

Raymond School District Policy - BBBE

VACANCIES AND UNEXPIRED TERM FULFILLMENT

- 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 and Budget Committee Member. 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 and budget committee member. 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.
 3. Budget Committee Vacancy. A vacancy on a municipal budget committee is filled by the town moderator or budget committee in accordance with RSA 32:15, VII.
- 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.
- 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 another 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 website 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 School Board, c/o the Administrative Assistant 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).

~~Vacancies shall be filled in accord with RSA 197:26 as it may be from time to time amended.~~

~~The School Board shall fill vacancies occurring on the Board until the next annual meeting of the District. In case of vacancy of the entire membership of the Board, or the remaining members are unable to agree upon an appointment, the selectmen, upon application of one or more voters in the District, shall fill the vacancies so existing until the next annual meeting of the District.~~

Statutory Reference:

~~RSA 197:26~~

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

Adopted: September 2, 1970

R/R: 12/18/97

Revised: June 6, 2002

Legal References Updated 2015

Proposed Revision First Reading: February 16, 2022