



## Frequently Asked Questions (FAQ) Regarding November School Elections (P.L. 2011, c. 202 and P.L. 2012, c. 78)

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P.L. 2011, c. 202, signed into law on January 17, 2012, permits a school board of education, a municipal governing body, or voters (by way of petition) to move the April annual school board election to the date of the November general election. Applicable to other than Type II districts with a board of school estimate.

P.L. 2012, c. 78, signed into law on December 7, 2012 permits a Type II district with a board of school estimate to move the date of the school district's annual school election pursuant to the provisions of section 1 of P.L. 2011, c. 202 (C.19:60-1.1)

The following information is in response to inquiries received by various State agencies from school districts and municipalities regarding implementation of these statutes.

### Procedure to Move the Annual School Board Election to November

1. Q. When did the option to move the school election from April to November become law?

A. This option was first available for 2012.

2. Q. What procedure is required for the school board ("board") or municipal governing body ("governing body")?

A. *N.J.S.A.* 19:60-1.1 provides the procedures that must be followed for moving the date of school elections. The date of the annual school election may be moved to the first Tuesday after the first Monday in November without voter approval, upon the adoption of a resolution by the board of education of a local or regional school district.

The board (or governing body) is required to follow the requirements of the Open Public Meetings Act, (*N.J.S.A.* 10:4-1, *et seq.*) for such action, and should also follow the board's or governing body's existing procedures for passage of a resolution.

3. Q. Is there a standard format for a resolution to move the election to November?

A. See [LFN 2012-03](#) for a sample resolution.

4. Q. What is the deadline for the passage of a board resolution to move an April school election to November?

A. There is no set statutory deadline for passage of the resolution. However, *N.J.S.A. 19:60-1.1(c)* requires written notice to change the date of a school election from the third Tuesday in April to the first Tuesday in November must be provided to the county clerk no less than 60 days prior to the third Tuesday in April to take effect for that year's election.

5. Q. What happens if only the board or the governing body, but not both, pass a resolution moving the school election to November?

A. Under the law, the board and governing body each have independent authority to pass the resolution to move the April school election to November.

It is not required that both the board and governing body agree on the change of the election date.

A resolution to change the date from either government office is controlling.

6. Q. If a board or governing body passes the resolution, what other governmental offices should be notified?

A. *N.J.S.A. 19:60-1.1(c)* requires notification to the applicable county clerk no less than 60 days prior to the third Tuesday in April to take effect for that year's election. The New Jersey Department of Education ("Department") also recommends that a copy of the resolution also be provided to the county board of election (and the county superintendent of elections, if there is one in the county); the applicable municipal clerk(s), the applicable school board secretary or secretaries; the state Division of Elections; the Executive County Superintendent and the Department of Community Affairs, Division of Local Government Services.

7. Q. In the case of a regional, merged or consolidated school district, which entities have the authority to move the annual school election to November?

A. Either the individual board or all of the district's constituent governing bodies can move the annual school election to November.

In the case of a limited purpose regional school district, if all of the constituent elementary districts move their elections to November, the regional board election automatically moves to November.

8. Q. If the election is moved to November, can it revert back to April at a later date?

A. Once a school election is moved to November, no action can be taken (either by petition or resolution) for four years (*N.J.S.A.* 19:60-1.1(b)(1)).

9. Q. Does a move to a November election affect a school board's option to hold a special election, as is currently permitted by law four times a year at specified times?

A. No. The four special school election dates (January, March, September and December) remain available. April is not an option.

### **November School Elections**

10. Q. If a board or governing body moves the school election, what is on the ballot for a November election?

A. At the November general election, the voters vote on the school board candidates and any proposed cap override referendum (separate proposal), and may also include a capital spending proposal. There is no vote on the annual school base budget within the levy cap.

11. Q. For the November election, what is the deadline for nomination petitions for school board candidates?

A. *N.J.S.A.* 19:60-7 as amended by P.L. 2013, c.172, states that the deadline for nomination petitions for school board candidates at a November election is on or before 4:00 p.m. of the last Monday in July preceding the November school election.

12. Q. For April school elections, the school board secretary is the filing officer for nomination petitions. Who is the filing officer for November school elections?

A. The county clerk.

13. Q. For April school elections, the board rules on objections to nomination petitions. For the November election, who makes such decisions?

A. The county clerk.

14. Q. Is the November school election a partisan or non-partisan election?

A. Non-partisan.

15. Q. Where will the school board candidates be placed on the ballot?

A. The school election will be on a separate section of the ballot. The school board candidates will not be aligned with any political party or partisan candidates.

16. Q. Who has the authority to design the set-up of the ballot?

A. The county clerk designs the general election ballot. Under the law, the clerk has the “authority to determine the specifications for, and the final arrangement of the official ballots.”

17. Q. In an April school election, the school board determines the hours of the election. What are the hours for the November election?

A. 6:00 a.m. to 8:00 p.m.

18. Q. If school board candidates are elected in November, when does the board re-organize?

A. The first week of January.

19. Q. If the election is moved to November, eliminating the vote on the annual base budget, is the board still required to hold public hearings on the budget as currently required by law?

A. Yes

### **Fiscal Issues**

20. Q. If the election is moved to November, will the school board incur any costs?

A. The law states that a school board would be responsible for any increased costs incurred only by a county board of election if the school election moves to November. It is anticipated that such added costs would be minimal, if any. The law provides that the board of education and the respective board of election can enter into an agreement regarding cost, pursuant to guidelines to be issued by the Secretary of State. Please note that the law does not address the costs incurred by the county clerk or county superintendent of elections.

It is a possibility, although likely a remote one, that there may be a minimal added cost for a larger-sized sample ballot or other paper ballot, depending upon the number of school board candidates or public questions. That is the only anticipated, potential cost, at this time.

A school board would also not be responsible for ballot printing costs as it is the county clerk, not the county board of election which has such responsibilities. Nor would a school board be responsible for any added costs incurred by a county superintendent of elections, if there is such office in the county.

### **Cap Override Referendum (Separate Proposals)**

21. Q. In the case of a successful November separate proposal (cap override) does that affect the current budget or the subsequent budget?

- A. A successful separate proposal (cap override) would allow the district to increase spending in the current budget year for whatever purpose that was cited in the referendum.

### **School Elections Not Moving to November**

22. Q. If a number of school elections are moved to November, will there be any added costs for those boards that continue with the April election?

- A. There is a possibility that there may be an increase in costs, as there will be fewer school districts to share in the overall costs of the April election.

23. Q. For boards that continue with an April school election and base-budget vote, will a cap override referendum (separate proposal) still be on the April ballot?

- A. Yes.

### **Procedure to Move the Annual School Board Election from November to April**

24. Q. If the school election was moved to November can it move back to April for the 2019 election?

- A. Yes. Once a school election is moved to November, no action can be taken (either by petition or resolution) for four years pursuant to *N.J.S.A. 19:60-1.1(b)(1)*. If the election was moved to November in 2015, then 2019 is the first year that the election is eligible to move back to April.

For districts that first moved to their school election from April to November subsequent to November 2015, the four year legal threshold for school elections has not been met for the 2019 election. Those districts must continue to hold November school elections until such time as four separate November elections have been held.

25. Q. What procedure is required for the school board (“board”) or municipal governing body (“governing body”) to move the school election from November back to April?

- A. *N.J.S.A.* 19:60-1.1(b) provides the procedures that must be followed for moving the date of school elections. The date of the annual school election may be moved to the third Tuesday in April without voter approval, upon the adoption of a resolution by the board of education of a local or regional school district, or by the governing body.

The board (or governing body) is required to follow the requirements of the Open Public Meetings Act, (*N.J.S.A.* 10:4-1, *et seq.*) for such action, and should also follow the board’s or governing body’s existing procedures for passage of a resolution.

26. Q. What is the deadline for the passage of a board resolution to move a November school election to April?

- A. Although *N.J.S.A.* 19:60-1.1 (c) provides no statutory deadline for the date of the resolution, if the 2019 school election will be moved from November (2019) to April (2019), written notice of the change in the school election date must be given to the county clerk no less than 85 days prior to the third Tuesday in April to take effect for the 2019 election. For 2019, the 85th day prior to the third Tuesday in April is January 21, 2019.

Note that the resolution must be passed after the November 2018 election, and before the 2019 deadline discussed in the above paragraph.

27. Q. If a board or governing body passes the resolution, what other governmental offices should be notified?

- A. *N.J.S.A.* 19:60-1.1 (c) requires notification to the applicable county clerk no less than 85 days prior to the third Tuesday in April to take effect for that year’s election. The Department also recommends that a copy of the resolutions be provided to the county board of election, the county superintendent of elections (if there is one in the county), the applicable municipal clerks, the school board secretary, the State Division of Elections, the executive county superintendent, and the State Department of Community Affairs, Division of Local Government Services.

28. Q. If the school election is moved from November to April, will the current school board members lose 6 months of time on their service?

- A. Pursuant to *N.J.S.A.* 19:60-1.1 (b)(2) the election of board members goes back to April, therefore the current school board members would have a shorter term due to the induction of the members elected at the April election.