

# Chapter 392-107 WAC

## EDUCATIONAL SERVICE DISTRICTS—ELECTION OF BOARD MEMBERS

(Formerly chapter 180-22 WAC)

### WAC

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### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

392-107-100	Purpose and authority. [Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-107-100, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.310.020, 28A.210.080. WSR 02-18-052, § 180-22-100, filed 8/28/02, effective 9/28/02. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-22-100, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.21.020. WSR 84-21-001 (Order 9-84), § 180-22-100, filed 10/4/84.] Decodified by WSR 06-19-033, filed 9/13/06, effective 9/13/06. Recodified as § 180-22-100.
392-107-140	Territorial organization of educational service districts. [Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-107-140, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.310.020, 28A.210.080. WSR 02-18-052, § 180-22-140, filed 8/28/02, effective 9/28/02. Statutory Authority: RCW 28A.21.020. WSR 84-21-001 (Order 9-84), § 180-22-140, filed 10/4/84.] Decodified by WSR 06-19-033, filed 9/13/06, effective 9/13/06. Recodified as § 180-22-140.
392-107-150	Educational service districts—Criteria for organization. [Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-107-150, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.310.020, 28A.210.080. WSR 02-18-052, § 180-22-150, filed 8/28/02, effective 9/28/02. Statutory Authority: RCW 28A.310.020. WSR 98-05-003, § 180-22-150, filed 2/4/98, effective 3/7/98. Statutory Authority: RCW 28A.21.020. WSR 84-21-001 (Order 9-84), § 180-22-150, filed 10/4/84; Order 4-77, § 180-22-150, filed 6/2/77; Order 3-69, § 180-22-150, filed 6/27/69; Emergency Order 1-69, filed 5/1/69.] Decodified by WSR 06-19-033, filed 9/13/06, effective 9/13/06. Recodified as § 180-22-150.

**WAC 392-107-200 Purpose and authority.** (1) The purpose of this chapter is to establish the procedures for electing the members of the boards of directors of the educational service districts.

(2) The authority for this chapter is RCW 28A.310.080.

[Statutory Authority: RCW 28A.310.080. WSR 07-17-182, § 392-107-200, filed 8/22/07, effective 9/22/07.]

**WAC 392-107-201 Election of educational service district board members.** (1) The procedures governing the election of members to the boards of directors of educational service districts are set forth under RCW 28A.310.080

(7/18/17)

through 28A.310.110 and WAC 392-107-205 through 392-107-225.

(2) Elections for members of boards of educational service districts must be conducted in odd-numbered years.

[Statutory Authority: RCW 28A.310.080. WSR 17-15-100, § 392-107-201, filed 7/18/17, effective 8/18/17; WSR 07-17-182, § 392-107-201, filed 8/22/07, effective 9/22/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-107-201, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.310.020, 28A.210.080. WSR 02-18-052, § 180-22-201, filed 8/28/02, effective 9/28/02.]

**WAC 392-107-205 Electors.** An elector is each individual member of a public school board of directors. The office of superintendent of public instruction will obtain the list of electors from the Washington state school directors association or the individual educational service districts. The list must include each public school director's: Name, mailing address, school district name, and board member position or director district number.

[Statutory Authority: RCW 28A.310.080. WSR 17-15-100, § 392-107-205, filed 7/18/17, effective 8/18/17; WSR 07-17-182, § 392-107-205, filed 8/22/07, effective 9/22/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-107-205, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.310.020, 28A.210.080. WSR 02-18-052, § 180-22-205, filed 8/28/02, effective 9/28/02.]

**WAC 392-107-210 Call of election.** On or before August 25th of odd-numbered years, the superintendent of public instruction must publicize a call for election. The call of election must include an election timeline, candidate filing information and forms, and voting information. The timeline and other relevant election information will be posted to the superintendent of public instruction's public web site. The superintendent will issue a press release or similar form of public communication to provide election information to the public.

[Statutory Authority: RCW 28A.310.080. WSR 17-15-100, § 392-107-210, filed 7/18/17, effective 8/18/17; WSR 07-17-182, § 392-107-210, filed 8/22/07, effective 9/22/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-107-210, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.310.020, 28A.210.080. WSR 02-18-052, § 180-22-210, filed 8/28/02, effective 9/28/02.]

**WAC 392-107-215 Candidate qualifications—Forms—Filing—Withdrawal of candidacy.** (1) Eligibility. A person is eligible to be a candidate for membership on an educational service district board if he or she is a registered voter and a resident of the board-member district for which the candidate files. Restriction on other service pursuant to RCW 28A.310.070.

(2) Declaration of candidacy. A person who desires to be a candidate must complete and file a declaration of candidacy

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form with the office of superintendent of public instruction as a condition to having his or her name placed on the official ballot.

The office of superintendent of public instruction will provide the declaration of candidacy form, which must include the candidate's name, residential address, mailing address (if different from residence), phone number, email address, exact name to be printed on ballot, the position the candidate is running for, and the candidate's signature and date signed. The form must also include the following declaration:

I declare that the above information is true, that I am a registered voter residing at the address listed above, that I am a candidate for the office listed above, and that I am aware if elected, I cannot serve as an employee of a school district or as a member of a board of directors of a common school district or as a member of the state board of education and as a member of an educational service district board at the same time. I swear, or affirm, that I will support the Constitution and laws of the United States, and the Constitution and laws of the state of Washington.

(3) Optional candidate statement. A candidate has the option of completing and filing a candidate statement and photo for inclusion with balloting information. The candidate statement, if submitted, shall not exceed three hundred words. The candidate may include one head-shot photo. The candidate statement and photo must be filed by the date and manner provided in the election timeline.

(4) Filing period. The declaration of candidacy may be filed by postal mail or in person. If filed by mail, the declaration must be postmarked on or by September 16th. If the declaration is filed in person, it must be delivered to the office of superintendent of public instruction on or by September 16th, or the business day otherwise specified in the election timeline. Any declaration postmarked or received after the close of the filing period will not be accepted.

(5) Any candidate may withdraw his or her declaration of candidacy by completing and signing a statement of withdrawal form and filing the form with the office of superintendent of public instruction on or before 5:00 p.m. September 21st (or business day set forth in election timeline). A candidate's failure to withdraw will result in the inclusion of the candidate's name on the appropriate election ballot.

[Statutory Authority: RCW 28A.310.080, WSR 17-15-100, § 392-107-215, filed 7/18/17, effective 8/18/17. Statutory Authority: 2006 c 263, WSR 06-14-009, recodified as § 392-107-215, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.310.020, 28A.210.080, WSR 02-18-052, § 180-22-215, filed 8/28/02, effective 9/28/02.]

**WAC 392-107-220 Balloting.** (1) The office of superintendent of public instruction must prepare ballots, subject to the following conditions:

(a) The ballot for each position subject to election must contain the name of each candidate eligible for the particular position;

(b) The ballot must include a separate listing of the candidates for each board-member position open in the educational service district; and

(c) A board-member position shall be stricken from the ballot if no candidate files for the position within the time-

lines specified in RCW 28A.310.080 and WAC 180-22-215 during the candidate filing period.

(2) The voting package must include the following:

(a) Official ballot;

(b) Ballot return envelope, marked "Official Ballot" and preaddressed to the office of superintendent of public instruction. The return address area of the envelope must be preaddressed with the elector's name, mailing address, and school district;

(c) Secrecy envelope, consisting of a plain envelope with no markings that is smaller than the ballot return envelope;

(d) Instructions to electors, which must identify how to mark the ballot, the date the ballot must be postmarked or returned, and directions on how to place the ballot in the secrecy envelope and place the secrecy envelope in the ballot return envelope;

(e) Candidate statements and photos, which may be compiled into a single document.

(3) Marking of ballots. Each elector may vote for one candidate in each board-member position named on his or her ballot by placing an "X" or other mark as instructed in the space provided next to the name of a candidate.

(4) Return of ballots. Each elector must complete voting by:

(a) Placing the marked official ballot in the secrecy envelope;

(b) Sealing the secrecy envelope;

(c) Placing the secrecy envelope containing the official ballot in the ballot return envelope;

(d) Sealing the ballot return envelope; and

(e) If not already designated, completing the following information on the face of the official ballot envelope: Name, mailing address, identification of school district and educational service district.

(5) Voted ballots must be postmarked on or before October 16th. Ballots delivered in person must be received at the office of superintendent of public instruction on or before October 16th. Voted ballots must be mailed or delivered to the office of superintendent of public instruction.

[Statutory Authority: RCW 28A.310.080, WSR 17-15-100, § 392-107-220, filed 7/18/17, effective 8/18/17; WSR 07-17-182, § 392-107-220, filed 8/22/07, effective 9/22/07. Statutory Authority: 2006 c 263, WSR 06-14-009, recodified as § 392-107-220, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.310.020, 28A.210.080, WSR 02-18-052, § 180-22-220, filed 8/28/02, effective 9/28/02.]

**WAC 392-107-225 Counting—Ineligible votes—Recount—Certification of election—Special election.**

(1)(a) As official ballot envelopes are received by the superintendent of public instruction, a preliminary determination must be made as to the eligibility of the elector and a record shall be made on the list of electors that the elector has voted.

(b) Official ballot envelopes not submitted in compliance with this chapter and other envelopes containing ballots must be set aside for a final review and acceptance or rejection by the election board.

(2)(a) The election board must convene for the purpose of counting votes on or before October 25th, but not earlier than October 21st.

(b) Official ballot envelopes that are accepted by the election board must be opened. The secrecy envelope must be

removed and placed aside, unopened. The secrecy envelopes must then be opened and the votes counted by the election board.

(c) No record shall be made or maintained of the candidate for which any elector cast his or her vote.

(3) Ineligible votes. The following ballots and votes must be declared void and will not be accepted:

(a) Votes for write-in candidates.

(b) Votes cast on other than an official ballot.

(c) Ballots which contain a vote for more than one candidate in a board-member position.

(d) Ballots contained in other than the official ballot envelope.

(e) Ballots contained in the official ballot envelope upon which the elector is not designated by name.

(f) Ballots postmarked after October 16th; hand-delivered ballots received after October 16th; ballots postmarked on or before October 16th but received after October 21st; mailed ballots with illegible postmarks received after October 21st.

(g) Such other ballots or votes as the election board shall determine to be unidentifiable or unlawful.

(4)(a) Recounts. Automatic. A recount of votes cast will be automatic if the electoral vote difference between any two candidates for the same position is one vote or less than one percent of electoral votes on a single ballot cast for the position, whichever is greater.

(b) Recounts. Upon request. The request must be made in writing and received by the superintendent of public instruction.

(5) Certification of election. Within ten calendar days after the date upon which the votes were counted, and no sooner than eight calendar days after the votes are counted by the election board, the superintendent of public instruction shall officially certify to the county auditor of the headquarters county of the educational service district the name or names of persons elected to membership on the educational service district board of directors.

(6) Run-off election. If no candidate for any one position receives a minimum of fifty percent plus one of the total votes for such position, the superintendent of public instruction must call a run-off election between the two candidates receiving the two highest vote totals for such position. The call for run-off election by the superintendent of public instruction must occur no later than November 1st. Ballots will be mailed to the same list of electors as were issued ballots for the initial election. In the event of a tie, the winner will be determined by lot drawing. To conduct the lot draw, the superintendent of public instruction, or designee, will place both names in a container and randomly draw one of the names. The lot draw will be conducted at the office of the superintendent of public instruction and will be witnessed by the three member election board. The candidate whose name is drawn will be deemed elected.

[Statutory Authority: RCW 28A.310.080. WSR 17-15-100, § 392-107-225, filed 7/18/17, effective 8/18/17; WSR 07-17-182, § 392-107-225, filed 8/22/07, effective 9/22/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-107-225, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.310.020, 28A.210.080. WSR 02-18-052, § 180-22-225, filed 8/28/02, effective 9/28/02.]