

**Bond** 2020 School District Elections and Budget Votes: Planning a "Plan B" May 7, 2020



1

---

---

---

---

---

---

---

---

**Presenters**



**Karen Belanger**  
Executive Director  
Westchester Putnam School Boards Association



**Candace Gomez**  
Member  
Bond, Schoeneck & King - Garden City



**Kate Reid**  
Member  
Bond, Schoeneck & King - Syracuse



2

---

---

---

---

---


---

---

---

**Overview**

- Facts to Remember
- Executive Order 202.26
- Nominating petitions; budget hearing; voter registration; ballot counting
- Questions & Answers



3

---

---

---

---

---

---

---

---

Facts to Remember

- In these unprecedented times during the coronavirus pandemic, school districts will play a critical role in helping voters to participate in the democratic process while simultaneously helping to prevent the spread of COVID-19 through remote voting procedures.



4

---

---

---

---

---

---

---

---

Facts to Remember

- New York State Education Law Supersedes New York State Election Law.
- Apply New York State Education Law and Executive Order 202.26 to June 2020 election/budget vote.



5

---

---

---

---

---

---

---

---

Facts to Remember (cont.)

- The Commissioner of Education has Exclusive and Final Authority Over Election Disputes



6

---

---

---

---

---

---

---

---

Facts to Remember (cont.)

- The Commissioner of Education has consistently ruled that an election (budget vote, bond vote, school board member vote, voter proposition referendum) will not be overturned for technical irregularities *unless* a very strong showing can be made that the outcome *actually would have been different but for the irregularity*.



---

---

---

---

---

---

---

---

7

Executive Order 202.26

- On May 1, 2020, the Governor issued Executive Order 202.26, which sets the date of school district elections and budget votes for **June 9, 2020** and voting shall occur “only by absentee ballot”.



---

---

---

---

---

---

---

---

8

Executive Order (cont.)

- The Executive Order is very unclear
- Many, many questions remain
- Conflicting reasonable legal interpretations can be reached regarding the same particular issue
- Always consult with and rely upon the advice of your designated school attorney



---

---

---

---

---

---

---

---

9

### Nominating Petitions

- Per the Executive Order, the requirement of signatures on nominating petitions has been waived. No signatures need to be gathered. All age and residency requirements remain applicable.
- Nominating petitions must be received (not postmarked) by the District Clerk's Office no later than May 11, 2020 at 5 p.m. in order for a candidate to be placed on the ballot.



---

---

---

---

---

---

---

---

10

### Budget Hearing

- Board must hold public budget hearing 7-14 days before the vote.
- In accordance with Executive Order 202.15, public hearings that were scheduled to be conducted in April or May are now to be held virtually through the use of video conferencing or teleconferencing.
- Consistent with that Order, it is recommended that districts schedule this year's budget hearing prior to June 1st.



---

---

---

---

---

---

---

---

11

### Voter Registration

- Poll Registration vs. Personal Registration



---

---

---

---

---

---

---

---

12

### Ballot Counting

- Only absentee ballots that are received by the Office of the District Clerk by June 9, 2020 at 5 p.m. may be counted. (*Not postmarked by June 9<sup>th</sup>*).



13

---

---

---

---

---

---

---

---

### Absentee Ballots Opened in Public

- Education Law 2018-a(10) requires the election inspectors to examine and count the absentee ballots after the polls close and, while the election inspectors are examining absentee ballots, "any qualified voter present in the polling place may object to the voting of the ballot contained in any envelope" upon certain specified grounds. During a typical election, this necessitates the opening of the ballots in public.



14

---

---

---

---

---

---

---

---

### Absentee Ballots Opened in Public (cont.)

- It's not clear how a voter would (could) even object to an absentee ballot this year if voters are not going to be physically present in the polling place.
- However, in districts that already have the technological capability to do so, it may be advisable to live-stream the opening of ballots.
- If a district doesn't already have the technological capability to live-stream, then it may not be advisable to go through the time and expense of obtaining that capability.



15

---

---

---

---


---

---

---

---

Questions?



16

---

---

---

---

---


---

---

---

Questions

- Will the State provide guidance on the printing of ballots for school elections?
- Will the State provide a standardized form for use by districts?
- Will the State provide a list of approved printing companies who are authorized to print absentee ballots?



17

---

---

---

---

---


---

---

---

Answer

No, we have not received any indication that the State will be providing additional information to school districts regarding the upcoming election/budget vote on June 9. The only additional communication that we expect to receive is a renewed Executive Order on June 1 extending the provisions of the May 1 Executive Order.



18

---

---

---

---

---


---

---

---

Question

- Do districts need to produce machine readable ballots?



---

---

---

---

---

---


---

---

19

Answer

- No, districts are not required to produce machine readable absentee ballots.
- Neither the applicable statutes nor the Executive Order address the use of machines to count absentee ballots. It appears that districts may be able to use machine readable ballots if they choose to do so. Per Education Law § 2018-a and § 2018-b, absentee ballot envelopes must be opened by election inspectors and the ballot must be deposited into the proper box. Such ballots shall then be counted or canvassed by the election inspectors. (Presumably by either hand count or machine count.)



---

---

---

---

---

---


---

---

20

Question

- Will districts need to print Spanish ballots? If yes, will districts be required to send to each qualified voter in the district?



---

---

---

---

---

---

---

---

21

Answer

Yes, for districts covered by Section 203 of the Voting Rights Act of 1965. Pursuant to that section, "whenever any State or political subdivision [covered by the section] provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as the English language."



22

---

---

---

---

---

---

---

---

Questions

- Who is authorized to open and verify ballots?
- Will the State require election inspectors to be utilized for this process?



23

---

---

---

---

---

---

---

---

Answer

- Per Education Law § 2018-a and § 2018-b, absentee ballot envelopes must be opened by election inspectors. The Executive Order did not waive the requirement for election inspectors.



24

---

---

---

---

---

---

---

---



Question

- Will the “Property Tax Report Card” be able to be reissued if changes are made to the budget after the board adopts the budget?



---

---

---

---

---

---

---

---

25

Answer

Changes cannot be made to the budget after the budget is adopted by the Board of Education, except in the case of a revote.



---

---

---

---

---

---

---

---

26

Question

What is the earliest time ballots can be canvassed?



---

---

---

---

---

---


---

---

27

Answer

5 pm on the day of the election



28

---

---

---

---

---


---

---

---

Question

What is the latest time the ballots can be tabulated?



29

---

---

---

---

---


---

---

---

Answer

No deadline.



30

---

---

---

---

---


---

---

---

Question

Who certifies the results of the election?



31

---

---

---

---

---


---

---

---

Answer

No certification. Just a declaration by the board. Declaration within 24 hours of district clerk reporting the results to the board.



32

---

---

---

---

---


---

---

---

Question

Are districts authorized to develop and print absentee ballots in their district for dissemination?



33

---

---

---

---

---

---

---

---

Answer

Yes, as long as those ballots are in compliance with NY State Education Law and the Governor's Executive Order.



34

---

---

---

---

---

---

---

---

Question

When do election inspectors need to arrive?



35

---

---

---

---

---

---

---

---

Answer

Districts may want to consider a different schedule for when election inspectors arrive on the day of the election. It may not make sense to have inspectors there early on the morning of June 9 if they are not needed until about 5 p.m.



36

---

---

---

---

---

---

---

---



37

---

---

---

---


---

---

---

---

- “Keep Calm and Carry On” was a motivational poster produced by the British government in 1939 in preparation for the Second World War. The poster was intended to raise the morale of the British public as they were being threatened with mass air attacks on major cities.
- School district elections and budget votes are not war – but they are difficult. Many will never know quite how much preparation and careful execution is required by districts to conduct a proper election and budget vote. We have seen you in the trenches, and we applaud you.
- When “the going gets tough” – we hope that the information provided in this webinar will help you to “Keep Calm and Carry On” with a successful election and budget vote.



38

---

---

---

---

---

---

---

---