


WASB Webinar

DECISION

The Election of School Board Members (Part 2)

2023



WISCONSIN ASSOCIATION OF SCHOOL BOARDS

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The 2023 Election of School Board Members

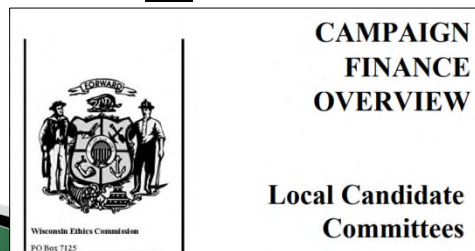
Campaign Finance

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The key resource document...

- The key guidance document for both candidates and filing officers regarding campaign finance is the [“Campaign Finance Overview for Local Candidate Committees”](#) (last revised July 2019), as published by the Wisconsin Ethics Commission. Note this revision predates 2021 Wisconsin Act 265.
- A copy of the current version of the campaign finance manual should be included in your district’s candidate packets.
- All clerks and all individuals assisting the clerk with the clerk’s campaign finance duties should be familiar with the general content of the manual **and** the relevant forms.



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Other good resources from the Ethics Commission ...

- ▶ [Lifecycle of a Candidate Committee](#)
- ▶ [Local Campaign Finance Reporting Requirements](#)
- ▶ [Local Candidate Duties and Prohibitions](#)
- ▶ [Notice of Campaign Finance Violation \(CF-30\)](#)
 - Note all presentations are from December 2019, which predates 2021 Wisconsin Act 265.

These presentations, and others, can be found on the Ethics Commission’s [“Resources Overview”](#) web page.
(Select “Presentation” in the “Document Type” box.)

The 2023 [Campaign Finance Checklist for School District Candidates](#) (Form ETIS-8) is also available.



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Some points of emphasis for the 2023 election cycle...

- **2021 Wisconsin Act 265**
 - Campaign finance reporting requirements have changed following adoption of 2021 Wisconsin Act 265. Those changes are effective January 3, 2023.
 - Candidate committees for the spring 2023 election must navigate the transition to the new campaign finance reporting requirements under Act 265.
 - Candidate committees filing campaign registration statements in 2022 are subject to the pre-Act 265 campaign finance reporting requirements.
 - Candidate committees filing a campaign registration statement (CF-1) in 2022 will want to file a new CF-1 that reflects the Act 265 campaign finance law changes on or after January 3, 2023.
 - Note that the current [CF-1 Registration Statement.pdf \(wi.gov\)](#) on the Ethics Commission website is the November 2018 revision. This form should be used for registrations in 2022. A revised CF-1 reflecting the Act 265 campaign finance law is not currently available. The Wisconsin Ethics Commission is working on a revised CF-1 that reflects the Act 265 filing requirements and will inform municipal and county clerks when the new CF-1 revision is available.



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Some points of emphasis for the 2023 election cycle...

2021 Act 265 made significant changes in laws governing the exemption from campaign finance reporting for committees with limited contributions, disbursements and obligations:

- ▶ The limit on aggregate contributions, disbursements and obligations was increased from \$2,000 per calendar year to \$2,500 per calendar year.
- ▶ Limits on when a candidate committee can claim the exemption were changed.
- ▶ The requirement that the exemption be renewed annually was eliminated.
- ▶ Rules governing when the exemption must be revoked were modified.



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Some points of emphasis for the 2023 election cycle...

How will laws governing the exemption from campaign finance reporting change in 2023?

	2022	2023
Limit on contributions, disbursements and obligations to claim exemption.	\$2,000.00	\$2,500.00
When may a committee claim the exemption?	It is unclear if exemption may be claimed in year candidate is on ballot prior to the election.	Committee may claim exemption at any time if otherwise eligible.



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Some points of emphasis for the 2023 election cycle...

How will laws governing the exemption from campaign finance reporting change in 2023?

	2022	2023
Annual renewal requirement?	Committee must renew exemption annually.	Exemption continues until committee is no longer eligible or dissolves.
When is committee required to revoke following receipt of unanticipated contribution?	Committee has 60 days to revoke or return contribution or donate to school fund or charity.	Committee must immediately revoke or return contribution or donate to school fund or charity in 15 days.



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Some points of emphasis for the 2023 election cycle...

Termination Reports

- ▶ 2021 Act 265 requires all candidate committees to file a termination report when the committee dissolves.
- ▶ Prior law stated that candidate committees claiming the exemption from campaign finance reporting were not required to file a termination report.
- ▶ Committees wishing to dissolve must file the [CF-13](#) with the school board clerk.
 - Committees may not dissolve prior to any election in which they are participating.



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Campaign finance ... The very basics

- The school district clerk serves as the local filing officer with legal responsibility for the performance of the duties specified by law.
- Candidates **register** under the campaign finance laws through a "**candidate committee**" by filing the [CF-1 registration statement](#).
- **Every current school board member is considered a "candidate" who must remain registered throughout his/her term office.**
- Unless a candidate committee is eligible for and has properly claimed an exemption from filing campaign finance reports, the committee must periodically file reports of the committee's receipts (including in-kind contributions), disbursements, and other reportable obligations (e.g., loans). For due dates in this cycle, see the [ETIS-8](#)
 - January continuing report (covers through Dec. 31)
 - Preprimary report (if the candidate is participating)
 - Preelection report (if the candidate is participating)
 - July continuing report (covers through June 30)



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Campaign finance ... The very basics

Every current school board member, every ballot-eligible candidate, and every registered write-in candidate will have a current CF-1 on file.

Some registrants will have claimed an exemption from filing campaign finance reports on their CF-1.

Some registrants will not be eligible for, or will not claim, a reporting exemption. They must file periodic reports.

*Switching between "nonexempt" and "exempt" status (when eligible) is accomplished by filing an **amended** campaign finance registration statement.*



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Campaign finance ... The very basics

- Even candidates who are exempt from filing a campaign finance report must adhere to other requirements of the campaign finance law, such as:
 - Keeping adequate records of all contributions received and disbursements made, including in-kind contributions; ★
 - Adhering to contribution limits from specific sources; and ★
 - Including "paid for by" attribution statements on applicable campaign materials. ★
- Other persons and groups (such as referendum committees and recall committees) have campaign finance obligations.
- Campaign finance issues are within the purview of the **Ethics Commission** (rather than the Elections Commission)



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Campaign finance ... The main duties of the local filing officer

Under s. [11.0102\(3\)](#), local filing officers currently have all of the following duties:

- ▶ Obtain all relevant forms and manuals, as well as a copy of the election laws;
- ★ Notify each committee that is required to file reports or statements that all necessary forms are available on the website of the Ethics Commission;
- ▶ Make all of the forms prescribed by the Ethics Commission for the making of reports and statements available, without charge, to any committee that is required to file reports or statements with the officer; and
- ▶ Make available to any committee that is required to file campaign finance reports and/or register, upon request and without charge, copies of any manuals prescribed by the Ethics Commission under s. 11.1304(3).

Whenever a filing officer sends a form or notice of the filing requirements to the treasurer of a candidate committee, the filing officer shall also send a notice to the candidate. [Section 11.0102\(3\)\(c\)1.](#)



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Campaign finance ... The main duties of the local filing officer

Duties of the Local Filing Officer Regarding Registered Committees and Campaign Finance Reports under [section 11.0102\(3\)](#):

1. Develop a **filing, coding, and cross-indexing system** consonant with the purposes of the campaign finance laws and the filing officer's statutory duties.
2. Compile and **maintain on an electronic system a current list of all reports and statements** received by or required of and pertaining to each registered committee. *(Note: An electronic spreadsheet or word processing file would likely be a sufficient "electronic system.")*
3. Determine whether each report or statement required to be filed has been filed in the form and by the time prescribed by law, and whether it conforms on its face to the requirements set forth in applicable law.



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Campaign finance ... The main duties of the local filing officer

Duties of the Local Filing Officer Regarding Registered Committees and Campaign Finance Reports under [section 11.0102\(3\)](#) (continued):

4. Immediately send to any committee that is delinquent in filing, or that has filed otherwise than in the proper form, **a notice that the committee has failed to comply**. Whenever a candidate committee has appointed an individual other than the candidate as campaign treasurer, the filing officer shall send the notice to both the candidate and the treasurer of the candidate committee.
5. **Notify the Ethics Commission**, in writing, of any facts within the filing officer's knowledge or evidence in the officer's possession, including errors or discrepancies in reports or statements and delinquencies in filing which may be grounds for civil action or criminal prosecution.
 - The Ethics Commission has created a form (the [CF-30](#)) for local filing officers to use to provide such notice.
 - The Commission may, at its discretion, transmit a notice received from the local filing officer to the district attorney.



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Campaign finance ... The main duties of the local filing officer

Duties of the Local Filing Officer Regarding Registered Committees and Campaign Finance Reports under [section 11.0102\(3\)](#) (continued):

6. Make available a list of delinquents for public inspection.
7. Make the reports and statements filed with the officer available for public inspection and copying, commencing as soon as practicable but not later than the end of the **2nd day following the day during which they are received**.
8. Upon the request of any person, **permit copying of campaign finance reports or registration statements** that have been filed with the officer.

Regarding reporting errors, discrepancies, delinquencies, or other violations to the Ethics Commission, please refer to:

- The Commission's "settlement schedule"
<https://ethics.wi.gov/Pages/Enforcement/SettlementSchedules.aspx>
- Presentation: [Notice of Campaign Finance Violation \(CF-30\)](#)



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The CF-1 registration statement

- The CF-1 form serves several different purposes, which is why it seems to come up in multiple places and why there seem to be different filing deadlines. The functions of the CF-1 include the following:
 - It is one of the **ballot access** documents. If a statement is not filed by the January ballot access deadline, the candidate cannot be certified to appear on the ballot.
 - It is necessary for **compliance with the campaign finance law**.
 - It is the form a registrant uses to change their exempt status.
 - It is the form that needs to be filed to become a **registered write-in candidate**.
 - It is a step of taking office for persons who are **appointed to fill a vacancy** on a school board.



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The CF-1 registration statement

New Candidates: A person who wishes to be a candidate for the office of school board member and to have their name appear on the spring election ballot (and the primary election ballot, if applicable) must file a Campaign Registration Statement (Form CF-1) by **the earlier of:**

1. The date on which the person receives a contribution, makes a disbursement, or gives consent for another person to receive a contribution or make a disbursement in order to bring about the individual's nomination or election to office. *Sections [11.0101\(1\)\(a\)3](#) and [11.0202\(2\)\(b\)](#).*
2. The date on which the person files a Declaration of Candidacy. *Section [120.06\(6\)\(b\)5](#).*
3. The date on which the person files nomination papers (if required) with the appropriate filing officer. *Sections [8.10\(5\)](#) and [11.0101\(1\)\(a\)1](#).*
4. The ballot access deadline (i.e., the first Tuesday in January). *Section [120.06\(6\)\(b\)2](#).*

For **incumbents who run for reelection**, the requirement is to file an **amended** registration statement.



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SECTION A: GENERAL INFORMATION	
I. Is this an Amendment? <input type="checkbox"/> No <input type="checkbox"/> Yes If yes, please enter your committee number:	
Committee Number	
A1. Candidate Committee/Committee/Conduit Name	
A2. Registrant Type (Choose One) <input type="checkbox"/> Candidate <input type="checkbox"/> Referendum <input type="checkbox"/> Recall <input type="checkbox"/> Conduit <input type="checkbox"/> Political Action (PAC) <input type="checkbox"/> Independent Expenditure (IEC) <input type="checkbox"/> Political Party <input type="checkbox"/> Legislative Campaign Committee	
A3. Email	A4. Phone
A5. Mailing Address	
A6. City	A7. State A8. Zip
Depository Institution Information	
A9. Institution Name	A10. Street Address A11. City A12. State A13. Zip
Treasurer/Administrator Information	
A14. Name	A15. Email A16. Phone
A17. Mailing Address	A18. City A19. State A20. Zip
Other Officers (Optional) <i>Independent and local non-partisan candidates: Indicate by an asterisk (*) which officers are authorized to fill a vacancy in nomination due to death of candidate.</i>	
A21. Name	A22. Title A23. Email A24. Phone
A25. Name	A26. Title A27. Email A28. Phone
Filing Exemption <i>Registrants that will not accept contributions, make disbursements, or incur obligations in an aggregate amount of more than \$2,000 in a calendar year are eligible for exemption from filing campaign finance reports. Exempt status is effective only for the calendar year in which it is granted. Registrants wishing to remain on exempt status must renew each year. Candidates may not claim exemption in the year of their election before the day they appear on the ballot.</i>	
A29. Exemption Affirmation <input type="checkbox"/> Yes, this registrant is eligible for exemption <input type="checkbox"/> No, this registrant is not eligible for exemption	

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The CF-1 Form: Common issue

- Is identifying a **depository** institution mandatory?
 - Some forms and instructions of the Ethics Commission state that every candidate committee **must** identify a financial institution on their campaign finance registration statement. See [Form CF-1](#).
 - The state statutes provide: "A candidate who receives no contributions, makes no disbursements, and incurs no obligations shall file the registration statement as provided in this subsection, *but need not designate a campaign depository account until the first contribution is received, disbursement is made, or obligation is incurred.*"
[§ 11.0202\(1\)\(b\)](#); see also [§ 11.0203](#).
- **Strongly encourage all registrants to identify a depository.** Note that specific account numbers are no longer required. A candidate may use a personal account if he/she is (1) his/her own treasurer; and (2) exempt.
- If necessary, work through the conflicting authority with the registrant and the Ethics Commission. Most likely, missing depository info would **not** affect ballot eligibility.



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The CF-1 registration statement

SECTION B: CANDIDATE COMMITTEES			
B1. Office Sought (include District/Branch)		B2. Political Party	B3. Election Date
Candidate Information			
B4. Name		B5. Email	B6. Phone
B7. Mailing Address		B8. City	B9. State B10. Zip
Second Candidate Committee <i>An individual who holds a state or local elective office may establish a second candidate committee to pursue another state or local office.</i>		B11. Is this your only registered candidate committee in Wisconsin? <input type="checkbox"/> Yes, this is my only candidate committee in Wisconsin <input type="checkbox"/> No, this is my second candidate committee in Wisconsin	
B12. Other Office Held or Sought (include District/Branch) <i>Only complete B12 if you responded "No" to B11.</i>			




The CF-1 registration statement

SECTION G: CERTIFICATION		
Accurate Information		
<i>I certify that I am an authorized representative of the registrant and that to my knowledge all of the information contained within this registration is true, correct, and complete.</i>		
Timely Amendments		
<i>I am aware of the requirement to amend this registration statement within 10 days of any change of information contained within, as well as the requirement to register within 10 days of meeting the requirements to register under Chapter 11 of Wisconsin Statutes.</i>		
Records Retention		
<i>I further acknowledge the requirement to maintain the records of the registrant in an organized and legible manner for three years from the date of the most recent election in which this registrant participated.</i>		
Ongoing Compliance		
<i>This registrant shall continue to maintain its registration and comply with all applicable reporting requirements under Chapter 11 of Wisconsin Statutes.</i>		
Treasurer/Administrator		
G1. Printed Name	G2. Signature	G3. Date
Candidate (if applicable)		
G4. Printed Name	G5. Signature	G6. Date



Campaign Finance: reporting exemptions

- What does it mean to claim a reporting exemption?** A candidate whose “committee” is exempt from filing campaign finance reports does **not** have to file periodic statements with the school district clerk that detail the campaign’s specific receipts and expenditures.
(Note: Even an exempt committee must continue to maintain records of all contributions and expenditures during the exemption period. Records must be maintained for at least 3 years from the date of the applicable election.)
- What is the minimum requirement for claiming a reporting exemption?** Minimally, the committee must not accept contributions, make disbursements, or incur obligations in an **aggregate amount** of more than \$2,000 in **calendar year 2022, \$2,500 in 2023 and thereafter**. This includes the candidate’s own contributions to his/her committee.
-  **Do reporting exemptions expire?** Prior to 2021 Wisconsin Act 265, an exemption from filing campaign finance reports was “effective only for the calendar year in which it is granted.” Following Act 265, section [11.0104\(1\)\(c\)](#) states that an exemption continues until revoked, the committee exceeds the \$2,500 threshold or the committee dissolves. **However, see the slides that follow.**

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Campaign Finance: reporting exemptions

- Regarding the basic financial eligibility limits for claiming a campaign finance reporting exemption, section [11.0104\(1\)\(a\)](#) provides that an otherwise-eligible candidate committee may claim an exemption if it “does not anticipate accepting or making contributions, making disbursements, or incurring obligations ... in an aggregate amount exceeding \$2,000 in a calendar year.” (2022, threshold increased in \$2,500 in 2023 and thereafter.)
- Staff at the Ethics Commission have stated that, although the Ethics Commission itself has not rendered a ruling or advisory opinion on the matter, staff are advising that **the limit is reached when the total sum of any combination of relevant transactions exceeds \$2,000.**
- **EXAMPLE:** Accepting \$1,001 in contributions and making \$1,000 in expenditures (\$2,001 total) exceeds the annual exemption limit in 2022.

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Campaign Finance: reporting exemptions

- Every candidate committee must do the following:
 - Determine whether it is eligible to claim the exemption.
 - Before Act 265 (effective January 3, 2023), committees were required to claim or renew the exemption annually. Each committee must determine if it needs to claim or renew the exemption in calendar year 2022.
 - Committees eligible to claim the exemption in calendar year 2023 should file a new CF-1 on or after January 3, 2023 that reflects Act 265 changes to the law governing the exemption.
 - Timely revoke a previously-claimed reporting exemption if the aggregate monetary transaction limit is exceeded.



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Campaign Finance: reporting exemptions

- What happens if a candidate committee incorrectly claims the exemption?
 - Section [11.0104\(1\)\(d\)](#): If a filing officer receives a registration statement or amended registration statement seeking to claim the exemption under par. (a) and the filing officer knows that the candidate committee is not eligible for the exemption, the filing officer shall accept the registration but notify the committee within 10 business days that it is not eligible for the exemption for that calendar year. The notice shall also indicate that the committee is required to file campaign finance reports.
 - Section [11.0104\(1\)\(e\)](#): A candidate whose candidate committee files a registration statement or amended registration statement incorrectly claiming the exemption may not be denied placement on the ballot if the registration statement or amended registration statement otherwise complies with the requirements of this chapter.



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Campaign Finance: reporting exemptions

- When is a candidate committee required to revoke its claim to the exemption?
 - Section [11.0104\(1\)\(c\)](#): A candidate committee of a candidate for local office is eligible for an exemption under par. (a) at any time and may claim the exemption on its initial registration statement or on an amended registration statement. An exemption claimed under this paragraph applies until the committee exceeds the threshold established under par. (a), amends its registration statement to become a state candidate committee, or is dissolved, as provided in s. 11.0105.



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Campaign Finance: reporting exemptions

- What are a candidate committee's obligations following revocation of the exemption?
 - Section [11.0104\(3\)](#): An exemption made under this section may be revoked. If revoked, the committee or conduit shall comply with the reporting requirements applicable to the committee or conduit under this chapter as of the date of revocation, or the date that aggregate contributions, disbursements, or obligations for the calendar year exceed \$2,500. If the revocation is not timely, the committee or conduit violates s. 11.1201.



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For any non-exempt registrants...

- ▶ **Help them help you! Provide the registrant (and any separate treasurer) with advance notice of upcoming reporting deadlines.**
- ▶ **Forms used by candidate committees for campaign finance compliance.**
 - [Campaign Registration Statement](#) (CF-1)
 - [Campaign Finance Report for Local Committees](#) (CF-2L or [CF-2LE](#))
 - [Campaign Finance Report -- Statement of No Activity](#) (CF-2NA)
 - [Registration Termination Request](#) (CF-13)
- ▶ **Where there has been no financial activity in the relevant reporting period, a non-exempt registrant may file the very simple Campaign Finance “No Activity” Report.**



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For all registrants: Contribution limits

- The Campaign Finance Overview manual covers contribution limits. Limits apply cumulatively to the campaign period. Most significantly:
 - A candidate may contribute an unlimited amount to his/her own campaign (but the contributions **count** toward the reporting exemption threshold).
 - Any other individual may contribute the greater of \$500 or \$.02 times the population in the district, but not to exceed \$6,000.
 - A school board candidate may not accept a corporate contribution.
- **Anonymous** contributions of more than \$10 are unlawful. **Cash** contributions of more than \$100 are also unlawful.
- “In kind” contributions of goods/services are still contributions. The contributor must obtain the registrant’s advance consent for an in-kind contribution.



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For all registrants: Attribution statements are part of the campaign finance law

- ▶ Attribution statements are the “paid for by ...” statements required to be placed on any communication containing express advocacy. The statements identify the person(s) who paid for and/or authorized the communication. See s. [11.1303](#); s. [ETH 1.96](#); and [ETH guidance](#).
 - **Examples:** Yard signs, mailings, radio/TV ads, many types of electronic advertising, campaign emails, etc.
 - **Exceptions:** Attribution statement requirements do not apply to communications containing express advocacy printed on small items, which would normally require a disclaimer, but which cannot be conveniently printed, including text messages and certain small advertisements.
 - A registrant should contact the Ethics Commission if they have a question about whether the exception applies.



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All good things must end ... Terminating a registration

- No registrant participating in an election may end their registration until AFTER the election in which the registrant is a candidate. A registration also cannot be ended while a registrant is finishing their term of office. The committee's cash balance must be reduced to \$0 at termination.
- 2021 Act 265 requires all candidate committees to file a termination report when the committee dissolves.
- Prior law stated that candidate committees claiming the exemption from campaign finance reporting were not required to file a termination report.
- Committees wishing to dissolve must file the CF-13 with the school board clerk.



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Where to look for updates ... the WASB Legal and Policy e-Newsletter



WISCONSIN
ASSOCIATION OF
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Oct. 19, 2022

Legal & Policy Services

NEWSLETTER

In This Issue

- [Collaboration Between State and Local Agencies and Head Start](#)
- [Guidance on Classifying Workers and Independent Contractors](#)
- [Recertification Elections on the Horizon](#)
- [CISA to Host Summit on School Safety and Security](#)





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Where to look for updates ... The School Board Elections page of the WASB website

<https://wasb.org/legal-human-resources-services/school-board-elections-resources/>




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School Board Elections: Resources

WASB Publications and Webinars

These publications are designed to provide general information, with commentary, as a service to WASB members and school board candidates. The publications should not be relied upon as legal advice. If required, legal advice regarding the topics in the publications should be obtained from the district's legal counsel or a candidate's personal attorney.

- [2023 School District Election Schedule](#) (login required)
- [Guide For Candidates](#) (2022 edition)



Related Links

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