

Election Rules

Associations are required to adhere to election rules that comply with the requirements set forth in [Civil Code Section 5105](#) in order to conduct any association election that [requires the use of secret ballots](#). ([Civ. Code. § 5105\(a\)](#)) To satisfy those requirements, the election rules must:

- **Provide Equal Access to Association Media** – The election rules must ensure that if any candidate or member advocating a point of view is provided access to association media (i.e., newsletters, websites, etc.) during a campaign “for purposes that are reasonably related to that election,” [equal access](#) must also be provided to all candidates and members advocating a point of view, including those not endorsed by the board, for purposes that are reasonably related to the election. ([Civ. Code. § 5105\(a\)\(7\)](#)). See also [Equal Access During Campaigns](#). The association may not edit or redact any content from those communications, but may include a statement specifying that the candidate or member is responsible for the content, not the association. ([Civ. Code. § 5105\(a\)\(7\)](#).)
- **Provide Access to Common Area Meeting Space** – The election rules must ensure access to the association’s [common area](#) meeting space (if any exists) during a campaign at no cost, to all candidates (including non-incumbents), and to all members advocating a point of view (including those not endorsed by the board), for purposes reasonably related to the election. ([Civ. Code. § 5105\(a\)\(8\)](#)). See also [Equal Access During Campaigns](#).
- **Specify Candidate Qualifications** – The election rules must specify the [qualifications for candidates](#) for the board and any other elected position, consistent with the association’s governing documents. ([Civ. Code. § 5105\(a\)\(9\)](#)). See also [Director Qualifications](#).
- **Specify Nomination Procedures** – The election rules must specify the procedures for the [nomination of candidates](#), consistent with the association’s governing documents. A nomination or election procedure is not reasonable if it disallows any member from nominating himself or herself for election to the board. ([Civ. Code. § 5105\(a\)\(9\)](#)). See also [Candidate Nomination](#).
- **Specify Qualifications for Voting** – The election rules must specify the qualifications for voting, the voting power of each membership, the authenticity, validity, and effect of [proxies](#), and the voting period for elections, including the times at which polls will open and close, consistent with the association’s governing documents. ([Civ. Code. § 5105\(a\)\(10\)](#).)
- **Specify Method of Selecting Inspector(s) of Elections** – The election rules must specify a method of selecting the association’s [inspector\(s\) of elections](#), utilizing one of the following methods: (a) appointment of the inspector(s) by the board, (b) election of the inspector(s) by the membership, or (c) any other method for selecting the inspector(s). ([Civ. Code. § 5105\(a\)\(11\)](#)). See also [Inspectors of Elections](#).
- **Allow Inspector(s) to Appoint/Oversee Additional Persons** – The election rules must allow for the [inspector\(s\) of elections](#) to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector or inspectors deem appropriate, provided that the persons are “independent third parties” within the meaning of [Civil Code Section 5110\(b\)](#). ([Civ. Code. § 5105\(a\)\(12\)](#)). See also [Inspectors of Elections](#).
- **Require Retention of Voter List and Candidate List as Election Materials** – The election rules must require retention of, as association election materials, both a candidate registration list and a voter list. The voter list must include the name, voting power, and either the physical address of the voter’s separate interest, the parcel number, or both. The mailing address for the ballot must be listed on the voter list if it differs from the physical address of the voter’s separate interest or if only the parcel number is used. The association must permit members to verify the accuracy of their individual information at least 30 days before the ballots are

distributed. The association or member must report any errors or omissions to either list to the inspector(s) who must make the corrections within two (2) business days. ([Civ. Code.° .1761\(a\)\(3\).](#))

- [Prohibit.the.Denial.of.a.Ballot.to.a.Member](#) – The election rules must prohibit the denial of a ballot to a member for any reason other than not being a member (an owner of a separate interest within the association) at the time when ballots are distributed. ([Civ. Code.° .1761\(g\)\(7\).](#))
- [Ballots.for.Persons.with.a.General.Power.of.Attorney](#) - The election rules must prohibit the denial of a ballot to a person with a general power of attorney for a member. The election rules must also require the ballot of a person with a general power of attorney for a member to be counted if returned in a timely manner. ([Civ. Code.° .1761\(g\)\(8\)_\(9\).](#))

Delivery of Election Rules with Ballots

The election rules must also require the [inspector\(s\) of election](#) to deliver, or cause to be delivered, at least 30 days before an election: (a) the ballots, and (b) a copy of the election rules. ([Civ. Code.° .1761\(g\)\(10\).](#))

[Election.Rules.Delivery.Methods](#) – Delivery of the election rules as indicated above may be accomplished by individual delivery (e.g., mailing a copy to each member with the ballots) or posting the election rules to an internet website and including the corresponding website address on the ballot together with the phrase, in at least 12-point font:

“The rules governing this election may be found here:”

Candidate Qualifications

The election rules may be used to establish [qualifications for candidates](#) for the board as permitted under [Civil Code Section 5105\(c\)](#). (See »[Candidate.Qualifications](#))

Floor Nominations & Write-Ins

Notwithstanding any other provision of law, the election rules may provide for the [nomination of candidates](#) from the floor of membership meetings or nomination by any other matter; those rules may also permit write-in candidates for ballots. ([Civ. Code.° .1761\(b\)](#)). See also »[Candidate.Nomination](#))

Adopting & Amending Election Rules

Election rules are “[operating rules](#)” within the meaning of [Civil Code Section 4355](#). ([Civ. Code.° .0911\(a\)\(3\).](#)) As such, they may be [adopted and amended](#) by the board without membership approval provided that the required amendment procedure mandated by [Civil Code Section 4360](#) is followed (i.e., providing the membership with 28 days notice of a proposed amendment to the election rules). (See »[Adopting.™ .Amending.Operating.Rules](#))

*[No.Changes.to.Election.Rules.within.90.Days.of.an.Election](#) – Election rules may not be changed less than ninety (90) days prior to an election. ([Civ. Code.° .1761\(h\).](#))