

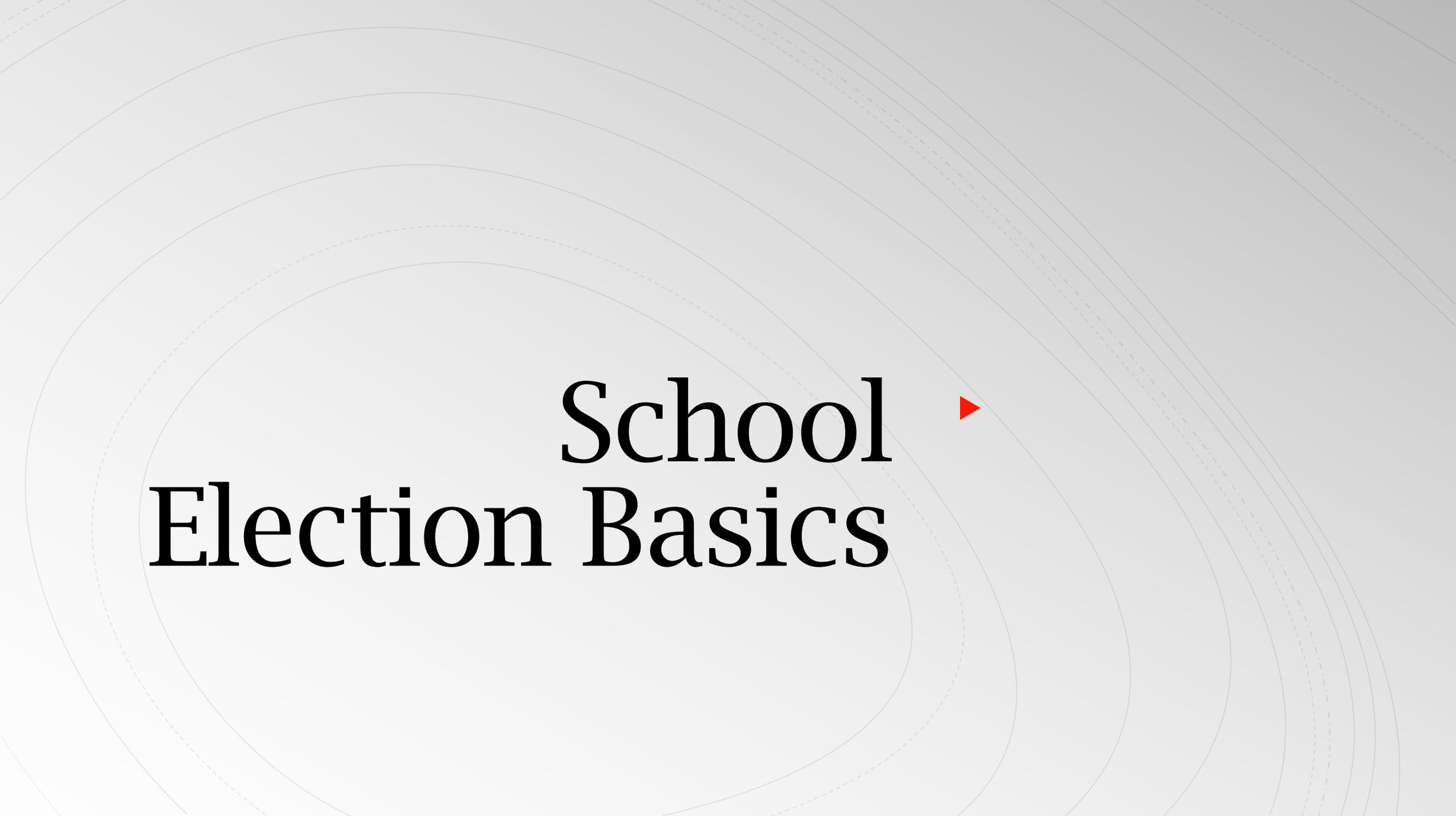


School District Elections

Amy L. De Kok, Legal Counsel
NDSBA Lunch & Learn Series

AGENDA

- School Elections basics
- Election Procedures
- School Board Candidates
- Corrupt Practices

The background features a series of concentric circles in shades of light gray, some solid and some dashed, creating a ripple effect. A small red triangle points to the right, positioned to the right of the word "School".

School Election Basics

What is a school election?

An election held under authority of a school board to:

- Elect board members
- Authorize additional taxation
- Authorize issuance of bonds
- Submit specific questions or propositions to district electors

When must
school
election be
held?

NDCC § 15.1-09-22(1) – each school board must hold an election sometime **between April 1 and June 30** each year

Proper staggering of terms ensures that at least one seat up for election each year

School board may hold a special election at any time and for any lawful purpose

Purposes for Holding Elections

Fill board
vacancies

Recall of board
members

Change in # of
board members

Approval of
bond measure

Approval of
excess tax
levies

Increase
district's limit
of indebtedness

School
reorganization

Change school
district name

School Board

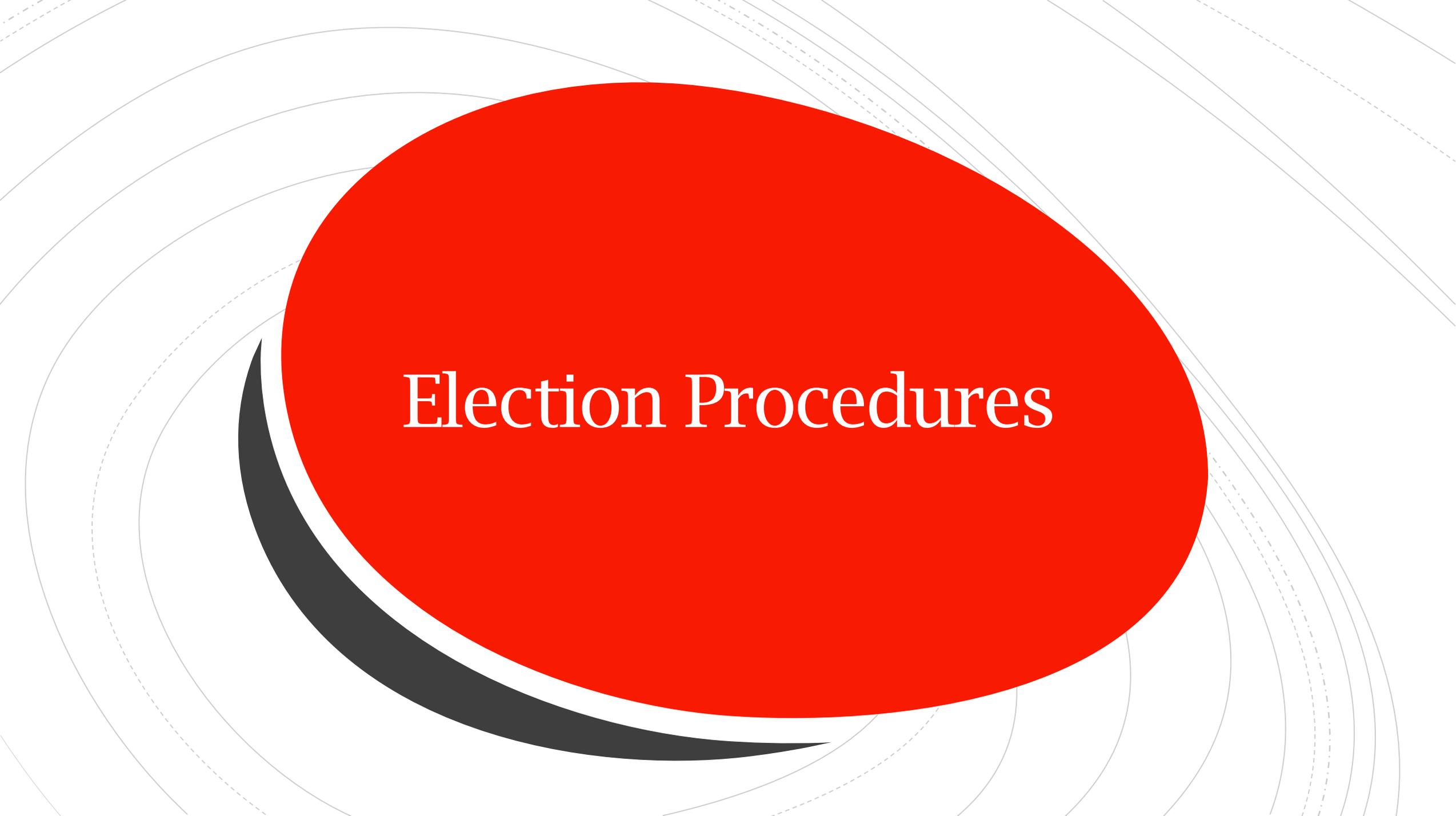
- Ultimately responsible for holding proper election
- Sets date of election(s)
- Determines what questions put to voters
- Acts as canvassing board (except....)

Who
oversees a
school
election?

School Business Manager

- Administers the election (election official)
- Responsible for meeting all deadlines and requirements
- Prepares ballot
- Processes absentee voter applications
- Except....

Who
oversees a
school
election?



Election Procedures

Before we
start, a few
things to
note.....

With a few exceptions, most of these requirements and deadlines will apply to annual elections and special elections, and regardless of issue on the ballot

BUT there are some exceptions and additional requirements/steps depending on the issues or questions on the ballot

Unless otherwise provided by law, a school district election must be conducted, and the votes must be canvassed in same manner as election of county officers (NDCC 15.1-09-07)

NDCC Title 16.1 (Elections)



2021 School Board Election Deadlines Example

Annual school board elections must be held between **April 1 and June 30** (NDCC 15.1-09-22). NDSBA is using **June 8, 2021**, as an **EXAMPLE** election date. **If you have a different election date, compute your schedule in accordance with state law cited below.** If your school board election is held in conjunction with a county election, the county election board should administer the election in the same manner as the county or state election. (NDCC 15.1-09-13 (4))

MARCH							APRIL							MAY							JUNE						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
	1	2	3	4	5	6					1	2	3							1			1	2	3	4	5
7	8	9	10	11	12	13	4	5	6	7	8	9	10	2	3	4	5	6	7	8	6	7	8	9	10	11	12
14	15	16	17	18	19	20	11	12	13	14	15	16	17	9	10	11	12	13	14	15	13	14	15	16	17	18	19
21	22	23	24	25	26	27	18	19	20	21	22	23	24	16	17	18	19	20	21	22	20	21	22	23	24	25	26
28	29	30	31				25	26	27	28	29	30	23	24	25	26	27	28	29	27	28	29	30				
													30	31													

March 6, 2021 - 94 days before the election

30 days before the deadline for candidate names to be printed on the ballot, an official notice of this deadline must be published in the official newspaper of the city or county. (NDCC 15.1-09-09)

April 5, 2021 - 64 days before the election

An individual seeking election to the board of a school district shall prepare and sign a document (Statement of Intent) stating the individual's name and the position for which that individual is a candidate. A candidate shall also file a Statement of Interests as required by section 16.1-09-02. These documents must be filed with the school district business manager or mailed to and in the possession of the business manager by 4:00 p.m. on the 64th day before the election. (NDCC 15.1-09-08)

Each board of a school district that enters into an agreement with the county (to share election expenses) must notify the county auditor in writing, at least 64 days before the election, the offices to be filled at the election and any measures to appear on the ballot. (NDCC 15.1-09-24) NOTE: This deadline only applies to school districts holding the annual election in conjunction with a primary election and sharing election expenses with a county.

April 29, 2021 - 40 days before the election

At least 40 days before the election, the business manager shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all individuals who have indicated their intent to be candidates by meeting the provision in NDCC 15.1-09-08. (NDCC 15.1-09-11)

May 4, 2021 - 35 days before the election

At least 35 days prior to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible. (NDCC 15.1-09-13 (1))

At least 35 days prior to the annual election, the board of each school district shall designate one or more polling places for each precinct. The board shall locate the polling places as conveniently as possible for the voters in the precinct. (NDCC 15.1-09-13 (2))

May 25, 2021 - 14 days before the election

At least fourteen days before the date of an annual or special school district election, the school board shall publish a notice in the official newspaper of the district stating the time and place of the election and the purpose of the vote. (NDCC 15.1-09-09)

June 8, 2021 - Election day

School Board Election

June 14, 2021 - 6 days after the election

On the sixth day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election. (NDCC 15.1-09-17)

June 17, 2021 - 3 days after canvassing

Within three days after the canvass by the school board for a school district election, the business manager of the school district shall provide to each elected individual written notice of the individual's election and of the duty to take an affirmation or oath of office. (NDCC 15.1-09-17)

June 14-24, 2021 - 10 days after canvassing

Within ten days after the canvass by the school board, the business manager shall certify the individuals elected and their terms to the County Superintendent of Schools. (NDCC 15.1-09-17)

An individual elected as a member of or appointed to a school board shall take and file with the school district business manager an affirmation or oath of office within ten days after receiving notice of the election or appointment and before commencing duties. (NDCC 15.1-09-25)

Step 1: Setting Date of Election

- Annual election:
 - ✓ Must occur sometime between April 1st through June 30th each year
 - ✓ Typically held the second Tuesday in June
- According to NDCC 15.1-09-23...in addition to the annual election, a special election may be held at any time and for any purpose, if approved by the school board
- **NOTE** - must consider statutory filing and publication deadlines when setting date of elections

Step 2: Notice of Candidate Filing Deadline

- **Thirty days** before the filing deadline for candidate names to be printed on the ballot, an official notice of this deadline must be published in the official newspaper of the city or county (NDCC 15.1-09-09)
- The filing deadline is **64 days** before the election (so notice must be published 94 days before election)
- Determine ahead of time what the newspaper's deadline for submission is in order to meet the 30 day deadline

Sample Publication Notice

Notice of Filing Deadline

Notice is hereby given that the deadline for filing to have a candidate's name printed on the ballot for the **[Name of School District]** is **[filing deadline date]** by 4:00 p.m. The following offices are up for election:

School Board Member (4 year term)

A candidate for a school district office must prepare and sign a document stating the candidate's name and the position for which the individual is a candidate, and a SFN 10172 Statement of Interests form. Both of these documents must be filed with the school district business manager for **[Name of School District]** by the above deadline date and time. All forms are available from either the school district business manager for **[Name of School District]** or may be obtained on-line at

<https://vip.sos.nd.gov/PortalListDetails.aspx?ptlhPKID=30&ptlPKID=3#content-start>.

Step 3: Candidate Filing Deadline

- **Required candidate filings:**
 - ✓ An individual seeking election to the board of a school district must prepare and sign a document stating the individual's name and the position for which that individual is a candidate (a/k/a Statement of Intent)
 - Affidavit of Candidacy (SFN 2703)
 - School district created or individual candidate created form
 - ✓ The candidate shall also file a statement of interest as required by section 16.1-09-02
 - Statement of Interests (SFN 10172)
- These documents must be filed with the school district business manager, or mailed to and in the possession of the business manager, **by four p.m. on the sixty-fourth day before the election** (NDCC 15.1-09-08)

Step 4: Preparation and Printing of Ballot

- **At least 40 days before election:**
 - The business manager must prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all individuals that completed a Statement of Intent and a Statement of Interest within the timelines required in NDCC 15.1-09-08
- The ballot must be nonpartisan in form and include:
 - The words "official ballot" at the top;
 - The name of the school district;
 - The date of the election;
 - The number of persons to be elected to each office; and
 - Below the list of candidates for each office, blank spaces in which names not printed on the ballot may be written in (i.e., write-in candidates).

Additional Ballot Deadlines

- For UOCAVA (Uniformed and Overseas Citizens Voting Act) voters, ballots must be available at least 46 days before the election
- Absentee ballots must be available in any school district election in accordance with NDCC chapter 16.1-07, including requirement to have a sufficient number of absent voter ballots for use at least 40 days before election

Step 5: Designation of Precincts and Polling Places

- **At least 35 days** prior to the election, the board of each school district shall **designate one or more precincts** for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible (NDCC 15.1-09-13(1))
- **At least 35 days** prior to the election, the board of each school district shall **designate one or more polling places** for the election. The board shall locate the polling places as conveniently as possible for the voters in the precinct. Once established by the board, a polling place must remain a polling place for a precinct until it is changed by subsequent action of the board (NDCC 15.1-09-13(2))

Step 6: Set Poll Hours and Appoint Election Workers

- Board must also set poll hours
 - ✓ No deadline to set
 - ✓ No earlier than 7 am, but no later than 11 am
 - ✓ Must remain open until at least 7 pm, but may be open until 8 pm
- Board must appoint two election judges and two election clerks for each polling place
 - ✓ Board action?
 - ✓ Must take affirmation or oath before opening of polls (NDCC 16.1-05-02(3))
 - ✓ More on this later!

Step 7: Publish Notice of Election



**ELECTION
NOTICE**

- At least **14 days** prior to the election, the board must publish notice in the official newspaper of the district
- Notice must state the **time and place** of the election and the **purpose of the vote**

EXHIBIT

Descriptor Code: BBA-E3

NOTICE OF [Name of District] SCHOOL DISTRICT ELECTION

[District Location], North Dakota

[Day, Month, Year]

Notice is hereby given that the annual school district election of the [Name of District] will be held on [day, month, year] at the polling location(s) listed below.

The polls will be open from [time] and will continue to be open until [time] of that day.

The following official will be elected:

School Board Member ([#] positions) for [#] years (list duration of term)

The following questions will be on the ballot:

The polling locations are as follows:

<u>Precinct No.</u>	<u>Polling Location</u>	<u>Address</u>
---------------------	-------------------------	----------------

If auxiliary aids are required to vote contact [Name] at [phone number] at least 5 days prior to the election.

[Name of District] Business Manager/ Officer
(publish [day, month, year])

End of [Name of District] Exhibit BBA-E3

[03/16]

Sample Notice of
Election (BBA-E3)

Step 8: Election Day – BEFORE polls open

Clerks and judges take oath or affirmation (if haven't yet)

Business manager assigns duties to election workers

Make sure election workers will have all of the supplies they need to carry out duties

Review ballots and materials to make sure they are correct

Ensure appropriate number of election booths/compartments

Post voting instructions and copy of NDCC 16.1-01-12 (election offenses)

Post official ballots, copies of the complete text of any measures, and map of precinct boundaries (if applicable)

Post on the door(s) the date and hours the polling location(s) will be open

Business manager and judges inspect ballot box(es) to make sure empty and then lock

Publicly open sealed package of official ballots

Display the United States flag at each polling place (as per federal law)

Open polls at designated time

Step 8: Election Day - AFTER polls open

Election clerks keep and correct a pollbook as voters approach to vote

Ask each voter to show valid identification

Ask each voter if they are a U.S. citizen and whether they have resided in the district/precinct for at least 30 days

Direct voters to correct polling place if in wrong place

Provide instruction to voters

Permit voters to receive assistance from person of voter's choice (exceptions)

Judges initial ballot, inform voter, and distribute ballot to voter within a secrecy sleeve (NDCC 16.1-13-22)

One person per booth (except if providing lawful assistance)

Provide additional ballots (up to two) if voter spoils ballot

Cancel spoiled ballots immediately

Allow voters to place own completed ballot in ballot box

Do not allow ballots out of the polling place before polls close

Allow voters standing in line at closing time to vote

Ballot box(es) must remain locked except necessary to clear jam or move ballots to make room

Step 8: Election Day - AFTER polls close

Judges count and canvass votes upon closing of polls

Judges' canvass must continue without adjournment until completed and must be open to public

After canvass on election night, judges and clerks must sign the returns and file them with business manager

Wrap and return ballots to business manager

Reports, poll books, oaths, and other required materials delivered to business manager

Business manager shall secure ballots in fireproof storage

Step 9: Canvass of Votes by School Board



- On **sixth day following election**, school board shall meet to canvass all election returns and declare result
- **Open, public meeting** that must be properly noticed (NDCC 44-04-20)
- NDCC 16.1-15-01 (Ballots void and not counted)
- Individual receiving highest number of votes for each office must be declared elected
- If results in tie, see NDCC 15.1-09-16
- Board must record result of election
- Preparation of canvass report (NDCC 16.1-15-04)

Step 10: Notice to Winners

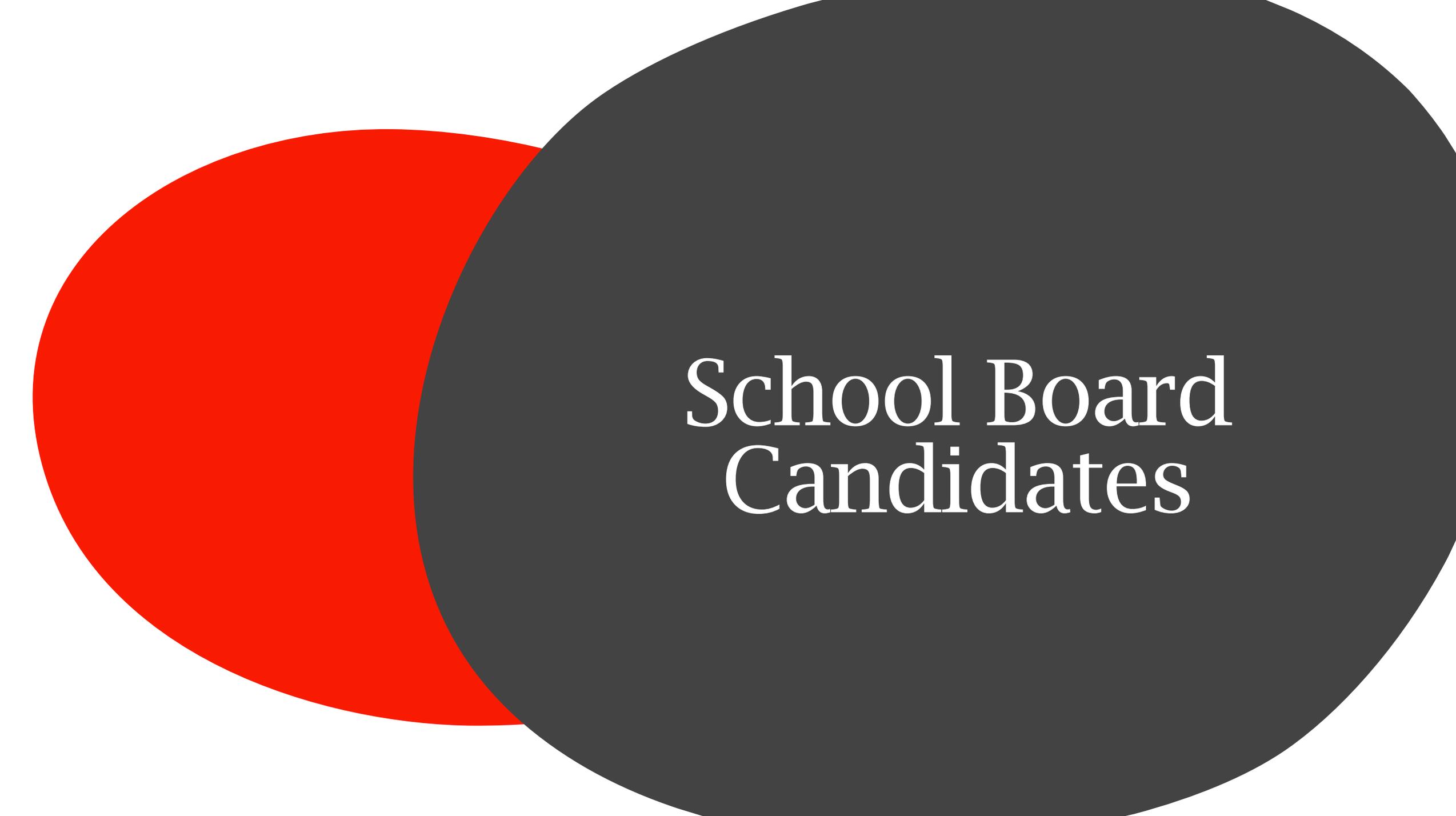
- **Within three days** after the canvass by the school board for a school district election, the business manager of the school district shall provide to each elected individual written notice of the individual's election and the duty to take an affirmation or oath of office (NDCC 15.1-09-17)

- **Within ten days** after the canvass by the school board, the business manager shall certify the individuals elected & their terms to the county superintendent of schools (NDCC 15.1-09-25)
- An individual elected as a member of or appointed to a school board shall take and file with the school district business manager an affirmation or oath of office **within ten days** after receiving notice of the election or appointment and before commencing duties (NDCC 15.1-09-25)

Step 11: Notice to County Superintendent and Oath/Affirmation

A few more things to note....

- If individual elected does not meet qualifications for office (e.g., not a resident, fails to take oath/affirmation) or declines seat, then vacancy occurs (NDCC 44-02-01, 15.1-09-05)
- The term of office for a board member begins at the annual meeting in July following the member's election
- Board may meet and take action between election and annual meeting in July



School Board
Candidates

Who may run for a seat on local school board?

- NDCC 15.1-07-14: An individual who is a qualified elector of this state may serve as a school board member for the school district in which the individual resides
- Qualified elector =
 - a citizen of U.S.
 - who is 18 years or older
 - a resident of this state
 - a resident of school district for 30 days preceding the election
- NDCC 15.1-09-01.1 – public school districts located within exterior boundaries of Indian reservation may have additional eligibility requirements
- What if individual not eligible as of candidate filing deadline?
- What if individual receiving highest number of votes is no longer eligible?
- What about geographic voting areas?

May employees run for school board?

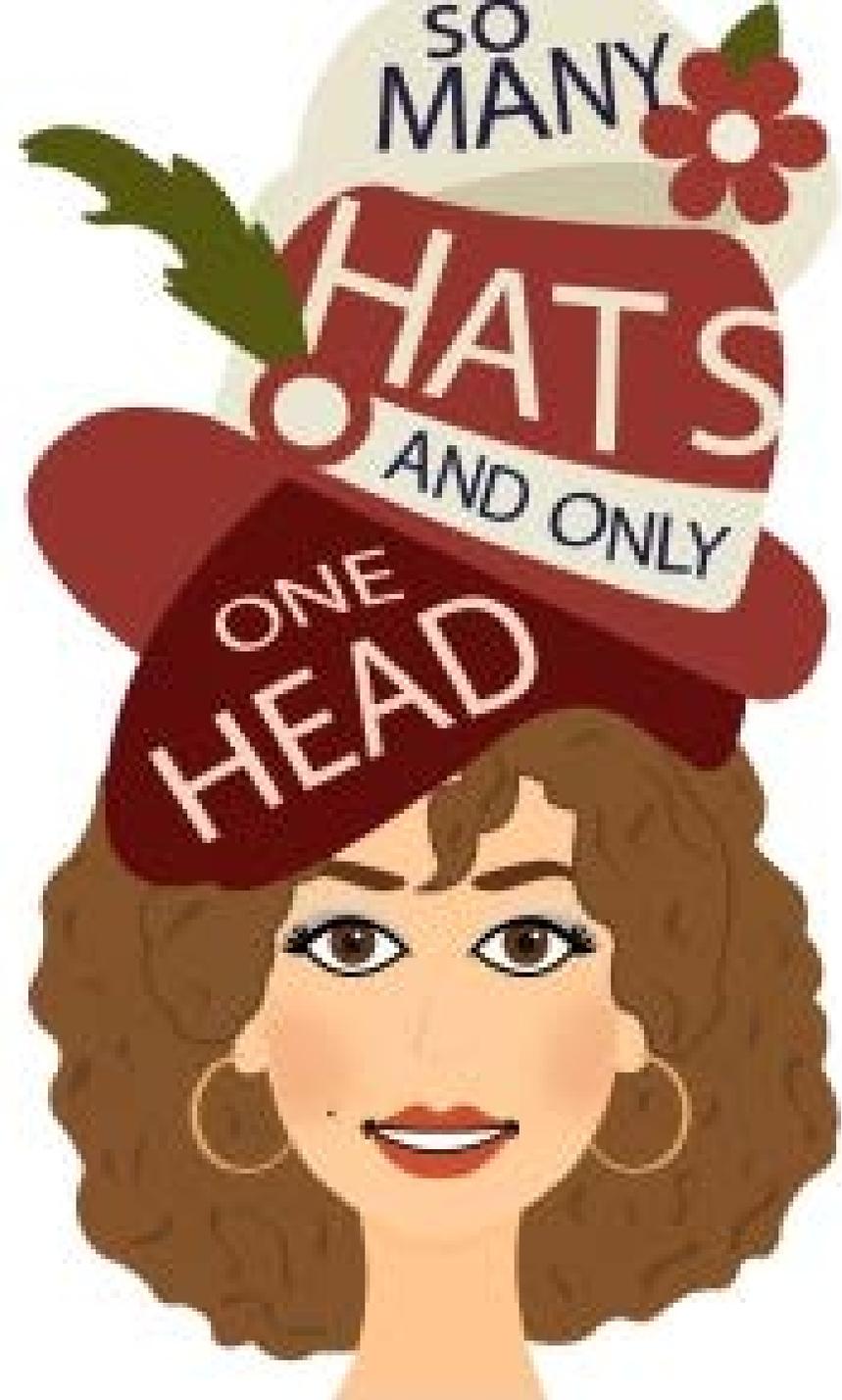
Yes, nothing prohibits a current employee from running

HOWEVER, if elected, may need to make a choice

Teacher v. classified staff

BAA policy

What about spouses of employees?



Corrupt Practices

What constitutes a corrupt practice?

- NDCC 16.1-10-01 (defines corrupt practice)
 - Person willfully expends any money for election purposes contrary to provisions of NDCC chapter 16.1-10
 - Person willfully engages in election offense set forth in section 12.1-14-02 or 12.1-14-03
 - **Person is guilty of using state services or property or services or property of a political subdivision (i.e., public school district) for political purposes**
- “Political purpose” = any activity undertaken in support of or in opposition to a political subdivision ballot measure or election or nomination of a candidate to public office
 - Includes using “vote for”, “oppose”, or similar support or opposition language in any advertisement
 - Factual information may be presented regarding a ballot question solely for purpose of educating voters if information does not advocate for or against

Corrupt Practices

“Property” includes motor vehicles, telephones, typewriters, adding machines, postage or postage meters, funds of money, and buildings.

“Services” includes the use of employees during regular working hours for which such employees have not taken annual or sick leave or other compensatory leave.

Any person violating any provision in Chapter 16.1-10 of the NDCC, for which another penalty is not specifically provided, is guilty of a **class A misdemeanor**.

Amy L. De Kok
Legal Counsel, NDSBA
701-255-4127
1-800-932-8791
amy.dekok@ndsba.org

Next NDSBA Lunch & Learn

When: May 19, 2020 at 12 p.m. CT

What: Updating School Board Policy

Who: Rebecca Duben, NDSBA Policy Director

More info/
register: www.ndsba.org/resources/lunchlearn





NDSBA

**NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION**