

1. What impact does Governor Abbott's proclamation of March 18, 2020, regarding local elections, have on school board trustee elections?

The governor's proclamation provides school districts with the ability to postpone their local May 2, 2020, elections until November, 2020, to help slow the spread of COVID-19. The proclamation does not affect May 26, 2020 runoff elections, and the proclamation does not affect the date of future local elections.

Any trustee whose term expires after the originally scheduled May 2nd local election will continue to serve and retain their duties and powers of office, pursuant to Texas Constitution, Article XVI, §17, until an election is held and the trustee is either reelected or replaced by a newly elected trustee who files a statement of officer and takes an oath of office.

2. With the recent proclamation encouraging moving May elections to November, will the candidacy filing window reopen or will that be locked in?

The Governor waived provisions in the election code to allow districts to move their May 2, 2020 elections to November and has strongly encouraged political subdivisions to move these elections: <https://gov.texas.gov/news/post/governor-abbott-issues-proclamation-allowing-for-postponement-of-local-elections-set-for-may-2nd>

Per the Secretary of State, if a school district postpones its election date, the school district is preserving all candidate filings and ballot order actions that have already been taken. Such a postponement does not have the effect of reopening candidate filings: <https://www.sos.texas.gov/elections/laws/advisory2020-12.shtml>

3. If we do move our election to November, does the school Superintendent have the authority to make this call, or does it require a special called Board meeting?

Moving an election requires a board meeting. Virtual or telephonic meeting are allowed and strongly encouraged under the Governor's proclamation: <https://gov.texas.gov/news/post/governor-abbott-allows-virtual-and-telephonic-open-meetings-to-maintain-government-transparency>

4. By when does the board have to make the decision around school board elections?

An order moving the May election to November should be made prior to early voting: <https://www.sos.state.tx.us/elections/laws/cancellation.shtml>

5. We cancelled board elections in May due to unopposed candidates. When does the new candidate assume their duties as a board member?

The transition is not affected unless the district moves the election to November.

6. Would Board of Trustees positions (President, Vice President, Secretary) stay the same if we move to a November election?

The Board of Trustees positions stay the same until new officers are elected. See Texas Education Code §11.061(c).

Furthermore, any trustee whose term expires after the originally scheduled May 2nd local election will continue to serve and retain their duties and powers of office, pursuant to Texas Constitution, Article XVI, §17, until an election is held and the trustee is either reelected or replaced by a newly elected trustee who files a statement of officer and takes an oath of office.

7. How do we have board meetings in light of the Governor's Executive Order to avoid gathering in groups of more than 10 people?

Per the Governor's Executive Order, every person in Texas shall avoid social gatherings in groups of more than 10 people, therefore, the district must ensure that no more than 10 people are gathered in one place: <https://gov.texas.gov/news/post/governor-abbott-issues-executive-orders-to-mitigate-spread-of-covid-19-in-texas>

The governor has waived provisions in the Texas Open Meetings Act to allow public meetings to be held virtually or telephonically and has strongly encouraged meetings to be held this way: <https://gov.texas.gov/news/post/governor-abbott-allows-virtual-and-telephonic-open-meetings-to-maintain-government-transparency>

Additionally, the Texas Department of Information Resources has issued guidance for conducting an Open Meeting remotely: <https://pubext.dir.texas.gov/portal/internal/resources/DocumentLibrary/Tips%20for%20Conducting%20Open%20Meetings%20Remotely.pdf>

8. Can a board delegate to its superintendent the board's authority to request a commissioner waiver under Texas Education Code (TEC), Section 7.056?

Although Texas Education Code (TEC), Chapter 11 and Section §7.056, are silent on this topic, the agency will accept a waiver request made pursuant to TEC, Sec. §7.056, by a superintendent, if the superintendent's board has delegated its general operational authority or waiver-specific authority to the superintendent. The agency, however, recommends, in such instances, that the board ratify the waiver request at a future meeting to ensure compliance with TEC, Chapter 11 and Section §7.056.

9. Many schools have personal protective equipment (PPE) and related materials, including career and technical education equipment, that could be used by local medical facilities or first responders. How can a district account for donating PPE and related materials to such entities without it being an impermissible gift of public funds?

Section 51, Article III, of the Texas Constitution permits the allocation of public funds (and thus property) to public and private entities in times of calamity. In this instance, with a statewide disaster (a calamity) declared due to the COVID-19 pandemic, a school board may choose to donate PPE and related materials to medical facilities and first responders. In an abundance of caution, however, district school boards are advised to find in support of such donations that: 1) the donation of PPE and related materials will serve a public purpose; 2) sufficient controls will be in place to ensure that the public purpose is carried out; and 3) the district will receive a return benefit from the donation. See Op. Atty. Gen. No. GA- 0076, 2003.