

# Davis School District Policy and Procedures

**Subject: 1B-020 Transfers, Resignation, and Vacancies**

**Index: Board of Education**

**Revised: April 18, 2017**

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## 1. PURPOSE AND PHILOSOPHY

Vacancies on the Board of Education of Davis School District (Board) may occur for a variety of reasons, including but not limited to, a member's resignation, illness, death, move outside the District or precinct. In addition, District or precinct boundaries may change. Therefore, it is the Board's purpose to articulate procedures for the filling of vacancies that may occur in an orderly and timely manner.

## 2. TRANSFERS OF A DISTRICT

If a portion of the Davis School District (District) becomes part of another school district, or if a portion of another school district becomes part of the District, any member of the Board residing within the transferred portion becomes a member of the Board of the transferee district and shall serve the remainder of the term to which the member was elected.

## 3. BOARD MEMBER RESIGNATION

- 3.1. If a Board member must resign, either due to change of residence, illness, or any other reason, the Board member shall submit a written resignation to the president of the Board.
- 3.2. If a Board member's permanent residence ceases to be within the boundaries of the District or precinct from which the member was elected, the Board member will resign immediately.
- 3.3. Upon receipt of a Board member's written resignation, the Board will consider the resignation at its next regularly scheduled meeting.
- 3.4. The Board will accept the resignation by formal action and declare the Board position vacant unless the resignation is withdrawn any time prior to the Board's action.

## 4. VACANCIES

- 4.1. The Board shall fill vacancies on the Board by appointment, except as otherwise provided in Subsection 5.2.
  - 4.1.1. If the Board fails to make an appointment within thirty (30) days after a vacancy occurs, the Davis County Commission shall fill the vacancy by appointment.
  - 4.1.2. A Board member appointed and qualified under this subsection shall serve until a successor is elected or appointed and qualified.
- 4.2. A vacancy on the Board shall be filled by an interim appointment, followed by an election to fill a two (2) year term if:
  - 4.2.1. the vacancy on the Board occurs, or a letter of resignation is received by the Board, at least fourteen (14) days before the deadline for filing a declaration of candidacy; and
  - 4.2.2. two (2) or more years of the vacated term will remain after the first Monday of January following the next school Board election.

Members elected under this subsection shall serve for the remaining two (2) years of the vacated term and until a successor is elected and qualified.

- 4.3. Before appointing an individual to fill a vacancy, the Board shall:
  - 4.3.1. give public notice of the vacancy at least two (2) weeks before the Board meets

- to fill the vacancy;
- 4.3.2. identify, in the notice:
  - [a] the date, time, and place of the meeting where the vacancy will be filled;
  - [b] the person to whom and the date and time before which an individual interested in being appointed to fill the vacancy may submit the individual's name for consideration; and
  - [c] in an open meeting, interview each individual whose name is submitted for consideration and who meets the qualifications for office regarding the individual's qualifications.
- 4.4. Subject to section 4.3.2, the Board may appoint an individual to fill a vacancy described section 4.1 and 4.2 before the vacancy occurs if a member of the Board submits a letter of resignation.
  - 4.4.1. An individual appointed under this section may not take office until or after the day on which the vacancy occurs for which the individual is appointed.
  - 4.4.2. A member of the Board who submits a letter of resignation may not rescind the resignation after the Board makes an appointment to fill the vacancy created by the resignation.
- 4.5. A Board member called to active, full-time duty in the armed forces creates a vacancy which must be filled in accordance with the procedures in Section 4.3 of this policy unless the Board member takes military leave as outlined below.
  - 4.5.1. A Board member called to active, full-time duty in the armed forces may take military leave if the Board member submits a written notice to the Board President of the intent to take military leave and the expected duration of the leave by the later of:
    - [a] twenty-one (21) days before the military leave begins; or
    - [b] the next business day after which the Board member receives an order from the armed services calling him/her to active full-time duty.
  - 4.5.2. A Board member's military leave begins the day on which he/she begins active, full-time duty in the armed forces; and ends the sooner of:
    - [a] the expiration of the Board member's term of office; or
    - [b] the day on which the Board member ends active, full-time duty in the armed forces.
  - 4.5.3. The Board shall appoint a temporary replacement who meets the qualifications required to hold the office before the day on which the military leave begins.
  - 4.5.4. If a temporary replacement is not appointed before the day on which the military leave begins, no person may exercise the powers and duties of the Board member's office during the Board member's military leave.
  - 4.5.5. The Board shall provide an application and establish the date and time before which a person shall submit the application to be considered by the Board for appointment as a temporary replacement.
  - 4.5.6. The temporary replacement shall exercise the powers and duties of the office for the duration of the elected Board member's military leave.
  - 4.5.7. A Board member may not exercise the powers or duties of the office while on military leave.
  - 4.5.8. The Board shall establish the distribution of the emoluments of the office between the elected Board member and the temporary replacement during the period of military leave.

**5. INTERVIEW AND APPOINTMENTS**

- 5.1. In a closed meeting, the Board may not interview a person applying to fill a midterm vacancy or temporary absence, discuss filling a midterm vacancy or temporary absence, or discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence.
- 5.2. All Board interviews of applicants to fill a vacancy, as well as the final appointment shall be done in open session in a regular Board meeting.

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**DEFINITIONS**

**“Military leave”** means the temporary absence from an office by an elected official called to active, full-time duty in armed forces for a period of time that exceeds 30 days and does not exceed 400 days.

**“Temporary replacement”** means the person appointed by the political subdivision’s governing body, in accordance with Utah Code Ann. §20A-1-513, to exercise the powers and duties of the office of the elected official who takes military leave.

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**REFERENCES**

[Utah Code Ann. §20A-1-511](#) – Midterm vacancies on local school boards.

[Utah Code Ann. §20A-1-513](#) – Temporary absence in elected office of a political subdivision for military leave.

[Utah Code Ann. §20A-14-204](#) – Effect of transfer of a district on composition of local school board.

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**DOCUMENT HISTORY:**

**Adopted: February 16, 1999**

**Revised: May 19, 2009:** Periodic review. Technical changes no substantive changes.

**Revised: May 17, 2011:** Policy amended to reflect changes as a result of SB 66. Added language regarding military leave for an elected official of a political subdivision.

**Revised: May 15, 2011:** Updated with minor revisions made consistent with changes in State law and rule (HB491). Requires the Board to interview potential appointees in public meeting and prohibits the discussion of filling a midterm vacancy or temporary absence in a closed meeting.

**Revised: September 2, 2014** – As part of a five year review made changes in legal requirements for military leave.

**Revised: April 18, 2017** - Updated to comply with change in State Law HB119. Allows board to make an appointment to fill a vacancy on the board after a member submits a letter of resignation

Updated by committee: May 28, 2019 – Non-substantive changes to comply with SB33 (2019) residency requirements and SB 165 (2019) definition of quorum.