

Trinity Valley Community College

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Trinity Valley Community College
107501

BOARD MEMBERS:
ELECTIONS

BBB
(LEGAL)

METHOD OF ELECTION

Election of Trustees shall be from single-member districts. *Education Code 130.0822(a)*

NUMBER AND TERM

Either two or three Trustees shall be elected at each election, the number of Trustees depending upon that required to constitute a Board of nine to serve terms of six years. *Education Code 130.082(d), 130.0822(c)*

SINGLE-MEMBER
DISTRICTS

If the Board orders that all or a majority of the Trustees shall be elected from single-member Trustee districts, the Board shall divide the College District into the appropriate number of Trustee districts, based on the number of members of the Board that are to be elected from single-member districts, and shall number each Trustee district.

The Trustee districts must be compact and contiguous and must be as nearly as practicable of equal population according to the last preceding federal census. Trustee districts must be drawn not later than the 90th day before the day of the first election of Trustees from single-member districts.

The Board may provide for Trustees holding office on the date of the initial election of Trustees from single-member districts to serve the remainder of their terms and to represent a Trustee district for that term without having residency in that Trustee district.

Unless the Board has made provision for Trustees to complete their term, as described above, residents of each Trustee district are entitled to elect one Trustee to the Board. A candidate for Trustee must be a resident of the Trustee district the candidate seeks to represent.

Not later than the 90th day before the day of the first regular Trustee election at which Trustees may officially recognize and act on the last preceding federal census, the Board shall redivide the College District into the appropriate number of Trustee districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than ten percent. Redivision of the College District shall be in the manner provided for the initial division of the College

District.

After each redistricting, all positions on the Board shall be filled unless the Board determines that Trustees shall be elected from the new Trustee districts as provided by Education Code 130.0826. The Trustees then elected shall draw lots for staggered terms as provided by Education Code 130.082.

The Board of any junior college district that elects some or all of its members from single-member districts and in which the Trustees serve staggered terms may provide for the Trustees in office at the first election after a junior college district is redistricted to serve for the remainder of their terms in accordance with Education Code 130.0826.

If the Board of Trustees provides for the Trustees in office to serve for the remainder of their terms in accordance with Education Code 130.0826, the Trustee districts established by the redistricting plan shall be filled as the staggered terms of Trustees in office expire. When the Board adopts a redistricting plan, the Board shall determine from which new Trustee district the position of each Trustee in office will be filled as it becomes vacant.

Education Code 130.0826 does not authorize a Trustee of a junior college district to continue in office after a redistricting plan takes effect if the member no longer resides in the district from which the Trustee was elected.

This method of election does not apply to a junior college district to which Education Code 130.081, 130.083, 130.0821, or 130.088 applies, or to a junior college district required by other law to elect Trustees from single-member districts. This method of election does not apply to the election of Trustees in any college district in which the election of Trustees is governed by a court order so long as that order remains in effect. This method of election does apply to an independent school district junior college district governed by a separate Board.

Education Code 130.0822, 130.0826

FILING INFORMATION

A candidate for any position may have his or her name printed on a ballot for election to any position to be filled at each regular election by filing a written statement, signed by the candidate, with the Secretary of the Board not later than 5:00 p.m. of the 62nd day before the day of the election. An application may not be filed earlier than the 30th day before the date of the filing deadline. The application must state the number of the position for which the candidate is filing or the name of the incumbent member of the Board holding the position sought. The application shall include all statutorily required information, including a statement that the candidate is aware of the nepotism law. The location on the ballot of the names of the candidates for each position shall be chosen by lot by the Board. The candidate shall be eligible to run for only one position in each election.

Education Code 130.082(g); Election Code 31.0021, 141.031(4); 144.005

WRITE-IN VOTING

In a general or special election for members of the governing body of a junior college district, a write-in vote may not be counted for a person unless the person has filed a declaration of write-in candidacy with the Secretary of the Board in the manner provided for write-in candidates in the general election for state and county officers. A declaration of write-in candidacy must be filed not later than 5:00 p.m. of the fifth day after the date for a place on the ballot is required to be filed. Subchapter B, Chapter 146, Election Code, applies to write-in voting in an election for members of the governing body except to the extent of a conflict with this section. *Education Code 130.0825*

ELECTION OF UNOPPOSED CANDIDATE In any county other than a county in which write-in votes may be counted only for names appearing on a list of write-in candidates, the Board may declare each unopposed candidate elected to the office if:

1. Each candidate whose name is to appear on the ballot is unopposed; and
2. No proposition is to appear on the ballot.

In the case of an election in which any members of the Board are elected from single-member districts, the unopposed candidate procedures can apply to the election in a particular single-member district if each candidate whose name is to appear on the ballot in that district is unopposed and the other requirements described above are met.

Election Code 2.051

The Board may declare each unopposed candidate elected to the office upon receipt of certification from the authority responsible for having the official ballot prepared. The certification must state that only one candidate's name is to appear on the ballot for that office and no candidate's name is to be placed on a list of write-in candidates for that office under applicable law. If the Board makes such a declaration, the election is not held. A copy of the order or ordinance must be posted on election day at each polling place that would have been used in the election. *Election Code 2.052, 2.053(a), (b)*

LOYALTY OATH

Before a candidate can have his or her name placed on the ballot, he or she must execute and have notarized the loyalty oath. *Election Code 141.031; The Socialist Workers Party v. Martin, 345 F. Supp. 1132 (S.D. Tex. 1972), aff'd 483 F.2d 554 (5th Cir. 1973)*

NEPOTISM

A candidate shall not take any affirmative action to influence a College District employee or current Trustee regarding the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of a person related to the candidate within a prohibited degree of relationship under the nepotism law. [See DBE(EXHIBIT)] However, this prohibition does not apply to a candidate's actions taken with respect to a bona fide class or category of employees or prospective employees. *Gov't Code 573.042*

GENERAL ELECTION DATES

Election of Trustees of the College District shall be on one of the following dates:

1. The first Saturday in May, or
2. The first Tuesday after the first Monday in November.

Election Code 41.001

CHANGING ELECTION DATES

The Board may, not later than December 31, 2004, change the date on which it holds its general election for officers to another authorized uniform election date. *Election Code 41.0052(a)*

NOTICE

The Board shall call the election not later than the 62nd day before election day. Notice of the election shall be posted in at least three public places in the College District and shall also be published at least once, not earlier than the 30th day or later than the tenth day before election day, in a newspaper published within the College District's boundaries or in a newspaper of general circulation in the College District if none is published within the College District's boundaries. *Election Code 3.005, 4.003(a)(1); Education Code 130.082(f)*

The notice shall state the nature and date of the election, the location of each polling place, and the hours the polls will be open. The Board shall retain a copy of the published notice that contains the name of the newspaper and the date of publication and shall preserve that copy for 60 days after election day. *Election Code 4.004, 4.005*

POLLING PLACES

Each polling place shall be accessible to and usable by the elderly and physically disabled. *Election Code 43.034*

POSTING

In addition to the notice described above, the College District shall, not later than the 21st day before election day, post a copy of the notice on the bulletin board used for posting notices of the meetings of the Board. The notice must include the location of each polling place. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the Board after the last posting is made. *Election Code 4.003(b), 4.004, 4.005*

NOTICE OF VOTING RIGHTS HOTLINE

A notice, in the form prescribed by the secretary of state, informing voters of the telephone number and purpose of the secretary of state's toll-free hotline for reporting existing or potential abuse of voting rights, shall be continuously posted in a prominent location at each polling place during the early voting period and on election day for each election held on a uniform election date. *Election Code 31.0055*

BALLOT AND ELECTION OFFICIALS

The ballot shall be printed in the form required by law. The Board shall appoint election judges, set the maximum number of election clerks, and designate polling places. *Election Code 32.005(a), 32.033(a), 43.034, 52.061-.064, 52.069, 52.093-.094*

POSTING SIGNS AT POLLING PLACES PROHIBITED

A person other than an election officer commits an offense if the person posts a sign, card, poster, or similar material at a polling place, including the area within 100 feet of an outside door through which a voter may enter the building in which the polling place is located. *Election Code 62.013(b)*

VOTING MACHINES AND PUNCH-CARD BALLOTS

Effective January 1, 2006, a voting system may not be used in an election if the system uses mechanical voting machines or a punch-card ballot or similar form of tabulating card. *Election Code 122.001(d)*

VOTERS WITH DISABILITIES

A voting system that is acquired on or after September 1, 1999, must comply with Section 504 and Title II of the ADA and must also provide a practical and effective means for voters with physical disabilities to cast a secret ballot. *Election Code 122.0011*
[See GL]

BILINGUAL MATERIALS

The College District shall provide bilingual election materials, as specified by law, when the director of the federal census determines that:

1. More than five percent of the citizens of voting age of the College District are members of a single language minority and are limited-English proficient, or more than 10,000 of the citizens of voting age of the College District are members of a single language minority and are limited-English proficient; and
2. The illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate, illiteracy defined as the failure to complete the fifth primary grade.

The term "limited-English proficient" means unable to speak or understand English adequately enough to participate in the electoral process.

The term "language minorities" or "language minority group" means people who are American Indian, Asian American, Alaskan natives, or of Spanish heritage.

42 U.S.C. 1973aa-1a

Except as provided by Election Code 272.003, bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions.

An election precinct may be exempt from the bilingual requirement if official census information or other information indicates that persons of Spanish origin or descent comprise less than five percent of the precinct's inhabitants.

Election Code 272.002, 272.003

EARLY VOTING

The Board shall provide for early voting in Board elections as provided by law. *Election Code 81.001, 88.004, 101.001-112.010*

CANVASS RETURNS

The Board shall canvass the returns at the time set by the presiding officer not earlier than the eighth day or later than the 11th day after election day.

Two members of the Board constitute a quorum for purposes of canvassing an election.

Election Code 67.003, 67.004(a)

CERTIFICATE OF ELECTION

After the completion of a canvass, the presiding officer shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by that authority's canvass. A certificate of election must contain:

1. The candidate's name;
2. The office to which the candidate is elected;
3. A statement of election to an unexpired term, if applicable;
4. The date of the election;
5. The signature of the officer preparing the certificate; and
6. Any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

The authority preparing a certificate of election shall promptly deliver it to the person for whom it is prepared, subject to the submission of a recount petition.

A recount petition shall delay the issuance of a certificate of election and qualification for the office involved in the recount pending completion of the recount. A candidate may not qualify for an office involved in a recount before completion of the recount. A candidate who has received a certificate of election and qualified for an office before the submission of a recount petition shall not be affected by the recount petition.

A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

Election Code 67.016; 212.0331

CERTIFICATE OF ELECTION FOR UNOPPOSED CANDIDATE

A certificate of election shall be issued to each unopposed candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election. *Election Code 2.053(c)*

PLURALITY

To be elected to a public office, a candidate must receive a plurality of votes, more votes than any other candidate, except as otherwise provided by law. *Election Code 2.001*

VOTING SYSTEM MALFUNCTION

If no private vendor supports the College District's voting system, the District must give notice to the secretary of state within 24 hours of a malfunction of the College District's voting system software or equipment in an election. The notice may be verbal or in writing. *1 TAC 81.64*

RUNOFF ELECTIONS

If no candidate receives a majority of the votes cast for all candidates for a position, then the two candidates receiving the highest number of votes shall run against each other for the position. The runoff election for all positions shall be held not earlier than the 20th day or later than the 45th day after the date the final canvass of the main election is completed. *Education Code 130.082 (g); Election Code 2.025*

TIE VOTES

SECOND ELECTION

If two or more candidates for the same office tie for the number of votes required to be elected, a second election to fill the office shall be held, unless the candidates agree to cast lots, one candidate withdraws, or an automatic recount resolves the tie. Not later than the fifth day after the automatic recount is completed or the final canvass following the automatic recount is completed, if applicable, the Board shall order the second election. This election shall be held not less than 20 nor more than 30 days after the automatic recount is completed or the final canvass following the automatic recount is completed, if applicable. Notice of the second election shall be given in the same manner as for the first election. Only the names of the tying candidates shall be printed on the ballot; write-in votes shall not be permitted. *Election Code 2.002(a)-(e)*

CASTING LOTS

The tying candidates may agree to cast lots to resolve the tie. The agreement shall be filed with the Board, and the Board President shall supervise the casting of lots. *Election Code 2.002(f)*

WITHDRAWAL OF CANDIDATE

A tying candidate may resolve the tie by filing with the Board a written statement of withdrawal signed and acknowledged by the candidate. On receipt of the statement of withdrawal, the remaining candidate is the winner, and a second election or casting of lots is not held. *Election Code 2.002(g)*

RECOUNT

If a tie vote is not resolved by casting lots or by a candidate withdrawing, an automatic recount shall be conducted in accordance with Election Code Chapter 216. *Election Code 2.002(i)*

OFFICER'S STATEMENT

Newly elected and appointed Trustees, before taking the oath or affirmation of office and entering upon the duties of office, shall sign the required officer's statement. The statement shall be retained with the official records of the office. *Tex. Const. Art. XVI, Sec. 1(b)* [See BBB(EXHIBIT)]

OATH OF OFFICE

After the statement has been signed and certificates of election have been issued, but before entering upon the duties of the office, the Trustee shall take the oath or affirmation of office and shall file it with the President of the Board. *Tex. Const. Art. XVI, Sec. 1(a); Education Code 11.061* [See BBB(EXHIBIT)]

The oath may be administered and a certificate of the fact given by:

1. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.
2. A notary public.
3. A justice of the peace or clerk of a justice court.
4. The secretary of state of Texas.
5. The speaker of the house of representatives.
6. The lieutenant governor of Texas.
7. The governor of Texas.
8. A legislator or retired legislator.
9. The attorney general.

Gov't Code 602.002, 602.006

VOTING RIGHTS ACT

The Board, being subject to the provisions of the Voting Rights Act of 1965, shall submit any changes that affect elections to the U.S. Justice Department for preclearance and shall implement such changes unless the Justice Department interposes an objection within 60 days after the date of submission. *42 U.S.C. 1973c; 28 CFR 51.6; Garza v. Gates, 482 F. Supp. 1211 (D.C. Tex. 1980)*

REPORTING CAMPAIGN FUNDS

Candidates for the Board shall file the designation of a campaign treasurer and all required financial statements with the Secretary of the Board in accordance with applicable law and directives from the Texas Ethics Commission. *Election Code 251.001-254.001 et seq.*

DATE ISSUED: 02/21/2005
UPDATE 19
BBB(LEGAL)-CJC

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Legal Framework

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