

OATH OF OFFICE*Category: Technical Advisory**Related Policies: BBB, BBBE & BCA
Related Form: BBB-F*

*This document is a technical advisory only, intended to provide school boards and school district officers guidance and information relative to the Constitutional and statutory requirements relative to the oath of office. **As a technical advisory, no action by the Board is required.***

School board members, as well as school district moderators, clerks, treasurers and other elected, re-elected, appointed or re-appointed, district officers, are required to take an oath of office pursuant to Pt. II, Article 84 of the New Hampshire Constitution. See also RSA 92:2, and RSA 42:1 (applicable to school districts per RSA 194:1). Unfortunately, the statutes applicable to the timing and manner of giving or administering the oath for school district officers are sprinkled throughout various titles and chapters of the New Hampshire Revised Code Annotated (i.e., “RSA”).

A. Term of Office. Under RSA 671:3, the term of office for district officers runs from officer’s election (or appointment), until the election and qualification of a successor. The oath of office is an essential and the last “qualification” to serve as an official. Accordingly, the term of office for an officer begins upon taking the oath¹ following the conditions outlined in section B below. Conversely, **the person holding the office before the election** (or appointment if no vacancy) whether it is someone who did not run again, or ran and was not declared the winner, **will hold office until the newly elected person takes the oath.**

B. Time and Place for Taking Oath.

1. **Elections.** With few exceptions², **if no recount is requested**, a person elected to a school district office should be sworn as soon after the Friday following the election.
 - a. **If a recount is requested, and the originally declared winner is affirmed**, then that person may take the oath as soon as practicable after the declaration of recount results.
 - b. If a **different person is declared the winner after a recount, and no appeal** of the result is taken, then the newly declared winner may take the oath and office on the sixth day following the recount.
 - c. If a **different person is declared the winner after the recount, and an appeal is taken**, that newly declared winner (i.e. after the recount) does **not** take the oath or take office until after a final ruling on the appeal.
2. **Failure to Timely Take Oath.** Under RSA 42:6, a person elected to office is guilty of a violation if s/he fails to take the oath within 30 days of the election. Additionally, under RSA 652:12, that office is deemed vacant, tantamount to forfeiture of the office by that person.
3. **Appointments.** Persons **appointed** to office take the oath of office (vacancy or non-elected) upon their appointment.

¹ The one exception is the district treasurer whose term begins after the later of the beginning of the fiscal year or the taking of the oath. I.e., the treasurer can be sworn in at the same time as other elected officers, whose terms would begin upon the swearing in, but the treasurer’s term does not begin until the new fiscal year. See RSA 671:6.

² Most notable exceptions are: (1) the treasurer, see footnote 1, and (2) if a candidate ran unopposed, AND no write-in candidate received one vote for that office, the candidate may take office/the oath as soon as the results are declared and the annual meeting has concluded (see RSA 671:32 , 669:10, II & 669:30).

OATH OF OFFICE

C. Who May Administer the Oath.

The power to administer oaths for school district officers is given to the district moderator, clerk, assistant moderator, any sitting member of the school board, and any justice of the peace. See RSA 92:5, 197:19, 19-a, and 20.

D. Form, Place and Manner.

1. **Form.** The form of the oath (i.e., the oath itself), is as proscribed in the N.H. Constitution. See Section E, below, and NHSBA sample BBB-F. Under RSA 92:3, the word "*affirm*" may be substituted for "*swear*," in the form of the oath; and the words "*This you do under the pains and penalties of perjury*," instead of "*So help you God*."
2. **Place.** There are no specific requirements relative to where the oath may be administered. Many districts swear their newly elected officers in at a school board or other public meeting, but that is not required.
3. **Manner/Ceremony.** Other than the form of the oath itself, the only requirement as to administration of the oath is that the person giving the oath raise her/his right hand. RSA 92:4.

E. Certificate of Oath. The person administering an oath is required to “file a certificate” of the oath with the District Clerk (c/o SAU). All Certificates of Oath of Office shall be maintained as records of the District. See NHSBA sample form BBB-F.

Legal References:

N.H. Constitution, Pt. II, Art. 84
RSA Chapter 42, Oaths of Town Officers
RSA Chapter 92, Tenure and Oath of Office in Certain Cases
RSA 197:19, Moderator
RSA 197:19-a, Assistant Moderator
RSA 197:20, Clerk
RSA 652:12, Vacancies
RSA Chapter 669, Town Elections
RSA Chapter 671, School District Elections
N.H. Election Procedure Manual (Accessible on website of the N.H. Secretary of State, Elections Division)

Legal References Disclaimer: *These references included as additional resources for those interested in the subject matter of the technical advisory, are not intended as a comprehensive or exclusive compilation of applicable laws.*

NHSBA history: New Technical Advisory, March 2022.

w/p-update/2022-U1 Spring/BBB-TA Oath of Office 2022-U1 (1)

DISCLAIMER: This sample is provided for general information only and as a resource to assist NHSBA member Districts. This Technical Advisory is not to be considered legal advice. School Districts and Boards of education should consult with legal counsel to address local facts and circumstances prior to adoption. NHSBA continually makes revisions based on school Districts' needs and local, state and federal laws, regulations and court decisions, and other relevant education activity.