

SCHOOL VOTES SET FOR JUNE 9 UNDER SUBSTANTIALLY REVAMPED PROCEDURES

Hodgson Russ Education Alert
May 2, 2020

Late Friday afternoon, Governor Cuomo issued a long-awaited Executive Order (No. 202.26) establishing the date and associated procedures for the 2020 school district budget vote and board election (the “school vote”). This followed the initial postponement of the school vote which had been scheduled for May 19. The school vote will now be conducted on **Tuesday, June 9, 2020**.

The Executive Order specifies new (and burdensome) procedures and timelines for the school vote, which include the following:

- The school vote will be conducted entirely by **absentee ballot**;
- School districts must prepare absentee ballots for the school vote;
- School districts must send an absentee ballot to all qualified voters in the district;
- Each absentee ballot must include a postage paid return envelope, and be accompanied by a “**postcard notice**” identifying the date of the election, the date of the adjourned budget hearing, and the definition of a qualified voter;
- Legal notice of the budget vote must be published **two times**, not four times as is usually the case;
- The first publication must occur no later than **Tuesday, May 12** (28 days before the vote);
- The legal notice must provide for an “**adjourned budget hearing**”;
- The adjourned budget hearing must be conducted **remotely**;
- The **Property Tax Report Card** is due on **May 22**, 18 days before the vote;
- The **minimum threshold of signature requirements** for Board of Education candidates has been **eliminated** (all other requirements to be included on the ballot still apply);
- Board of Education candidates must be listed alphabetically on the ballot; and
- Ballots in **small city school districts** must be set 30 days before the election—i.e., not later than **Sunday, May 10**.

This Executive Order raises a number of questions that we will further analyze in the coming days. For instance, it is not clear how school districts which do require personal registration of voters will be able to identify all the qualified voters in the

Attorneys

John Alessi
Luisa Bostick
Peter Bradley
Andrew Drilling
Ryan Everhart
Michael Flanagan
Andrew Freedman
John Godwin
Elizabeth Holden
Richard Kaiser
Michael Maxwell
Elizabeth McPhail
Lindsay Menasco
Paul Meosky
Kinsey O'Brien
A. Joseph Scott III
Daniel Spitzer
Jeffrey Stone
Jeffrey Swiatek
Marla Waiss
Sujata Yalamanchili

Practices & Industries

Education

SCHOOL VOTES SET FOR JUNE 9 UNDER SUBSTANTIALLY REVAMPED PROCEDURES

district to whom the district must issue absentee ballots. In addition, it is not clear whether voters have the ability to submit propositions to be included in the school vote. The Executive Order also does not specify any particular procedures for hosting the adjourned budget hearing (other than indicating it must be done remotely). Nor does the Executive Order indicate when the District must send out the absentee ballots and the accompanying postcard notice, when the second school vote notice must be published, who must be present to count the vote and announce the results, or what the district should do in the event the budget is defeated.

We advise that you immediately post the new budget vote date on your district's website, clarifying for the voters that absentee balloting via mail will be utilized for everyone, without the necessity of voters traveling to polling places. In addition, since it appears that board candidate nominating petitions are still due 30 days prior to the vote, we advise that you publish notice of the new requirements and timelines for board candidate nominations on the district website as well.

Because the legal notice of the vote will need to be published quite quickly, your district's clerk should get in touch immediately with the newspaper(s) in which your district normally publishes the legal notice of the annual vote. Notify the paper(s) that the legal notice will be coming to them this week and will need to appear in print not later than **Tuesday, May 12**. Determine when they must have the final copy in order to make that publication deadline, and then work with us to finalize the legal notice in a timely manner.

We will continue to monitor and assess the implementation of this Executive Order, as well as any further clarifying guidance that may be issued to address the many questions that remain.

Please contact Jeff Swiatek (716.848.1449), Jeff Stone (716.848.1327), or Andrew Freedman (716.848.1332) with questions regarding the upcoming budget vote and school board elections.

Please also check our Coronavirus Resource Center and our CARES Act page to access information related to both of these rapidly evolving topics.

If you received this alert from a third party or from visiting our website, and would like to be added to any of our mailing lists, please visit us at: <https://forms.hodgsonruss.net/sign-up-for-email-and-other-communications.html> .