

What is a 'sworn' campaign expenditure statement?

Decision suggests disclosures must be notarized

During election season, it is good practice for school districts to remind candidates of disclosure requirements. If a candidate spends less than \$500, he or she needs to file a sworn statement to that effect. However, if a candidate spends \$500 or more, he or she must provide a sworn statement itemizing his or her expenditures and contributions received.

Statements must be filed at three points: 30 days before the election, five days before and 20 days after the election. Special rules apply if candidates receive a contribution in excess of \$1,000 after the close of a reporting period.

Questions often arise regarding the exact nature of the sworn statement requirement. Can a candidate merely "attest" to the contents of the statement? Does it suffice to say the statement is made under penalty of law?

The recent decision in *Appeal of the Board of Educ. of Hempstead Union Free Sch. Dist.* offers some insight into how the commissioner might rule in a case directly raising such issues.

The facts in that appeal involved two unsworn statements regarding certain irregularities in the absentee ballot process. In a footnote, the commissioner indicated both statements contained language that the signatory was "duly sworn" and made "under the penalties of perjury" but neither was sworn to or signed before a notary public. As such, the commissioner considered them unsworn.

This determination has implications for other documents required to be filed as part of the election process, such as campaign expenditure and contributions statements. Based on the commissioner's finding, candidates must attest to the truth of the contents of the expenditure and contribution statements in front of a notary public.

Other important reminders depicted in the case include:

- **School boards themselves can initiate appeals** regarding elections, if irregularities occurred which may have vitiated the process. In this case, the school board itself commenced the appeal based on perceived irregularities in the election process that it deemed affected the results of the election.
- **State election law provisions generally do not apply** to school district elections; rather, state Education Law controls. The commissioner made this point when ruling on whether it was proper for a volunteer translator to accompany a voter into the voting booth. While state election law permits voters to receive translation assistance from "a person of the voter's choice," the commissioner those provisions were ruled inapplicable. This ruling allows school districts to insist that voters use a district-provided translator, if provided (as was the case in Hempstead).
- **Irregularities in the absentee ballot process can result in the invalidation of results**, if they affect the outcome of the election, budget vote or referendum. In this case, the district had concerns that large numbers of absentee ballots were hand-delivered to the polling site by a group of individuals. According to the commissioner, however, no law prevents that and it would be speculative to conclude that such conduct raises doubt as to the integrity of the voting process.

Review chapter 17 of NYSSBA's *School Law* book, 35th edition, for information on absentee ballots. Other portions of the book dealing with elections, budget votes and referendums are chapters 6, 15, 16, and 19.