

DOUGLAS F. GANSLER
ATTORNEY GENERAL

KATHERINE WINFREE
Chief Deputy Attorney General

JOHN B. HOWARD, JR.
Deputy Attorney General



DAN FRIEDMAN
Counsel to the General Assembly

SANDRA BENSON BRANTLEY
BONNIE A. KIRKLAND
KATHRYN M. ROWE
Assistant Attorneys General

THE ATTORNEY GENERAL OF MARYLAND
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

March 10, 2008

Joshua C. Greene
Chair, Anne Arundel Co. School Board Nominating Commission
P.O. Box 591
Annapolis MD 21404-0591

Dear Mr. Greene:

In your capacity as Chair of the Anne Arundel Co. School Board Nominating Commission, you asked for advice about the election of the school board members. In 2007, the General Assembly passed legislation establishing an appointment process for the Anne Arundel County Board of Education. See Laws of Maryland 2007, ch. 454. In addition to appointment by the Governor, the law now provides that “[f]ollowing the initial appointment... a member may continue to serve for the remainder of the member’s first term subject to the approval or rejection of the registered voters of the county at the next general election.” Education Article § 3-110(c).

Your first question asked about the meaning of the term “general election.” According to Election Law Article § 8-301, a statewide general election is held every even numbered year on the Tuesday following the first Monday in November. Thus, a general election is held every two years.

Your second question asked whether all current Board of Education members must stand for retention election. In my view, only members appointed after January 1, 2008 are subject to voter approval or rejection. Each member serves “a term of 5 years beginning July 1 after the member’s appointment until a successor is appointed and qualifies.” ED § 3-108(c)(1). The legislation creating the new selection process for Anne Arundel County provides that “a member serving a first term on the Anne Arundel County Board of Education on or before June 30, 2008: (a)(1) shall be eligible to be included in the list of nominees submitted by the School Board Nominating Commission of Anne Arundel County to the Governor *to serve a second term when the first term ends*; and (2) may be reappointed by the Governor to the Anne Arundel County Board of Education subject to the approval or rejection of the registered voters of the county at the next general election.” Laws of Maryland 2007, ch. 454, Section 2 (emphasis added).

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Currently, there are eight members of the Anne Arundel County Board of Education. The terms of the members are staggered. Two of the current members' terms expire on June 30, 2008—the student member and one at-large position. In addition, the legislation creating the new process added an additional member. Thus, assuming no other vacancy is created for another reason, the Governor will be making two appointments to the Board this year, not counting the student member who is chosen in accordance with ED § 3-110(d). Those newly appointed members, even if that person is a reappointment, must stand for retention election this November. In other words, all current members of the Board may serve out their full terms without retention election; they are eligible for appointment to a second term when their term ends, subject to selection by the Nominating Commission and retention by the voters.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra Benson Brantley". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Sandra Benson Brantley
Assistant Attorney General

cc: The Honorable Jeanne D. Hitchcock,
Secretary of Appointments, Office of the Governor