

ASSOCIATION ELECTIONS



Executive Board Elections



Guidelines

Under NRS 116 and NRS 116B, homeowners' associations in Nevada are governed by an executive board of directors (or "board"). Following transition from declarant control to the unit owners, an association must hold an election in which the unit owners vote for a board of at least three directors, all of whom must be unit owners themselves. Elections are held annually thereafter.

What are the rules and schedule for elections?

Each association holds its election at different times of the year. The date may be found in the association's **bylaws**, which also specify the association's other election procedures, such as how many directors are to be elected. At minimum, elections must be staggered to elect roughly the same number of directors each year (e.g. 3 in odd years, 4 in even years).



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NOTE: Persons who knowingly, willfully and with fraudulent intent alter the outcome of executive board elections may be found guilty of a category D felony.

Can unit owners remove directors?

Yes. Unit owners may remove a director from the board, with or without cause, by obtaining signatures representing 10% (or a lower percentage if the HOA bylaws allow) of units on a petition to request a removal election. This petition must be mailed, return-receipt requested, or served by process server to the board or community manager.

The next step, taken by the board or manager, is to send out secret ballots not less than 15 days and not more than 60 days before the removal election. Thereafter, the steps (for mailing and opening ballots) are the same as for a regular election. A removal election must be completed within 90 days of the petition.

NOTE: For a recall to succeed, 1. at least 35 percent of all unit owners and 2. a majority of votes cast must be for removal.

Three-envelope system

- The outer envelope, addressed to each owner, contains two other envelopes.
- A second envelope (the larger of the two inside) is addressed to the election committee or community manager. The second envelope shows the unit owner's name and address, producing record upon return that the unit owner voted.
- The third envelope (the smallest) is marked "**Ballot**" on the outside and is indistinguishable from all other ballot envelopes. This ensures a secret ballot.

For updates and more information, please visit our Web site at: www.red.state.nv.us.

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How do I run for the board?

At least 30 days before a ballot is prepared, the community manager, secretary or election committee must send written **notice** to unit owners of their eligibility to serve as directors. Notice must include instructions on how to participate in elections, including nomination.

What about officers?

Officers are chosen by the board, not the unit owners. Officers are not required by law to be directors, although the association's governing documents may make that requirement.

Can candidates campaign?

Board nominees are entitled to campaign. The association may limit the campaigns to 90 days before the deadline to return ballots.

Candidates may request that a single-page candidate information statement be sent 30 days before the election to all unit owners at association expense, either with the ballot or in a separate mailing. The association may refuse only if the statement contains material that is defamatory, libelous or profane.

In addition, a nominee may request the association provide a mailing list of all unit owners (addresses only – no names). The candidate may then send any material directly to owners at his or her expense. The candidate must affirm in writing that the list may only be used for the association election.

What must a candidate disclose?

Candidates must make a good-faith effort to disclose in writing any potential conflicts of interest (financial, business, professional, or personal relationship). Candidates must also

disclose whether or not they are in “good standing.” A candidate with any past due assessments or construction penalties is **not** in good standing. The disclosure is sent along with the information statement.

If the candidate does not submit a disclosure statement, the association can inform unit owners that a disclosure was not provided.

NOTE: Disclosure is the candidate's duty, and is **not** the duty of the association.

Not enough candidates

Once the initial nomination period is over, the board must make a determination: If the number of candidates is equal to or less than the number of seats up for election, a **second notice** must be sent to unit owners informing them that ballots will not be prepared or mailed, and the nominated candidates will be deemed duly elected unless:

1. One or more qualified unit owners self-nominate within 30 days after the second notice; **and**
2. The number of nominees after the second notice exceeds the number of open seats.

If the number of nominated candidates is **equal to or less than the number of open seats** at the close of the second nomination period, then the association may forego mailing ballots and deem the candidates elected. The association still must send the candidate disclosures and notice of the election results.

Competitive elections

If, after either nomination period, there are more candidates than open seats, then an election must be held. Associations use the “three-envelope system” described on the back panel for their election materials.

Step 1: Prepare the Ballots

Eligible unit owners who self-nominate must be placed on the ballot along with nominees selected by committee, if applicable.

Step 2: Mail the Ballots

A secret ballot and a return envelope must be sent by the community manager, secretary or election committee prepaid via U.S. mail to each mailing address, or to any other mailing address that an owner designates in writing. The association may include the candidate information and disclosure statements, or send these items separately. The statements, unlike the ballot, must be sent **at least 30 days** before the deadline to return ballots.

Step 3: Return the Ballots

Each unit's owner must be provided with **at least 15 days** after the mailing date to return the ballot. It is recommended that the deadline include a precise time of day.

NOTE: The ballots mailed to the unit owners must include prepaid, first class postage. However, the envelope for the return ballot does not have to be prepaid or stamped.

Step 4: Count the Ballots

Ballots must be opened and counted at a unit owners' meeting. No quorum is required for the election to be valid. Only secret written ballots returned to the association by the deadline may be counted. Owners and board members may observe the counting, however no current director or candidate on the ballot may possess the submitted ballots or participate in their counting until the official count is complete. Once results are official, the ballots become an association record, and may be reviewed by all.