**[See POLICY ALERT Nos. 181, 202, 235, and 238]**

## 0143 BOARD MEMBER ELECTION AND APPOINTMENT

The election and appointment of Board of Education members will be conducted in strict compliance with law.

**[Applicable for Type II Districts With an Elected Board and Regional School District Boards**

Vacancies in the membership of Boards of Type II districts having elected Boards shall be filled in accordance with N.J.S.A. 18A:12-15. Vacancies in the membership of a regional Board shall be filled from the constituent districts represented by the former incumbents in the same manner as vacancies in the membership of Boards of Type II districts having elected Boards in accordance with N.J.S.A. 18A:13-11. Such vacancies shall be filled as follows:

1. By the Executive County Superintendent, if the vacancy is caused by the absence of candidates for election to the Board or by the removal of a member because of lack of qualifications, or is not filled within sixty-five days following its occurrence;

2. By the Executive County Superintendent, to a number sufficient to make up a quorum of the Board if, by reason of vacancies, a quorum is lacking;

3. By special election, if in the annual school election two or more candidates qualified by law for membership on the Board receive an equal number of votes. Such special election shall be held only upon recount and certification by the County Board of Elections of such election result, shall be restricted to such candidates, shall be held within sixty days of the annual school election, and shall be conducted in accordance with procedures for annual and special school elections set forth in Title 19 of the Revised Statutes. The vacancy shall be filled by the Executive County Superintendent if in such special election two or more candidates qualified by law for membership on the Board receive an equal number of votes;

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4. By special election~~,~~ if there is a failure to elect a member at the annual school election due to improper election procedures. Such special election shall be restricted to those persons who were candidates at such annual school election, shall be held within sixty days of such annual school election, and shall be conducted in accordance with the procedures for annual and special school elections set forth in Title 19 of the Revised Statutes;

5. By the Commissioner of Education if there is a failure to elect a member at the annual school election due to improper campaign practices; or

6. By a majority vote of the remaining members of the Board after the vacancy occurs in all other cases.

Each member so appointed shall serve until the organizational meeting following the next annual election unless the member is appointed to fill a vacancy occurring within the sixty days immediately preceding such election if the annual election is held in April, or occurring after the third Monday in July if the election is held in November, to fill a term extending beyond such election, in which case the member shall serve until the organizational meeting following the second annual election next succeeding the occurrence of the vacancy, and any vacancy for the remainder of the term shall be filled at the annual election or the second annual election next succeeding the occurrence of the vacancy, as the case may be in accordance with N.J.S.A. 18A:12-15.

The **School Business Administrator/**Board Secretary shall promptly notify the President of a vacancy to be filled by the Board. The President shall inform all other Board members. The Board will **provide** ~~give~~ public notice of the vacancy and invite any qualified person to submit a written request for consideration of their candidacy **to the School Business Administrator/Board Secretary** for the vacancy. **The public notice shall include the closing date and time for a written request of a candidate to be received by the School Business Administrator/Board Secretary.** The Board may also require candidates submit a resume with their written request. **A written request received after the closing date and time will not be considered by the Board.**

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In considering candidates who have expressed an interest in a vacancy, the Board may interview candidates in public or executive session. **In the event interviews are conducted in public session, the Board may discuss candidates in executive session. In the event interviews are conducted in executive session, the Board will discuss candidates in public session.** The Board must **move to nominate and** vote to appoint a candidate to a vacancy in public session ~~and there shall be no decisions made in executive session~~. ~~In the event interviews are conducted in executive session, Board members, in the public session nomination and voting process, shall express their opinion in support of their vote so the public can witness any deliberations, policy formulation, and the decision making process of the Board.~~ **Prior to nominations and a vote to fill a vacancy, "… [The Board] must explain any decisions taken during the closed session and allow public discussion about those decisions and other matters the public wishes to raise before it moves to nominations and a vote to fill a vacancy."** ***Arminio v. Monroe Township Bd. of Ed.*****, 483 N.J. Super. 1 (2025). "The [Open Public Meetings Act] is violated when formal action is taken in [a] closed session and never ratified or even discussed in a public session."** ***Burnett v. Gloucester Cnty. Bd. of Chosen Freeholders*****, 409 N.J. Super. 219 (App. Div. 2009).**

A roll call vote will be conducted on candidates in the order the candidates were nominated with a second. If there are two or more vacancies, each vacancy will be filled by a separate election process. The first candidate who receives the votes of a majority of the remaining Board members will be elected to the vacancy. In the event no candidate receives a majority vote of the remaining Board members, another election process **or additional election processes** shall be conducted between the two candidates receiving the highest number of votes.**]**

**[Applicable for County Vocational School Districts Only**

A vacancy on the county vocational school district Board shall be deemed to exist and shall be filled in the manner prescribed in N.J.S.A. 40A:9-12.1**.**, pursuant to N.J.S.A. 18A:54-16.

The seat of a Board member on the county vocational school district Board shall be deemed vacant:

1. Upon its being so declared by judicial determination;

2. Upon the filing by such Board member of their written resignation;

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3. Upon the refusal of a person designated for appointment to **such** ~~the~~ Board to qualify or serve;

4. Upon the determination of the appointing authority that such Board member shall have become physically or mentally incapable of serving;

5. Upon the death of such Board member;

6. Upon the determination of the appointing authority that, in violation of a lawful residency requirement, such Board member no longer resides within the county in which the county vocational school district is located;

7. In the case of a member of the Board, whenever the Board member, without being excused by a majority of the members of **such** ~~the~~ Board, fails to attend and participate at meetings of **such** ~~the~~ Board for a period of eight consecutive weeks, or for four consecutive regular meetings, whichever shall be of longer duration, at the conclusion of such period, provided that such Board shall notify the appointing authority in writing of such determination; provided, further, that such Board may refuse to excuse only with respect to those failures to attend and participate which are not due to legitimate illness; provided, however, that nothing in N.J.S.A. 40A:9-12.1**.** shall preclude a municipal appointing authority from adopting by ordinance a policy establishing a lower absentee threshold, provided that the ordinance shall not permit the removal of the Board member if the Board member has been absent for less than six consecutive weeks, or three consecutive meetings, whichever shall be of longer duration, without being excused, within the term of office for the position held by the individual;

8. Upon the removal of **such** ~~a~~ Board member for cause in accordance with law, or for any other reason prescribed by law.

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Whenever any of the above shall occur the appointing authority shall forthwith fill the vacant Board seat for the unexpired term in the manner prescribed by law; provided, however, that in the case of a person failing to qualify or refusing to serve pursuant to N.J.S.A. 40A:9-12.1.c. and 3. above, such Board seat shall not be deemed vacant, if the incumbent Board member is authorized by law to continue serving on the Board until a successor is appointed and qualifies therefor.**]**

N.J.S.A. 18A:12-11**.**; 18A:12-15**.**
N.J.S.A. 18A:13-5**.**; 18A:13-10**.**; 18A:13-11**. [regional district]**
N.J.S.A. 18A:54-16**. [vocational district]**
N.J.S.A. 40A:9-12.1**. [vocational district]**
***Arminio v. Monroe Township Bd. of Ed.*, 483 N.J. Super. 1 (2025)**
***Burnett v. Gloucester Cnty. Bd. of Chosen Freeholders*, 409 N.J. Super. 219 (App. Div. 2009)**
***Gannett Satellite Info. Network, Inc. v. Bd. of Educ. of Borough of Manville*, 201 N.J. Super. 65 (1984)**
***Jones v. East Windsor Bd. of Ed.*, 143 N.J. Super. 182 (Law Div.1976)**

Adopted:

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