

VACANCIES AND UNEXPIRED TERM FULFILLMENT

Category: Optional

Related Policies: BBB & BBBC

- A. Definition and Occurrence of a Vacancy.** A vacancy on the School Board or other District office is defined in RSA 652:12, and occurs when subsequent to election but prior to the expiration of that person's term, the office holder/office holder elect, either:
- i. Resigns (see Board policy BBBC for resignation process);
 - ii. Dies;
 - iii. Ceases to have domicile in the district or town from which he/she was elected;
 - iv. Is determined by a court to be mentally incompetent;
 - v. Is/has been convicted which disqualifies him/her holding office (e.g., bribery, willful violation of election laws) or sentenced while in office after conviction for a felony;
 - vi. Has the election voided by a court or the ballot law commission; or
 - vii. Fails to take the oath of office within 30 days of the election, or fails to give/renew a bond required by law.

Although a formal resignation best serves the district when possible, many of the reasons cause a vacancy to occur by operation of law (e.g., death or relocation). In circumstances that are unclear (e.g., relocation out of district), the Superintendent and/or Board Chair should consult with counsel.

A temporary absence does not constitute a vacancy.

B. Authority to Fill Vacancy.

1. Vacancy other than Moderator. The Board shall fill a vacancy occurring (1) on the board, (2) in any position generally appointed by the Board, or (3) in any other elected district office with the exception of moderator. If the remaining members refuse or are unable to agree upon a replacement, or in the event there are no remaining school board members, then the Select Board may make the appointment. See RSA 671:33 and RSA 197:26.
2. Moderator Vacancy. Vacancies in the office of moderator shall be filled by vote at a school meeting or election, provided that, until a replacement is chosen, the school District Clerk shall serve as moderator or shall appoint a moderator pro tempore. See RSA 671:33, III and RSA 197:20.

- C. Duration of Appointment.** For positions normally elected by the voters, a person appointed to fill a vacancy will serve only until the next election, at which point the voters will vote for a replacement to serve for the remainder of the original holder's term. For non-elected positions (i.e., those ordinarily appointed by the board), the person appointed to fill the vacancy will serve until the expiration of the original holder's term. See RSA 671:33.

- D. Vacancy Arising During Filing Period.** Other than a seat that is already open (for election or re-election) as of the beginning of the filing period, a vacancy which occurs between the beginning of the filing period and the district election shall be filled by appointment. See RSA 671:33, V.

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- E. Process to Fill Vacancies by the Board.** The Board will generally employ the following process when there is a vacancy on the Board, or in other office for which the Board has authority to fill the vacancy. Except as required by RSA 91-A:2 and 3, the Board reserves the right to waive, supplement or otherwise amend any part of the process.

Discussion by the Board of the process to be used to fill a vacancy, and the appointment process itself, including candidate interviews, shall occur in public session during a duly noticed meeting. The only possible exception could be a limited discussion regarding a potential candidate wherein that part of the discussion is likely to adversely affect the reputation of a person other than a board member. See RSA 91-A:3, II(c).

Once the Board has confirmed or acknowledged the vacancy, the Board will advertise/post notice of the vacancy on the District web-site and in such other manner as the Board deems appropriate. Among other things, the notice shall invite interested persons to submit a letter of interest to the Board Chair, with a copy to the Superintendent. All such letters shall be included in the public meeting materials for the meeting at which the appointment is to be considered.

Interviews of candidates for vacant positions will take place in a meeting open to the public.

After motion and second, vote shall occur by voice or hand in public session (secret ballots are not allowed under RSA 91-A:2, II).

District Policy History:

First reading: October 7, 2009
Second reading/adopted: October 12, 2009
Reviewed November 19, 2012
Reviewed September 21, 2015
Revised November 15, 2021

Legal References:

New Hampshire Constitution, Pt 1, Art. 11, Elections and Elective Franchises
RSA 197:20, Clerk
RSA 197:26, Vacancies
RSA 607-A:2, Rights Lost
RSA 652:12, Vacancy (definition)
RSA 671:33, School District Elections: Vacancies

Legal References Disclaimer: *These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.*
