

Kevin Meyer
Lieutenant Governor
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Juneau, Alaska 99811
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Anchorage, Alaska 99501
907.269.7460
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Brian Jackson
Office of the Lieutenant Governor

FROM: April Simpson, Office of the Lieutenant Governor 465.4081 

DATE: April 21, 2021

RE: Filed Permanent Regulations: Division of Elections

Division of Elections regulations re: write-in candidates for seats on school boards for regional educational attendance areas (REAA's) (6 AAC 27.036)

Attorney General File:	2021200012
Regulation Filed:	4/21/2021
Effective Date:	5/21/2021
Print:	238, July 2021

cc with enclosures: Harry Hale, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DIVISION OF ELECTIONS

The attached 1 page of regulations, dealing with REAA seat vacancies and write-ins, is adopted and certified to be a correct copy of the regulation changes that the Division of Elections adopts under the authority of AS 15.15.010 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Division of Elections paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 3/24/2021


Gail Fenumiai, Director

April Simpson for
↑

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

April 21, 2021, at 10:30am, I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

April Simpson
for Lieutenant Governor Kevin Meyer

Effective: May 21, 2021

Register: 238, July 2021

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

**I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA,
designate the following state employees to perform the Administrative Procedures Act
filing functions of the Office of the Lieutenant Governor:**

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have
signed and affixed the Seal of the State of
Alaska, in Juneau, on December 11th,
2018.**



K. Meyer

**KEVIN MEYER
LIEUTENANT GOVERNOR**

The introductory language of

6 AAC 27.036(a) is amended to read:

*((bold the section number and heading)))**((one
0.5"
tab))*

6 AAC 27.036. Write-in candidates for regional educational attendance area (REAA) elections.

(a) A candidate who has not filed a declaration of candidacy under 6 AAC 27.035 and wishes to be a candidate in a regional educational attendance area (REAA) election may file as a write-in candidate. **A candidate may not file as a write-in candidate unless another candidate has****filed a declaration of candidacy.** Votes for a write-in candidate will not be counted unless that candidate has filed a letter of intent with the director stating~~(1) the candidate's name;~~~~(2) the candidate's residence address;~~~~(3) the candidate's mailing address, if different from the residence address;~~~~(4) the designation of the office and seat being sought;~~~~(5) that the candidate is qualified for the office that the candidate seeks; (6) the name of the candidate as the candidate wishes it to be written on the ballot by the voter;~~~~(7) the candidate's identification, in the form of the candidate's~~~~(A) voter identification number;~~~~(B) social security number or the last four digits of the candidate's social security number;~~~~(C) date of birth;~~~~(D) Alaska driver's license number; or~~~~(E) Alaska state identification card number;~~~~(8) the date of the election at which the candidate seeks election;~~~~(9) that the candidate is a qualified voter as required by law;~~~~(10) that the candidate is not a candidate for this office under any other declaration of candidacy;~~~~(11) the candidate's telephone number, if available; and~~~~(12) the candidate's signature.~~~~(b) A candidate must file a letter of intent under (a) of this section not later than five days before the regional educational attendance area election.~~*((Eff. 4/25/2003, Register 186; am 10/16/2011, Register 200; am 5/21/2021, Register 238))**((double
space))***Authority:**

AS 14.08.071

AS 15.15.030

AS 15.20.900

AS 15.15.010

AS 15.15.360

AS 15.25.105

*((double space)))*5/21/2021,Register 238)*((Publisher: 6 AAC 27.036(b) is unchanged)))*

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Thru: Susan R. Pollard ^{DS}
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Date: April 15, 2021

File No.: 2021200012

Tel. No.: 465-3600

From: Steven C. Weaver *SCW*
Senior Assistant Attorney General
Legislation and Regulations Section

Re: Division of Elections regulations re:
write-in candidates for seats on
school boards for regional
educational attendance areas
(REAAAs) (6 AAC 27.036)

The Department of Law has reviewed the attached regulations of the Division of Elections against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Division of Elections after the close of the public comment period. Because--when administering elections for the regional school board of a regional educational attendance area (REAA), and in particular when preparing absentee ballots before election day--the division puts an open board seat on the ballot only if a candidate has filed a declaration of candidacy, and only then places a space on the ballot for a write-in candidate, the regulations prohibit an individual from filing a write-in candidacy for a seat on the REAA school board unless another candidate has filed a declaration of candidacy for that seat.

The January 31, 2021 public notice and the March 24, 2021 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Honorable Kevin Meyer, Lieutenant Governor
File No. 2021200012

April 15, 2021
Page 2 of 2

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SCW

cc w/enc: Gail Fenumiai, Director
Division of Elections

Brian Jackson, Regulations Contact
Division of Elections

Thomas S. Flynn, Assistant Attorney General
Labor and State Affairs Section

NOTICE OF PROPOSED CHANGES
REAA WRITE-IN CANDIDATES AND SEAT VACANCIES
IN THE REGULATIONS OF DIVISION OF ELECTIONS

The Division of Elections proposes to adopt regulation changes in Title 6 Chapter 27 of the Alaska Administrative Code, dealing with REAA seat vacancies, including the following:

- (1) 6AAC 27.036 is proposed to be changed as follows: amend the regulation to clarify that an individual may not file a write-in candidacy unless another candidate has filed a declaration of candidacy for that seat.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Brian Jackson, PO Box 110017, Juneau, Alaska 99811-0017. Additionally, the Division of Elections will accept comments by facsimile at 907-465-3203 and by electronic mail at elections@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System by accessing this notice on the system and using the comment link. The comments must be received not later than 5:00pm on March 2, 2021.

You may submit written questions relevant to the proposed action to Brian Jackson at brian.jackson@alaska.gov at 240 Main St. Suite 400, Juneau, Alaska 99801. The questions must be received at least 10 days before the end of the public comment period. The Division of Elections will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and agency website.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Brian Jackson at brian.jackson@alaska.gov or by calling 907-465-4611 not later than 5:00pm on February 16, 2021 to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Brian Jackson at brian.jackson@alaska.gov or by telephone, 907-465-4611.

A copy of the material proposed for adoption by reference may be viewed at the agency's office at 240 Main St. Ste 400, Juneau, Alaska 99801.

After the public comment period ends, the Division of Elections will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. **YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.**

Statutory authority: AS 15.15.010

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Division of Elections
2. General subject of regulation: REAA write-in candidates and seat vacancy
3. Citation of regulation (may be grouped): 6AAC 27.036 (a)
4. Department of Law file number, if any: 2021200012
5. Reason for the proposed action:
 - () Compliance with federal law or action (identify): _____
 - () Compliance with new or changed state statute
 - () Compliance with federal or state court decision (identify): _____
 - (x) Development of program standards
 - () Other (identify): _____
6. Appropriation/Allocation: Office of the Governor/Elections/Elections
7. Estimated annual cost to comply with the proposed action to:
 - A private person: None
 - Another state agency: None
 - A municipality: None
8. Cost of implementation to the state agency and available funding (in thousands of dollars): This change will not have a fiscal impact on the division.
9. The name of the contact person for the regulation:
 - Name: Brian Jackson
 - Title: Election Program Manager
 - Address: 240 Main St. Suite 400, Juneau, Alaska 99801
 - Telephone: 907-465-4611
 - E-mail address: brian.jackson@alaska.gov
10. The origin of the proposed action:
 - x Staff of state agency
 - Federal government
 - General public
 - Petition for regulation change⁷
 - Other (identify): _____

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 269003
PO BOX 110017, JUNEAU, AK 99811

Order #: W0020234

Cost: \$398.44

RECEIVED

FEB 08 2021

Director's Office
Division of Elections

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Lisi Misa being first duly sworn on oath deposes and says that she is a representative of the Anchorage Daily News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the afore-said place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

01/31/2021

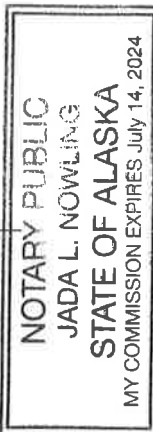
and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed

Subscribed and sworn to before me
this 2nd day of February 2021.

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska

MY COMMISSION EXPIRES



NOTICE OF PROPOSED CHANGES REAA WRITE-IN CANDIDATES AND SEAT VACANCIES IN THE REGULATIONS OF DIVISION OF ELECTIONS

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After the public comment period ends, the Division of Elections will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.

Statutory authority: AS 15.15.010

Statutes being implemented, interpreted, or made specific: AS 14.08.071; AS 15.15.030; AS 15.20.900; AS 15.15.010; AS 15.15.360; AS 15.25.105

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

The Division of Elections keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Division of Elections notices of proposed regulation changes. To be added to or removed from the list, send a request to the Division of Elections at PO Box 110017, Juneau, AK 99811, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

Date: 1/26/2021

/s/
Gail Fenumiai, Director, Division of Elections

Pub: January 31, 2021

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

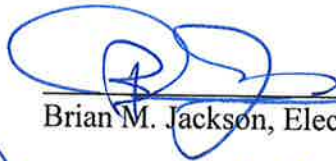
I, Brian Jackson, Election Program Manager, of the Division of Elections, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to Title 6, Chapter 27 REAA seat vacancies has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1).

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

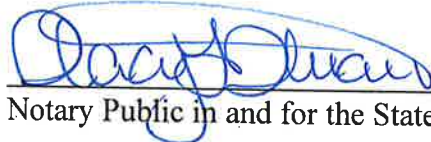
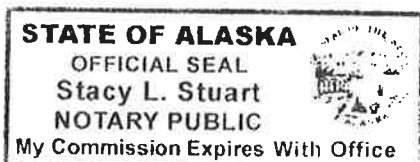
Date: 3/10/21



Brian M. Jackson, Election Program Manager

Subscribed and sworn to before me at Juneau, AK on 3/10/2021

(date)



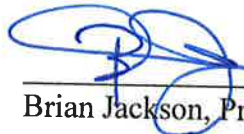
Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

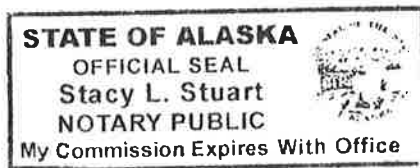
I, Brian Jackson, Program Manager for the Division of Elections, being duly sworn, state the following:

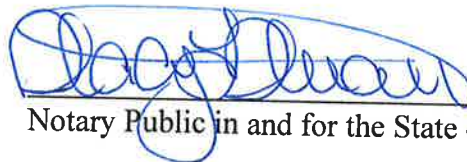
In compliance with AS 44.62.215, the Division of Elections has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Division of Elections regulation on REAA write-in candidates.

Date: 3/16/21


Brian Jackson, Program Manager

Subscribed and sworn to before me at Juneau, AK on
3/16/21
(date)




Notary Public in and for the State of Alaska