

# POLICY

2004

By-Laws

1110

1 of 1

**No legal requirement to have a policy state the legal structure of the School District –  
recommendation to delete in entirety**

SUBJECT: SCHOOL DISTRICT AND BOARD OF EDUCATION LEGAL STATUS

The Constitution of New York State, as amended in 1894, instructs the Legislature to provide for a system of free common schools wherein all children of the State may be educated.

The Legislature of the State has implemented this constitutional mandate through the creation of school districts of various types. The Elmira Heights Central School District is governed by the laws set forth for Central School Districts in Article 37 of the Education Law, and by-laws relating to, or affecting, Union Free School Districts as set forth in Article 35 of the Education Law and Common School Districts as set forth in Article 33 of the Education Law.

The School District constitutes a corporate entity that possesses all the usual powers of a corporation for public purposes, and in that name may sue and be sued, purchase, hold and sell personal property and real estate, and enter into such obligations as are authorized by law.

The Constitution of the State of New York places the responsibility for public education on the State Legislature, and directs the establishment of a State Department of Education for general supervision over the schools and headed by a Commissioner of Education. The New York State Constitution further provides that local public schools under the general supervision of the State Education Department shall be maintained, developed and operated by locally elected boards. Legally, local boards are instruments of the New York State Constitution, the New York Statutes and the regulations of the State Education Department and its Commissioner.

New York State Constitution  
Education Law Articles 33, 35, 37, 51 and 53

Adopted: 8/9/04



# POLICY

2004

By-Laws

1120

1 of 1

**Restates Law – recommendation to delete in entirety**

SUBJECT: BOARD OF EDUCATION AUTHORITY

As a body created under the Education Law of New York State, the Board of Education of the Elmira Heights Central School District has full authority, within the limitations of federal and state laws and the Regulations of the Commissioner of Education and interpretations of them, to carry out the will of the people of its District in matters of education.

In all cases where laws or regulations of the State Commissioner of Education do not provide, permit, or prohibit, the Board shall consider itself the agent responsible for establishing and appraising educational matters and activities.

Board members have no authority over school affairs as individuals. They have authority only when acting as a body duly called in session.

Education Law Sections 1604, 1701, 1709, 1804, and  
1805

Adopted: 8/9/04



# POLICY

2004

1130

1 of 1

By-Laws

**Number of Members and length of term determined by voters, not resolution – there policy is not necessary – recommendation to delete in entirety**

SUBJECT: NUMBER OF MEMBERS AND TERMS OF OFFICE

The Board of Education of the Elmira Heights Central School District shall consist of seven (7) members elected by the qualified voters of the School District at the annual election as prescribed by law.

Members of the Board of Education shall serve for five (5) years beginning July 1 following their election and each term shall expire on the thirtieth day of June of the fifth year.

Education Law Sections 1602, 1702(1), 1804(1) and 2105

Adopted: 8/9/04



**Qualifications are set by law and may not be changed by resolution – recommendation to delete in entirety**

**SUBJECT: BOARD OF EDUCATION MEMBERS: QUALIFICATIONS**

A Board of Education member of the Elmira Heights Central School District must meet the following qualifications:

- a) A citizen of the United States;
- b) Eighteen (18) years of age or older;
- c) Able to read and write;
- d) A legal resident of the district for a continuous and uninterrupted period of at least one (1) year prior to the election;
- e) Cannot be an employee of the Elmira Heights Central School District;
- f) The only member of his/her family (that is, cannot be a member of the same household) on the Elmira Heights Central School District Board;
- g) May not simultaneously hold another, incompatible public office;
- h) Must not have been removed from a school district office within one (1) year preceding the date of appointment or election to the Board.

Education Law Sections 2102, 2103 and 2103-a, and  
2502(7)  
Public Officers Law Section 3

Adopted: 8/9/04



**Recites law and the hours of voting are set annually – recommendation to delete in entirety**

**SUBJECT: BOARD OF EDUCATION MEMBERS: NOMINATION AND ELECTION**

- a) Candidates for the office of member of the Board of Education shall be nominated by a petition directed to the Clerk of the School District which is signed by at least twenty-five (25) qualified voters of the District, or by two percent (2%) of the number of voters who voted in the previous annual election, whichever is greater. Petitions must state the residence of each signer, the name and residence of each candidate.
- b) The notice of the annual District meeting must state that petitions nominating candidates for the Board of Education must be filed with the Clerk of the District no later than thirty (30) days before the annual or special district meeting at which the school board election will occur, between 9:00 am a.m. and 5:00 p.m.
- c) Voting will be by machine, and provision shall be made for the election by "write-in-vote" of any candidate not previously nominated. The position of candidates on ballots shall be determined by lot at a drawing conducted by the District Clerk on the day after the last filing. Candidates or their proxies may be present for the drawing.
- d) The hours of voting shall be as indicated by Board resolution.
- e) The candidates receiving the largest number of votes shall be declared elected in accordance with Education Law.
- f) At least ten (10) days prior to the election, the Board shall appoint at least two (2) inspectors of election for each voting machine, and set their salary.
- g) The District Clerk shall attend the election and record the name and legal residence of each voter. The Clerk shall give notice immediately to each person declared elected to the Board, informing him/her of the election and his/her term of office.
- h) Only qualified voters as determined by Education Law (Section 2012) may vote at any District meeting or election.
- i) No electioneering will be allowed within one hundred (100) feet of the polling place.
- j) When a term of office expires at the end of a school year and the office has become vacant at the time of election, the person elected to fill the new full term vacancy also fills the remaining days of the previous term, beginning his/her term of office immediately upon election.

Education Law Sections 2004, 2018, 2025, 2029,  
2031-a, 2032, 2034(7)(d), 2105(14), 2121 and 2608(1)

Adopted: 8/9/04



# POLICY

2004

By-Laws

1230

1 of 1

**Recites law – recommendation to delete in entirety**

## **SUBJECT:      REPORTING OF EXPENDITURES**

Each candidate for the position of member of the Board of Education whose expenses exceed five hundred dollars (\$500) must file a statement accounting for his/her campaign expenditures and contributions with the District Clerk and an additional statement with the Commissioner of Education. In the event the expenses do not exceed five hundred dollars (\$500), then a sworn statement to that effect must be filed with the District Clerk. The first statement shall be filed ten (10) days before the election. The second statement shall be filed within twenty (20) days after the election. All statements must be sworn before a notary public, a commissioner of deeds, a lawyer or a public official authorized by New York State law to administer oaths.

Education Law Sections 1528 and 1529

Adopted: 8/9/04



**Recites current state of the law – recommendation to delete in entirety**

**SUBJECT: RESIGNATION AND DISMISSAL**

Board members may resign at a District meeting of residents (i.e., the annual meeting, not a regular Board of Education meeting) or by filing a written resignation with the District Superintendent of the Supervisory District who must endorse his/her approval and file the resignation with the District Clerk.

Alternatively, a Board member may resign under Public Officers Law Section 31 by filing a written resignation with the District Clerk. The Clerk must then notify the School Board and the State Board of Elections.

A resignation may be withdrawn only with the consent of the person to whom the resignation was delivered (i.e., the District Clerk or BOCES District Superintendent). The School Board has no authority to act upon a request to withdraw a resignation.

The resignation shall take effect upon the date specified in the letter of resignation; however, if no effective date is specified, it shall take effect on the date of delivery to or filing with the District Clerk. If an effective date is specified in the letter of resignation, such date shall not be more than thirty (30) days subsequent to the date of its delivery or filing.

It shall be the duty of each member of the Board of Education to attend all meetings of the Board and, if any member shall refuse to attend three (3) consecutive meetings of the Board after having been regularly notified and a satisfactory cause for each non-attendance is not shown, the Board will proceed to declare that office vacant.

A Board member may be removed from office by the Commissioner of Education for willful violation of any provision of law, neglect of duty, or willfully disobeying any decision, order or regulation of the Commissioner. The Board of Education may also remove a Board member for misconduct relating to the exercise of authority as a Board member. A written copy of all charges made of such misconduct must be served upon the Board member at least 10 days before the time designated for a hearing on the charges; and the Board member shall be allowed a full and fair opportunity to refute such charges before removal.

In the event of death, resignation, removal from office or from the School District, or refusal to serve of a Board member, the District has the power and duty to fill the vacancy. If the Board chooses to fill the vacancy by appointment, the appointment requires a majority vote of the full Board and shall be only for a term ending with the next annual election of the School District at which time such vacancy shall be filled in a regular manner for the balance of the unexpired term.

(Continued)



**SUBJECT: RESIGNATION AND DISMISSAL (Cont'd.)**

The Board, at its own option, may instead call a special election within ninety (90) days to fill the unexpired term. If not filled by Board appointment or special election, the District Superintendent of the Supervisory District may appoint a competent person to fill the vacancy until the next annual election. Alternatively, the Commissioner of Education may order a special election for filling a vacancy. When such special election is ordered, the vacancy shall not be otherwise filled.

A person elected or appointed to fill a vacancy shall take office immediately upon filing the oath of office.

A Board member who has been removed from office shall be ineligible to appointment or election to any office in the District for a period of one (1) year from the date of such removal.

Education Law Sections 306, 1607, 1706,  
1709(17)(18), 1804(1), 2103(2), 2109, 2111, 2112,  
2113, 2502, 2503, and 2553  
Public Officers Law Sections 30, 31 and 35

Adopted: 8/9/04



# POLICY

2004

By-Laws

1310

1 of 1

**Recites general powers it already has by statute – recommendation to delete in entirety**

SUBJECT: POWERS AND DUTIES OF THE BOARD

As a Central School District, the Board of Education shall have powers and duties as set forth in New York State Education Law, principally Articles 33, 35 and 37, and other applicable Federal and State laws and regulations. In general, the Board shall have in all respects the superintendence, management and control of the educational affairs of the District and shall have all the powers necessary to exercise these powers expressly granted to it by the laws of New York State and the Commissioner of Education.

Education Law Sections 1604, 1709 and 1804

NOTE: Refer also to Policy #6540 -- Defense and Indemnification of Board Members and Employees

Adopted: 8/9/04



# POLICY

2004

By-Laws

1322

1 of 1

**Policy recites the law – Recommendation to delete in entirety and add statement of vice-president duties to policy 1321 Duties of the President . . . .**

**SUBJECT: DUTIES OF THE VICE PRESIDENT OF THE BOARD OF EDUCATION**

The Board of Education may, in its discretion, elect one (1) of its members Vice President who shall have the power to exercise the duties of the President in case of the absence or disability of the President. In case of vacancy in the office of the President, the Vice President shall act as President until a President is elected.

Education Law Section 1701

Adopted: 8/9/04



**Reiterates Law – recommendation to delete in entirety**

**SUBJECT: APPOINTMENTS AND DESIGNATIONS BY THE BOARD OF EDUCATION**

## **Appointments**

The Board is authorized to appoint individuals to positions which will facilitate the meeting of its responsibilities to the State, the School System, and the community. These appointments usually take place at the Annual Organizational Meeting.

The following shall be appointed annually:

- a) District Clerk;
- b) District Treasurer;
- c) Deputy Treasurer;
- d) Tax Collector and Deputies;
- e) District Auditor (independent);
- f) Treasurer, Extraclassroom Activities Account;
- g) Faculty Auditor, Extra-classroom Activities Account;
- h) Audit Committee.

The following must be appointed but need not be reappointed annually:

- a) Census Enumerator and assistants if District conducts census;
- b) District Physician;
- c) Supervisors of Attendance;
- d) Committee on Special Education and Committee on Preschool Special Education;
- e) Records Access/Management Officer;
- f) Asbestos Hazard Emergency Response Act (AHERA) Local Educational Agency (L.E.A.) designee;

(continued)



**SUBJECT: APPOINTMENTS AND DESIGNATIONS BY THE BOARD OF EDUCATION  
(Cont'd.)**

- g) Title IX/Section 504/ADA Compliance Officer;
- h) Liaison for Homeless Children and Youth.
- i.) Chemical Hygiene Officer.

The following may also be appointed:

- a) School Attorney;
- b) Claims Auditor;
- c) Internal Auditor;
- d) Insurance Advisor;
- e) Copyright Officer

**Designations**

The following designations shall be made by the Board of Education at the Annual Organizational Meeting in July:

- a) Petty Cash Fund(s);
- b) Official Newspaper(s);
- c) Official Bank Depositories;
- d) Official Bank Signatories;
- e) Purchasing Agent;
- f) Certifier of Payrolls;
- g) Designated Educational Official to receive court notification regarding a student's sentence/adjudication in certain criminal cases and juvenile delinquency proceedings.
- h.) School Pesticide Representative;
- i.) Pest Management Coordinator.

**Authorizations**

- a) Approval of attendance at conferences, conventions, workshops, and the like;
- b) Superintendent to approve budget transfers within limits prescribed by Commissioner's Regulation Section 170.2 and Board guidelines;
- c) Superintendent to apply for Grants in Aid (State and Federal) as appropriate;

(continued)



**SUBJECT: APPOINTMENTS AND DESIGNATIONS BY THE BOARD OF EDUCATION  
(Cont'd.)**

- d.) Establish mileage reimbursement rate;
- e.) Other(s) as deemed appropriate/necessary.

McKinney-Vento Homeless Education Assistance Act,  
Section 722, as reauthorized by the No Child Left Behind  
Act of 2001  
29 Code of Federal Regulations (CFR) Section  
1910.1450  
Education Law Sections 305(31), 1709 and 2503  
8 New York Code of Rules and Regulations (NYCRR)  
Part 185  
21 New York Code of Rules and Regulations (NYCRR)  
Parts 1401, 9760

Adopted: 8/9/04  
Revised : 1/10/11



**Reiterates the requirements of the law – recommendation to delete in entirety**

SUBJECT: DUTIES OF THE DISTRICT CLERK

The District Clerk will be appointed by the Board at its Annual Organizational Meeting and will serve for a period of one (1) year. The Clerk's duties include the following:

- a) Attends all meetings of the Board and keeps a record of its proceedings and records, by name, those in attendance;
- b) Prepares minutes of the meetings of the Board, obtains approval of the minutes by the Board at the next meeting, signs the minutes to signify their official standing and forwards copies of the minutes to each member of the Board of Education;
- c) Sends notices of special meetings to members of the Board; contacts and communicates with members as required;
- d) Sees that the proper legal notices and announcements are published on all specifications and items out on bid, in accordance with state law;
- e) Maintains an up-to-date record of Board policies and by-laws;
- f) Delivers to, and collects from, the President (or Vice President) such papers for signature as may be necessary;
- g) Distributes notices to the public announcing availability of copies of the budget to be presented at the annual District meeting in compliance with the requirements of the State Education Law;
- h) Administers oaths of office, as required by Section 10, Public Officers Law;
- i) Gives written notice of appointment to persons appointed as inspectors of election;
- j) Calls all meetings to order in the absence of the President and Vice President;
- k) Assumes other duties customary to the office.

The above duties of the District Clerk are not intended to be complete but should serve as a comprehensive guide in undertaking the duties of this office. The District Clerk shall perform such other duties as may be assigned from time to time by the Board.

Education Law Section 2121 Public Officers Law Section 104

Adopted: 8/9/04



**Reiterates Law – recommendation to delete in entirety**

**SUBJECT: DUTIES OF THE SCHOOL DISTRICT TREASURER**

The Treasurer is appointed by the Board of Education at the Annual Organizational Meeting and will be covered by a blanket bond. In addition to the routine duties of accounting, filing, posting and preparing reports and statements concerning District finances, the District Treasurer shall perform other specific tasks as follows:

- a) Acts as custodian of all moneys belonging to the School District and lawfully deposits these moneys in the depositories designated by the Board;
- b) Pays all authorized obligations of the District as directed;
- c) Maintains proper records and files of all checks, and approved payment of bills and salaries;
- d) Makes all such entries and posts all such financial ledgers, records and reports as may be properly required to afford the District an acceptable and comprehensive financial accounting of the use of its moneys and financial transactions;
- e) Signs all checks drawn on District fund accounts;
- f) Investment of District Funds & Extra-classroom activity funds
- g) Assumes other duties customary to the office.

Duties: Education Law Section 2122

Bond: Education Law Section 2130, Part 5  
8 New York Code of Rules and Regulations  
(NYCRR) Sections 170.2(o) and (p)

Adopted: 8/9/04

Revised: 08/24/2009



**Reiterates Law – recommendation to delete in entirety**

**SUBJECT: DUTIES OF THE TAX COLLECTOR**

The Tax Collector is appointed annually by the Board of Education and shall be covered by a bond. It shall be the responsibility of the District Tax Collector to perform the following duties:

- a) Prepares and mails tax notices;
- b) Uses suitable printed tax receipt forms as prescribed by the State Tax Commission;
- c) Collects taxes in the amount of the warrant, upon the issuance of the tax warrant by the Board of Education and penalty fees in accordance with the terms of such warrant;
- d) Turns over daily to the School District Treasurer all money collected by virtue of any tax list and warrant issued;
- e) Submits a report, certified by him/her to the Board of Education, showing the amount of taxes and fees collected along with the unpaid listing. The combination of taxes collected and uncollected shall equal the amount of the warrant;
- f) Turns over to the County Treasurer, prior to November 15, a list of unpaid taxes;
- g) Carries out such other duties of the position as prescribed in the Real Property Tax Law.

Education Law Sections 2126 and 2130  
Real Property Tax Law Sections 922, 924, 1322, 1330,  
and 1338

Adopted: 8/9/04



**Reiterates Law – recommendation to delete in entirety**

**SUBJECT: DUTIES OF THE INDEPENDENT AUDITOR**

The Board by law shall obtain an annual audit of its records by an independent certified public accountant or an independent public accountant, and a copy of the certified audit in a form prescribed by the Commissioner must be accepted by the Board and furnished annually to the State Education Department.

Education Law Section 2116-a  
8 New York Code of Rules and Regulations  
(NYCRR) Sections 170.2 and .3

Adopted: 8/9/04



**Recites some but not all legal requirements – recommendation to delete in entirety**

**SUBJECT: DUTIES OF THE SCHOOL ATTORNEY**

The Board of Education shall employ a School Attorney who shall be responsible to the Board of Education for guidance on all affairs which are of a legal nature, including, but not limited to:

- a) Negotiation of all legal charges and processes for each bond issue and construction and/or reconstruction of new buildings;
- b) Legal counsel on matters referred to him/her to determine legality of procedure;
- c) Matters related to "due process" hearings or procedures.

Adopted: 8/9/04