



How to Handle Complicated School Board Vacancies

By Gary Lee, MSBA Deputy Executive Director

Mobility in all Minnesota communities (and school districts) continues to increase. Individuals and families have many new opportunities in other communities for their careers and their families. School districts see this daily as new students arrive and need assistance adapting to the new environment. MSBA has seen the impact of mobility in the turnover of elected school board members, and we have seen an increase in questions from members on how to proceed when faced with a school board vacancy.

QUESTION: We have a school board member who is moving outside of the school district boundaries because he/she purchased a new house. He/she is moving in April. Can he/she stay on our school board? If not, how do we proceed?

ANSWER: To be elected to a school board, the individual must be entitled to vote at any election, be 21 years of age, and have resided in the district for 30 days prior to the election (Article VII, Section 6 of the Minnesota Constitution). Minnesota statute provides additional clarity on the issue when it says in part, "A vacancy in any board occurs when a member ... ceases to be a resident of the district, ..." (M.S. 123B.09, Subd. 3.)

The vacancy will occur, without any action by the school board member or the school board, the day the school board member changes his/her residence. For clarity, the school board member should submit a letter of resignation with the effective date so the official board minutes can reflect the change. The school board must then comply with the

requirements to fill the school board vacancy as found in M.S. 123B.09, Subd. 5b. Some additional facts are needed to determine how to proceed. In this case, the school board had held a school board election the previous November, and the school board member is in the last two years of his/her four-year term.

The statute requires that the vacancy be filled by school board appointment until a special election is held in the current year. The appointment process is not defined in statute, so the school board can determine the best process. The school board can ask for applications and make a selection.

Also, they can reach out to a former school board member with experience and ask if the individual would serve. Finally, they could also devise a variation to the previous processes.



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Once the appointment is made, a 30-day waiting period is imposed before the appointee is seated. The waiting period is in place to allow the public to petition against the selection of the appointee. Because the vacancy occurred in the third year of the term and more than 90 days prior to General Election Day, the school board must schedule a special election no later than November of the current year. For the majority of school districts that hold their school board elections in the even year, the cost of the special election will be borne by the school district. We have heard that this cost can range from \$3,000 to \$30,000, depending on the size of the school district.

QUESTION: We have a board member who serves in the National Guard and is being

deployed overseas for six months. How do we handle this?

ANSWER: M.S. 123B.09, Subd. 4, addresses this type of vacancy. For ill or absent members who will not be able to serve and attend meetings for no less than 90 days, the school board may declare a vacancy and fill the vacancy with an appointee until the member can return or until the end of the term, whichever is earliest. Statute does not require a waiting period for this type of appointee, and the appointee is seated immediately following school board action.

The school board has another option for absent school board members who have access to audio and visual technology. The Open Meeting Law (M.S. 13D) addresses the conditions that must occur for school board

members to participate remotely. MSBA has seen this work for a deployed school board member who was in a non-secured area. Some military deployments are obviously in conditions where the school board member will not have the freedom or the tools available to participate remotely.

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