

## CHAPTER 205A

### SCHOOL DISTRICT ELECTIONS

205A.01	DEFINITIONS.	205A.08	BALLOTS.
205A.02	ELECTION LAW APPLICABLE.	205A.09	VOTING HOURS.
205A.03	PRIMARIES.	205A.10	PROCEDURE.
205A.04	GENERAL ELECTION.	205A.11	PRECINCTS; POLLING PLACES.
205A.05	SPECIAL ELECTIONS.	205A.12	SCHOOL BOARD ELECTION DISTRICTS.
205A.06	CANDIDATES, FILING.	205A.13	REQUIREMENTS FOR PETITIONS.
205A.07	NOTICE.		

#### 205A.01 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in chapter 200 and in this section apply to this chapter.

Subd. 2. **School district.** "School district" means an independent or special school district, as defined in section 120A.05.

**History:** 1987 c 266 art 1 s 48; 1999 c 86 art 1 s 46

#### 205A.02 ELECTION LAW APPLICABLE.

Except as provided by law, the Minnesota Election Law applies to school district elections. Elections in common school districts shall be governed by section 123B.94.

**History:** 1987 c 266 art 1 s 49; 1998 c 397 art 11 s 3; 2004 c 293 art 2 s 39

#### 205A.03 PRIMARIES.

Subdivision 1. **Resolution requiring primary in certain circumstances.** The school board of a school district may, by resolution adopted by June 1 of any year, decide to choose nominees for school board by a primary as provided in this section. The resolution, when adopted, is effective for all ensuing elections of board members in that school district until it is revoked. If the board decides to choose nominees by primary and if there are more than two candidates for a specified school board position or more than twice as many school board candidates as there are at-large school board positions available, the school district must hold a primary.

Subd. 2. **Date.** The school district primary must be held on the first Tuesday after the second Monday in September in the year when the school district general election is held. The clerk shall give notice of the primary in the manner provided in section 205A.07.

Subd. 3. **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. When not more than twice as many school board candidates as there are at-large school board positions available file for nomination for the office or when not more than two candidates for a specified school board position file for nomination for that office, their names

must not be placed upon the primary ballot and must be placed on the school district general election ballot as the nominees for that office.

Subd. 4. **Results.** The school district primary must be conducted and the returns made in the manner provided for the state primary as far as practicable. Within two days after the primary, the school board of the school district 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 office named. 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.

Subd. 5. **Recount.** A losing candidate at the school district primary may request a recount of the votes for that nomination subject to section 204C.36.

Subd. 6. **Vacancy in nomination.** When a vacancy occurs in a nomination made at a school district primary, the vacancy must be filled in the manner provided in section 204B.13.

**History:** 1987 c 266 art 1 s 50; 1994 c 646 s 16,17; 1Sp2003 c 9 art 2 s 43-45; 2008 c 295 s 18

#### **205A.04 GENERAL ELECTION.**

Subdivision 1. **School district general election.** The general election in each school district must be held on the first Tuesday after the first Monday in November of either the odd-numbered or the even-numbered year.

Subd. 2. [Repealed, 1994 c 646 s 28]

**History:** 1987 c 266 art 1 s 51; 1991 c 227 s 22; 1994 c 646 s 18

#### **205A.05 SPECIAL ELECTIONS.**

Subdivision 1. **Questions.** Special elections must be held for a school district on a question on which the voters are authorized by law to pass judgment. The school board may on its own motion call a special election to vote on any matter requiring approval of the voters of a district. Upon petition of 50 or more voters of the school district or five percent of the number of voters voting at the preceding school district general election, whichever is greater, the school board shall by resolution call a special election to vote on any matter requiring approval of the voters of a district. A question is carried only with the majority in its favor required by law. The election officials for a special election are the same as for the most recent school district general election unless changed according to law. Otherwise, special elections must be conducted and the returns made in the manner provided for the school district general election. A special election may not be held during the 30 days before and the 30 days after the state primary, during the 30 days before

and the 40 days after the state general election. In addition, a special election may not be held during the 20 days before and the 20 days after any regularly scheduled election of a municipality wholly or partially within the school district. Notwithstanding any other law to the contrary, the time period in which a special election must be conducted under any other law may be extended by the school board to conform with the requirements of this subdivision.

Subd. 2. **Vacancies in school district offices.** Special elections shall be held in school districts in conjunction with school district primary and general elections to fill vacancies in elective school district offices.

Subd. 3. **Cancellation.** A special election ordered by the school board on its own motion under subdivision 1 may be canceled by motion of the school board, but not less than 46 days before the election.

**History:** 1987 c 266 art 1 s 52; 1990 c 453 s 12; 1993 c 375 art 7 s 8; 1997 c 147 s 45; 1999 c 132 s 35; 2007 c 146 art 1 s 19; 2008 c 244 art 1 s 17

#### **205A.06 CANDIDATES, FILING.**

Subdivision 1. **Affidavit of candidacy.** An individual who is eligible and desires to become a candidate for an office to be voted on at the election must file an affidavit of candidacy with the school district clerk. The affidavit must be in substantially the same form as that in section 204B.06, subdivision 1. The school district clerk shall also accept 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, if service of a copy of the application has been made on the candidate and proof of service is endorsed on the application being filed. No individual shall be nominated by nominating petition for a school district elective office except in the event of a vacancy in nomination as provided in section 205A.03, subdivision 6. Upon receipt of the proper filing fee, the clerk shall place the name of the candidate on the official ballot without partisan designation.

Subd. 1a. **Filing period.** In school districts that have adopted a resolution to choose nominees for school board by a primary election, affidavits of candidacy must be filed with the school district clerk no earlier than the 70th day and no later than the 56th day before the first Tuesday after the second Monday in September in the year when the school district general election is held. In all other school districts, affidavits of candidacy must be filed no earlier than the 70th day and no later than the 56th day before the school district general election.

Subd. 1b. **Sex offender ineligible as school board candidate.** A sex offender who has been convicted of an offense for which registration is required under section 243.166 is ineligible to become a candidate for the office of school board member and may not file an affidavit of candidacy for that office. Ineligibility is determined by the registration requirements in effect at the time the offender files for office, not by the registration requirements, if any, that were in

effect at the time the offender was convicted.

Subd. 1c. **Absent candidates.** 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 filing officer. The candidate shall 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 filing officer during the seven days immediately preceding the candidate's absence from the state.

Subd. 2. **Notice of filing dates.** 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. 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.

Subd. 3. **Filing fees.** The filing fee for a school district office is \$2.

Subd. 4. **Petition in place of fees.** A candidate for school district office may file a petition in place of the filing fees in subdivision 3. The petition must meet the requirements of section 204B.11, subdivision 2.

Subd. 5. **Withdrawal.** A candidate for a school district elective office may withdraw from the election by filing an affidavit of withdrawal with the school district clerk no later than 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.

**History:** 1987 c 266 art 1 s 53; 1994 c 646 s 19,20; 1999 c 101 s 2; 2000 c 467 s 29,30; 1Sp2003 c 9 art 2 s 46; 2008 c 295 s 19

#### **205A.07 NOTICE.**

Subdivision 1. **Publication and posting.** The clerk of a school district shall give two weeks' published notice and give ten days' posted notice of a school district primary, general, or special election, stating the time of the election, the location of each polling place, the offices to be filled, and all propositions or questions to be voted upon at the primary, general, or special election. The notice shall be posted in the administrative offices of the school district for public inspection.

Subd. 2. **Sample ballot, posting.** 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.

Subd. 3. **Notice to auditor.** At least 53 days prior to every school district election, the school district clerk shall provide a written notice to the county auditor of each county in which

the school district is located. 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. For the purposes of meeting the timelines of this section, 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. Not less than 46 days before the election, the school district clerk must provide written notice to the county auditor of any special election canceled under section 205A.05, subdivision 3.

Subd. 3a. **Notice to commissioner of education.** At least 49 days prior to every school district election, under section 123B.62, 123B.63, 126C.17, 126C.69, or 475.58, the school district clerk shall provide a written notice to the commissioner of education. The notice must include the date of the election and the title and language for each ballot question to be voted on at the election. Not less than 46 days before the election, the school district clerk must provide a written notice to the commissioner of education of any special election canceled under section 205A.05, subdivision 3. The certified vote totals for each ballot question shall be provided in a written notice to the commissioner in a timely manner.

Subd. 3b. **Notice to secretary of state.** At least 46 days prior to every school district election for which a notice is provided to the county auditor under subdivision 3, the county auditor shall provide a notice of the election to the secretary of state, in a manner and including information prescribed by the secretary of state.

Subd. 4. **No additional posting requirements.** A school district is only required to comply with the election posting requirements specified in the Minnesota Election Law and the education code and is not required to comply with additional posting requirements specified in any other law.

**History:** 1987 c 266 art 1 s 54; 1989 c 291 art 1 s 21; 1990 c 453 s 13; 1991 c 227 s 23; 1Sp1995 c 3 art 16 s 13; 1999 c 132 s 36; 2003 c 130 s 12; 1Sp2003 c 9 art 1 s 49; 2004 c 293 art 2 s 40,41; 2008 c 244 art 1 s 18,19

## **205A.08 BALLOTS.**

Subdivision 1. **Buff ballot.** The names of all candidates for offices to be voted on at a school district general election must be placed on a single ballot printed on buff paper and known as the "buff ballot."

Subd. 2. **Primary ballots.** 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 the names of candidates.

Subd. 3. **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. The names of candidates to fill a vacancy in the office of school board member in a school district must be listed under the separate heading "Special election for school board member to fill vacancy in term expiring ....., " with the date of expiration of the term and any other information necessary to distinguish the office.

Subd. 4. **Goldenrod ballots; questions.** All questions relating to a proposition for the issuance of bonds, and all other questions relating to school district affairs submitted at an election to the voters of the school district, shall be printed on one separate goldenrod ballot and shall be prepared, printed, and distributed under the direction of the school district clerk at the same time and in the same manner as other school district ballots. The ballots, when voted, shall be deposited in a separate goldenrod ballot box provided by the local authorities for each voting precinct. The ballots shall be canvassed, counted, and returned in the same manner as other school district ballots. The returns shall provide appropriate blank spaces for the counting, canvassing, and return of the results of the questions submitted on the goldenrod ballot.

Subd. 5. **Form of ballot.** The ballots for school district elections must be prepared by the school district clerk in the manner provided in the rules of the secretary of state.

**History:** 1987 c 266 art 1 s 55; 1997 c 147 s 46

#### **205A.09 VOTING HOURS.**

Subdivision 1. **Metropolitan area school districts.** At a school district election in a school district located in whole or in part within a metropolitan county included in the definition of metropolitan area in section 200.02, subdivision 24, 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.

Subd. 2. **Other school districts.** At a school district election in a school district other than one described in subdivision 1, 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 as provided in this subdivision. 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 places 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.

**History:** 1987 c 266 art 1 s 56; 1990 c 453 s 14; 1994 c 646 s 21; 2005 c 156 art 6 s 55

### **205A.10 PROCEDURE.**

Subdivision 1. **Materials, ballots.** The school district clerk shall prepare and have printed the necessary election materials, including ballots, for a school district election. The names must be arranged on school district ballots in the manner provided in section 204D.08, subdivision 3, for state elections.

Subd. 2. **Election, conduct.** A school district election must be by secret ballot and must be held and the returns made in the manner provided for the state general election, as far as practicable. The vote totals from an absentee ballot board established pursuant to section 203B.13 may be tabulated and reported by the school district as a whole rather than by precinct. For school district elections not held in conjunction with a statewide election, the school board shall appoint election judges as provided in section 204B.21, subdivision 2. The provisions of sections 204B.19, subdivision 5; 204B.21, subdivision 2; 204C.15; 204C.19; 206.83; and 206.86, subdivision 2, relating to party balance in appointment of judges and to duties to be performed by judges of different major political parties do not apply to school district elections not held in conjunction with a statewide election.

Subd. 3. **Canvass of returns, certificate of election, ballots, disposition.** Within seven days after a school district election other than a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59, the school board shall canvass the returns and declare the results of the election. After the time for contesting elections has passed, the school district clerk shall issue a certificate of election to each successful candidate. 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. If there is a tie vote, the school board shall determine the result by lot. The clerk shall deliver the certificate of election to the successful candidate by personal service or certified mail. The successful candidate shall file an acceptance and oath of office in writing with the clerk within 30 days of the date of mailing or personal service. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but that filing may be made at any time before action to fill the vacancy has been taken. The school district clerk shall certify the results of the election to the county auditor, and the clerk shall be the final custodian of the ballots and the returns of the election.

A school district canvassing board shall perform the duties of the school board according to the requirements of this subdivision for a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59.

Subd. 4. **Recount.** A losing candidate at a school district election may request a recount of the votes for that office subject to the requirements of section 204C.36.

Subd. 5. **School district canvassing board.** For the purpose of a recount of a special election conducted under section 126C.17, subdivision 9, or 475.59, the school district canvassing board shall consist of one member of the school board other than the clerk, selected by the board, the clerk of the school board, the county auditor of the county in which the greatest number of school district residents reside, the court administrator of the district court of the judicial district in which the greatest number of school district residents reside, and the mayor or chair of the town board of the school district's most populous municipality. 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 shall serve on the canvassing board at one time. Four members constitute a quorum.

The school board shall serve as the school district canvassing board for the election of school board members.

**History:** 1987 c 266 art 1 s 57; 1989 c 291 art 1 s 22-24; 1990 c 453 s 15,16; 1992 c 499 art 12 s 23; 1998 c 254 art 1 s 63; 1998 c 397 art 11 s 3; 2008 c 244 art 2 s 18; 2008 c 295 s 20

## **205A.11 PRECINCTS; POLLING PLACES.**

Subdivision 1. **Established precincts.** School district elections must be conducted in the precincts, or when the school district boundary divides a precinct, parts of precincts that have been established by the county or municipal governing bodies as provided in section 204B.14. If an election other than the school district election is being held in any part of a precinct, all the voters of the precinct must vote at the polling place designated for the precinct as provided in section 204B.14.

Subd. 2. **Combined polling place.** 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. In school districts that have organized into separate board member election districts under section 205A.12, a combined polling place for a school general election must be arranged so that it does not include more than one board member election district.

Subd. 2a. **Notice of special elections.** The school district clerk shall 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 day of the school district primary or general election, the Tuesday following the second Monday in September, the Tuesday following the first Monday in November, or for a special election conducted entirely by mail. In addition, the mailed notice is not required for voters residing in a township if the school district special election is held on the second Tuesday in March and the town general election is held on that day. A notice that is returned as undeliverable must be forwarded immediately to the county auditor.

Subd. 3. **Procedure.** The school board must notify the county auditor within 30 days after the establishment of a polling place as provided in this section. The notice must include a list of the precincts that will be voting at each polling place. The school board must send the notice required by section 204B.16, subdivision 1a, after a polling place is established as provided in this section, but no additional notices of this kind are required for any subsequent similar elections until the location of the polling place or the combination of precincts voting at the polling place is changed. The secretary of state shall provide a single polling place roster for use in any polling place established as provided in this section. A single set of election judges must be appointed to serve in the polling place. The number of election judges required must be based on the total number of persons voting at the last similar election in all the precincts to be voting at the single polling place. A single ballot box may be provided for all the ballots.

**History:** 1987 c 266 art 1 s 58; 1990 c 453 s 17; 1994 c 607 s 6; 1995 c 8 s 7,8; 2008 c 244 art 2 s 19

## **205A.12 SCHOOL BOARD ELECTION DISTRICTS.**

Subdivision 1. **General provisions.** Any independent school district may alter its organization into separate election districts for the purpose of election of board members by following the procedures in this section.

Subd. 2. **Election.** Except in a school district located wholly or partly within a city of the first class, upon resolution of the board, made on its own motion or on presentation of a petition substantially in the form required in section 205A.13, signed by at least 50 electors of the district or ten percent of the number of votes cast in the most recent regular school board election, whichever is larger, the board shall adopt a proposal to divide the 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. The proposal must be submitted to an election under this chapter. 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. Only one election within any two-year period may be held under this section.

Subd. 3. **Ballot question.** The question presented at the special election shall be: "Shall the school district be reorganized into election districts with boundaries as established in Resolution No. .... of the school board, dated .....?"

Yes .....

No ....."

Subd. 4. **Election district boundaries.** 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.

Subd. 5. **Board elections.** If the proposal for the establishment of election districts is approved by the voters, the board shall specify the election districts from which vacancies shall be filled as they occur until such time as each board member represents an election district. 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. 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 a term.

Subd. 5a. **School districts.** The school board of a school district may provide for the use by the district of an electronic voting system in one or more polling places or combined polling places in the school district for an election not held in conjunction with a statewide election. No system may be adopted or used unless it has been approved by the secretary of state pursuant to section 206.57. The school district shall notify the secretary of state of its decision in compliance with section 206.58, subdivision 4.

Subd. 6. **Redefining election district boundaries.** The school board may by resolution redefine district boundaries after a school district general election. The board shall hold a public hearing on the proposed resolution before its adoption. One week's published notice of the hearing must be given. 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 of subdivision 4 or redefine election district boundaries to conform to those standards as provided in section 204B.135, subdivision 2. 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 as required by this section. A resolution establishing election district boundaries pursuant to section 204B.135, subdivision 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.

Subd. 7. **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 provided in this section 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.

**History:** 1987 c 266 art 1 s 59; 1991 c 349 s 39; 1995 c 8 s 9; 1996 c 394 s 3,4; 2008 c 295 s 21

### **205A.13 REQUIREMENTS FOR PETITIONS.**

Any petition to a school board authorized in this chapter or sections 126C.17, 126C.40, 126C.41 to 126C.48, and 124D.22, or any other law which requires the board to submit an issue to referendum or election, shall meet the requirements provided in section 204B.071.

**History:** 1987 c 266 art 1 s 60; 1991 c 130 s 37; 1992 c 499 art 12 s 29; 1996 c 305 art 1 s 55; 1998 c 397 art 11 s 3; 1999 c 132 s 37