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### **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 of a crime which disqualifies their 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.** 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. 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.

**NH Statutes**

Pt 1, Art. 11 New Hampshire Constitution, Elections and Elective Franchises

RSA 197:20 Clerk

RSA 197:26 Vacancies

RSA 607-A:2 Rights Lost

RSA 652:12 Vacancy (applicable by way of RSA 652:1, Elections)

RSA 671:33 Vacancies