

Local School Board Elections and District Bond Elections

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Local School Board Elections

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Local Election Act

- (A) "A regular local election shall be held on the **first Tuesday after the first Monday in November of each odd-numbered year**. A regular local election shall be held to elect **qualified persons** to membership on a local governing body and, where applicable, to elective municipal executive office and to municipal judicial office.
- (B) A regular local election shall be a nonpartisan election, and the names of all candidates shall be listed on the ballot with no party or slate designation."

NMSA 1978 § 1-22-3.



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Candidate Qualifications

- ❑ "No person shall become a candidate in a regular local election unless the person **physically resides within the boundaries of the district or districted area in which the person desires to be elected or to represent** and the person's record of voter registration shows that the person is both a **qualified elector** of the state and was registered to vote in the area to be elected to represent on the date the proclamation calling a local election is filed in the office of the secretary of state."

NMSA 1978 § 1-22-3(B).



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“Qualified Elector”

- “[Q]ualified elector’ means any resident of this state who is qualified to vote under the provisions of the constitution of New Mexico and the constitution of the United States and includes any qualified resident.”

NMSA 1978 § 1-1-4(A).



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Notification to County Clerk

- “Between one hundred twenty and one hundred fifty days before the next regular local election, each local government shall notify the county clerk of the county in which the primary administrative office of the local government is situate[d] of all local government positions that are to be filled at the next regular local election.”

NMSA 1978 § 1-22-4(A).



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Proclamation

- ❑ “The secretary of state shall by resolution issue a public proclamation in Spanish and English calling a regular local election. The proclamation shall be issued and filed by the secretary of state in the office of the secretary of state ninety days preceding the date of the regular local election, and upon filing the proclamation, the secretary of state shall post the proclamation and certify it to each county clerk.”

NMSA 1978 § 1-22-4(B).



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Proclamation

- ❑ “The proclamation shall specify:
 - (1) the date when the election will be held;
 - (2) each elective office, local governing body and judicial position to be filled;
 - (3) the date on which declarations of candidacy are to be filed;
 - (4) the date on which declarations of intent to be a write-in candidate are to be filed; and
 - (5) the municipalities subject to a ranked-choice voting runoff election and those subject to a top-two runoff election and the date of the top-two runoff election should one be necessary.”

NMSA 1978 § 1-22-4(C).



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Declaration of Candidacy

- (A) "A candidate for a position that will be filled at a regular local election shall file a declaration of candidacy with the proper filing officer between 9:00 a.m. and 5:00 p.m. on the seventieth day before the date of the regular local election.
- (B) A candidate shall file for only one position in the same local government but may file for a position in more than one local government on the same filing day.
- (C) A declaration of candidacy shall not be amended after it has been filed with the proper filing officer.
- (D) Each declaration of candidacy shall be delivered for filing in person by the eligible candidate or by a person acting by virtue of written authorization. The proper filing officer shall not accept for filing from any one individual more than one declaration of candidacy.
- (E) Whoever knowingly makes a false statement in a declaration of candidacy is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

NMSA 1978 § 1-22-7.



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Declaration of Candidacy

DECLARATION OF CANDIDACY -- STATEMENT OF INTENT

I, _____, (candidate's name on certificate of registration) being first duly sworn, say that I am a voter of the county of _____, State of New Mexico. I reside at _____ and was registered to vote at that place on the date of the proclamation calling this election;

- I reside within and am registered to vote in the area to be represented;
- I desire to become a candidate for the office of _____ at the local election to be held on the date _____ set by law;
- I will be eligible and legally qualified to hold this office at the beginning of its term; and
- I make the foregoing affidavit under oath, knowing that any false statement herein constitutes a felony punishable under the criminal laws of New Mexico.

(Signature of Declarant)

(Mailing Address)

(Residence Address)

Subscribed and sworn to before me by _____ this _____ day of _____, 20____.

NOTARY PUBLIC

My commission expires: _____



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Write-In Candidate and Declaration of Candidacy

- (A) "Write-in candidates shall be permitted in regular local elections.
- (B) A person may be a write-in candidate only if the person has the qualifications to be a candidate for the position for which the person is running.
- (C) A person desiring to be a write-in candidate for an office shall file with the proper filing officer a declaration of candidacy. The declaration shall be filed between 9:00 a.m. and 5:00 p.m. on the sixty-third day preceding the date of the election. The county clerk shall ensure that a declaration of candidacy filed pursuant to this section specifies that it is for a write-in candidate.
- (D) At the time of filing the declaration of candidacy, the write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Local Election Act, except that the write-in candidate's name shall not be printed on the ballot nor posted in any polling place."

NMSA 1978 § 1-22-7.



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Canvassing

- The canvassing board (County Clerk and County Commissioners) shall meet to approve the report of the canvass of the returns and declare the results no sooner than six days and no later than ten days from the date of the election.
- Immediately upon approval of the report of the canvass of the returns, the canvassing board shall issue a certificate of canvass of the results of the election and send a copy of the certified results to:
 - The county clerk;
 - Each local governing body with a candidate or ballot question;
 - The Secretary of State;
 - The State Records Center; and
 - The State Canvassing Board.

NMSA 1978 § 1-13-13(A), (B).



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Election Certificates

- “Upon receipt of the reports of the county canvass of a local election from each county, the secretary of state shall:
 - (1) not sooner than the twenty-fourth day after a regular local election, issue to those candidates entitled by law the appropriate certificate of election.”

NMSA 1978 § 1-13-13(C).



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Campaign Reporting

- (A) “A candidate or campaign committee that has received contributions or made expenditures of five hundred dollars (\$500) or more shall file with the secretary of state a report of all contributions received and expenditures made on a prescribed form, and the report shall be filed in the same or similar electronic system as that used for the Campaign Reporting Act. Except as otherwise provided in this section, all reports pursuant to the School District Campaign Reporting Act shall be filed electronically and electronically authenticated by the candidate using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act.
- (B) A candidate or campaign committee shall file a campaign report of all contributions received and expenditures made during an election cycle and not previously reported by midnight on the twenty-first day before the election and on the thirtieth day following the election.”

NMSA 1978 § 1-22A-3.



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District Bond Elections and General Obligation (G.O.) Bonds

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Bond Elections

- (A) "Before any general obligation bonds are issued, a local school board of a school district shall submit to a vote of the qualified electors of the school district the question of creating a debt by issuing the bonds, and a majority of those persons voting on the question shall vote for issuing the general obligation bonds.
- (B) The election on the question of creating a debt by issuing general obligation bonds shall be held pursuant to the provisions of the Local Election Act. The question shall be submitted to a vote at a district election upon the initiative of a local school board or upon a petition being filed with a local school board signed by qualified electors of the school district."

NMSA 1978 § 22-18-2.



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Local Election Act

- ❑ “A local government may propose a **ballot question** to be considered by the voters of the local government:
 - (1) at a regular local election or a general election as provided by Subsection B of Section 1-16-3 NMSA 1978; or
 - (2) at a special local election called, conducted and canvassed as provided in the Special Election Act.”

NMSA 1978 § 1-22-3(C).



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Proclamation Resolution

- ❑ “Whenever a local government ballot question is to be submitted to the voters of a local government on a general election or regular local election ballot, not less than seventy days before the election at which the ballot question is proposed to be submitted to the voters, the local government shall file a **resolution proposing the ballot question** with the county clerk of each county containing any precinct in which votes may be cast for or against the local government ballot question. Not less than sixty-seven days before the election, each county clerk shall certify the local government ballot question to the secretary of state.”

NMSA 1978 § 1-16-3(B).



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Ballots

- (A) "The question on the ballot of creating a debt by issuing general obligation bonds shall state the purpose or purposes for which the bonds are to be issued and the amount of the bond issue. Two or more separate questions may be submitted to the voters at a bond election, in which case, the vote on each question shall be separately counted, canvassed and certified.
- (B) Bond election ballots shall contain a place for a vote 'For the school district bonds' and 'Against the school district bonds' for each bond issue."

NMSA 1978 § 22-18-5.



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Board of Educ. v. Hartley, 1964-NMSC-204 **(S. Ct. 1964)**

- The resolution calling for the election, the notice of the election, the ballot used in the election, and the publication of the resolution calling the election all stated, in one way or the other, that the purpose of such election was to issue bonds "for school purposes."



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Board of Educ. v. Hartley, 1964-NMSC-204 (S. Ct. 1964)

- ❑ “There is no indication in any of the proceedings other than that the funds obtained from the sale of the bonds will be used for something having to do with schools. ‘School purposes’ could mean the purchase of school buses, increase of teachers' salaries, or any one of many other purposes, which would clearly contravene the provisions of the constitution.”
- ❑ “There is no way to determine what was in the minds of the various electors who voted on the issuance of the bonds as to what they thought ‘school purposes’ meant. The phrase used is simply too all-inclusive and includes purposes prohibited by the constitution. Thus the election proceedings were rendered invalid. We do not mean to say that the resolution, notice and ballot must include the exact words as stated in the constitution, but certainly the words used cannot be so broad that, in effect, the electorate is not advised of the actual purpose of the attempt to secure funds.”

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Purposes

- ❑ “After consideration of the priorities for the school district's capital needs as shown by the facility assessment database maintained by the public school facilities authority and subject to the provisions of Article 9, Section 11 of the constitution of New Mexico and Sections 6-15-1 and 6-15-2 NMSA 1978, a school district may issue general obligation bonds for the purpose of:
 - (1) erecting, remodeling, making additions to and furnishing school buildings, including teacher housing;
 - (2) purchasing or improving school grounds;
 - (3) purchasing computer software and hardware for student use in public schools;
 - (4) providing matching funds for capital outlay projects funded pursuant to the Public School Capital Outlay Act [Chapter 22, Article 24 NMSA 1978]; or
 - (5) any combination of these purposes.”

NMSA 1978 § 22-18-1(A).

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Purposes – Teacher Housing

- “[A] school district contemplating issuing general obligation bonds under Section 22-18-1 for the purpose of ‘erecting, remodeling, making additions to and furnishing school buildings’ may use the proceeds of said bonds for the construction, maintenance and repair of teacher housing, among other things.”

Use of General Obligation Bond Proceeds and Public School Capital Improvements Act Revenue for Construction of Teacher Housing (12/1/2022), Att’y Gen. Adv. Ltr. 2022-13.



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Authority to Issue Bonds

- “If a majority of those persons voting on a question submitted to the voters in a bond election vote for creating a debt by issuing general obligation bonds, the local school board may, subject to the approval of the attorney general, proceed to issue the bonds.”

NMSA 1978 § 22-18-7.



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Restriction on Bond Elections

- ❑ "In the event a majority of those persons voting on a question submitted to the voters in a bond election votes against creating a debt by issuing general obligation bonds, no bond election shall be held on the same question for a period of two years from the date of the bond election."

NMSA 1978 § 22-18-8.



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Restriction on Bond Elections - Example

- ❑ May 1987
 - ❑ *Shall the Board of Education of Alamogordo Municipal Schools District No. 1, Otero County, New Mexico, be authorized to issue general obligation bonds of the District, in one series or more in an aggregate principal amount not exceeding \$10,000,000, **for the purpose of erecting, remodeling, making additions to, and furnishing school buildings, and purchasing and improving school grounds**, said bonds to be payable from general (ad valorem) taxes, and to be issued and sold at such time or times and upon such terms and conditions as the Board may determine?*
- ❑ February 1989
 - ❑ *Shall the Board of Education of Alamogordo Municipal School District No. 1, Otero County New Mexico, be authorized to issue general obligation bonds of the District, in one series or more in an aggregate amount not exceeding \$6,000,000, **for the purpose of erecting and furnishing an addition to the Alamogordo High School, thereby making it a four year high school**; said bonds to be payable from general (ad valorem) taxes, and to be issued and sold at such time or times and upon such terms and conditions as the Board may determine?*



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Restriction on Bond Elections - Example

- ❑ "The proposed 'purpose' for the 1989 bond issue, building an addition to the high school, is more limited than the earlier defeated issue. The earlier election contemplated a broader purpose: erecting, remodeling, making additions to, and furnishing school buildings, and purchasing and improving school grounds. Also, the 1989 bond issue would create only \$6,000,000 in debt, while the 1987 question proposed \$10,000,000 in bonds. Thus, the obligation that the voters' property taxes must satisfy is less than the earlier proposal."
- ❑ "Because the Alamogordo school district's proposed February, 1989 bond question differs materially in amount of bonded indebtedness and in purpose, it is not the "same question" that the voters defeated in May, 1987. The proposed bond election, therefore, does not violate Section 22-18-8."

1988 Op. Att'y Gen. No. 88-53.



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