for Category C. The hospital district clerk shall pay the percentage of costs of the election notices determined for Category D.

#### TRANSPORTATION OF BALLOTS AND ELECTION SUPPLIES

The county auditor shall determine the total cost to transport ballots and election supplies from the auditor to the municipal clerk. The municipal clerk shall determine the total cost required to transport ballots and election supplies to the polling places prior to and after the election in the manner required by the Minnesota election law.

The municipal clerk shall pay the percentage of transportation costs determined for Categories A and B. The school district clerk shall pay the percentage of transportation costs determined for Category C. The hospital district clerk shall pay the percentage of transportation costs determined for Category D.

The county auditor shall pay the percentage of transportation costs determined for Categories A and B for precincts in unorganized territories.

## SALARIES OF ELECTION JUDGES

The municipal clerk shall determine the total cost required to pay the salaries of the election judges needed for each election.

Minnesota Statutes Section 204B.31, subdivision 1 requires the municipality to pay the percentage of costs of the election judges' salaries determined for Categories A and B, except for special county elections. The school district clerk shall pay the percentage of costs of the election judges' salaries determined for Category C. The hospital district clerk shall pay the percentage of costs of the election judges' salaries determined for Category D.

For precincts in unorganized territories, the county auditor shall pay the percentage of costs of the election judges' salaries determined for Categories A and B.

## COMPENSATION FOR ADMINISTRATIVE EXPENSES

When the administrative duties of one election official are carried out by an election official in another jurisdiction (by mutual written agreement) the actual costs of administering these duties may be billed to the jurisdiction whose duties have been assumed. The agreement between jurisdictions must include an itemized list of duties to be performed and the rate at which billing for the duties will be made. No billing may be made for any expense that does not appear on the itemized list of duties to be performed.

## DOCUMENTATION OF ELECTION EXPENSES

Documentation of actual expenditures is required for the allocation of election expenses required in Minnesota Statutes, Section 204B.32, as described in these procedures. The determination of the total cost of election judges salaries and administrative expenses must be made from an itemized list including the names of persons serving, the number of hours served and the rate of payment per hour. Invoices or billing statements are acceptable documentation for goods or services purchased from vendors.

## EFFECTIVE DATE

These procedures are effective for all elections occurring after August 1, 1995, and remain in force until amended, superseded, or revoked by subsequent action of the Secretary of State.

MINNESOTA SECRETARY OF STATE -  
ELECTION EXPENSE COST ALLOCATION  
PROCEDURES FEBRUARY 2003