

Filling Vacancies on Elected School Boards

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Two processes

Interim

Permanent

Fillind vacancy on a permanent basis

SB's only responsibility with regard to filling the vacancy permanently is to petition the local circuit court for a writ of election.

Filling vacancy on a permanent basis

Petition for writ of election must be filed within 15 days of the vacancy.

Filling vacancy on an interim basis

This refers to the remaining members of the school board filling the vacancy until the voters can fill it.

Filling vacancy on an interim basis

The remaining SB members may fill the vacancy until the voters fill the vacancy.

Va. Code § 24.2-228

Fillinɡ vacancy on an interim basis—time requirements

The remaining members of the SB have 45 days to fill the vacancy.

BUT there are subsidiary timing requirements within that 45 days.

Filling vacancy on an interim basis—public hearing

The SB must hold a public hearing before filling the vacancy.

Filling vacancy on an interim basis— public hearing

Notice of the public hearing must be given at least 10 days before the hearing.

The notice must be given by publication in a newspaper with general circulation within the school division.

Filling vacancy on an interim basis—public hearing

The public hearing must be held at least seven days prior to the appointment.

Filling vacancy on an interim basis— time requirements (summary)

Timeline: 45 days to fill the vacancy

1. notice (at least 10 days before hearing)
2. hearing
3. vote (at least 7 days after hearing)

Filling vacancy on an interim basis--procedure

The only procedure specified by law is the requirement for a public hearing.

Filling vacancy on an interim basis—procedure

No one whose name is not considered at the public hearing can be appointed.

Tip:

Remember that the SB is not hiring an employee when it fills a SB vacancy.

Tip:

Think about whether the SB wants to create an incumbent.

Date of vacancy

- The date the SB member designates for resignation.
- The date the SB member no longer resides in the district, if representing a district, or the division, if representing the division at large.

Tip:

When possible, SB members should consider the timing of creating a vacancy.

Special circumstances

- Resignation given in advance
- Vacancy due to deployment
- Vacancy near end of term
- City charters
- DOJ/voting rights situations
- Multiple vacancies

Special circumstances

Resignation given in advance

When written notice is received by board, the SB may immediately petition the circuit court to issue a writ of election.

Special circumstances

Resignation given in advance

The resignation cannot be withdrawn after

- the date stated for the resignation to become effective, or
- the 45th day before the date of the special election.

Special circumstances

Vacancy due to military deployment.

See Va. Code § 2.2-2802.

Special circumstances

Vacancy near general election.
See Va. Code § 24.2-226.

Special circumstances

Vacancy near end of term.

See Va. Code § 24.2-226.

Special circumstances

Multiple vacancies at the same time.

Va. Code § 24.2-228.

Special circumstances

Rare, but possible

- city charters
- US Department of Justice requirements

FAQs

Q. Who can be appointed to fill the vacancy?

A. The person appointed to fill the seat on an interim basis must be a qualified voter of the election district in which the vacancy occurs.

Q. When does the new SB member actually become a member of the SB?

A. As soon as the member qualifies (takes the oath of office).

Q. How long does the **appointed** SB member serve?

A. If appointed by the SB on an interim basis, the new member serves until the seat is filled on a permanent basis by the voters.

Q. How long does the newly **elected** SB member serve?

A. If elected at special election, the newly elected SB member serves for the remainder of the original SB member's term.

Important

Everything I've talked about today is based on current law and is subject to change. If a vacancy arises in the future, consult your school board attorney or the VSBA to see if the law has changed.

Questions?

Call **Elizabeth**

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