

School Board Organizational Meetings



April 11, 2023

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Organizational Meeting



► When is it?

- Held on or within 30 days of the 4th Monday in April. Section [120.05\(1\)\(c\)](#) and Section [120.43\(1\)](#)

► What does it do?

- **Primary Task:** Election of Officers
- May involve Administration/Filing of the oath of office (always have this done on or before the 4th Monday in April)
- May involve other annual tasks

Organizational Meeting – Oath of Office

► Administration of oath

- On or prior to the fourth Monday in April, a school board member shall take and file the official oath.
- The school district clerk has authority to administer the oath of office.
- In the absence of the clerk, a notary public or other person with the authority to administer oaths may also administer the oath to newly elected members.

Organizational Meeting – Oath of Office

► Administration of oath

- Other individuals authorized to administer the oath.
 - Notary: Anyone who is a notary authorized to administer oaths in Wisconsin.
 - Others (e.g., judges, court commissioners, court reporter, notaries public) also have authority to administer the oath. Please see Section [887.01\(1\)-\(2\)](#).
 - The school board president is not listed in that statute and wouldn't be able to administer the official oath unless the President also serves in one of those capacities or is a notary.

Organizational Meeting – Oath of Office

► Administration of oath – Virtual?

- Please see [2019 Wisconsin Act 125](#)
- Guidance - [Remote Notarization.pdf \(wdfi.org\)](#) and [REMOTE ONLINE NOTARIZATION: GUIDANCE FOR NOTARIES SEEKING TO PERFORM REMOTE ONLINE NOTARIAL ACTS](#)
- The oath must be on the prescribed written form.
 - The Elections Commission maintains an [official oath form \(EL-154\)](#).
 - If desired, the oath may be administered orally in addition to the written oath (e.g., during open session of a school board meeting), but such additional administration should be considered largely ceremonial. [Section 19.01](#).
- The oath doesn't have to take place at a board meeting, but it does have to be administered on or before the fourth Monday in April (April 24, 2023).

Organizational Meeting – Taking Office

► Taking Office

School board members take office, provided they have taken and filed the official oath, on the fourth Monday in April. Sections [120.06\(4\)](#) and [120.42\(2\)](#).

It is the WASB's understanding that failing to take and file the oath of office by the statutory deadline creates a vacancy in the office (i.e., the person loses their seat on the school board).

► Please see [Section 17.03\(7\)](#)

School Board Organizational Meetings – Other Business That Might Be on the Agenda

- Board policy or practice might direct that a number of tasks will occur annually in conjunction with the board's organizational meeting. **EXAMPLES:**
 - Determine/affirm the procedures that will be used to elect officers
 - Determine/affirm dates of the board's regular monthly meetings
 - Determine/affirm the board's committee structure
 - Appoint committee members
 - Appoint the board's representative for determining the composition of the CESA board of control
 - Appoint the board's representative(s) to any intergovernmental "joint committees"
 - Appoint the board's WASB delegate

Officers of 3-Member School Boards



- ▶ **Section 120.05 School board Officials.** (1) (b) In the case of a 3-member school board, the school district president, treasurer and clerk shall constitute the school board. At the first election of a 3-member school board, the clerk shall be elected for a one-year term, the treasurer for a 2-year term and the president for a 3-year term.

Election of Officers – Common or Union High School – More than 3 Members

- If the board of a **common or union high school** district has more than three members, it shall annually elect the following:
 - President
 - Vice president
 - Treasurer
 - Clerk
 - Section [120.05\(1\)\(c\)](#)
- The election of officers shall occur on or within 30 days after the 4th Monday in April. Section [120.05\(1\)\(c\)](#)

Election of Officers – Unified School District

- ▶ The school board of a **unified school district** shall elect a school district president, vice president, clerk, and treasurer from among its members, **and a school board secretary** who need not be a member of the school board.

Section 120.43(1)

- ▶ The election shall occur annually, on or within 30 days of the 4th Monday in April. Section 120.43(1)



Electing Officers: Voting



- ▶ Where the number of votes cast constitutes a quorum, a majority of those votes is sufficient to elect an officer.
- ▶ Election of officers may be by secret ballot:

Section 19.88 Ballots, votes and records. (1) Unless otherwise specifically provided by statute, no secret ballot may be utilized to determine any election or other decision of a governmental body **except the election of the officers of such body** in any meeting.



Electing Officers: Voting



- ▶ **School Board Meeting Election of Officers:**
- ▶ Secret ballots are permitted, but not required by the statute.
- ▶ Some boards may have existing policies that specify that secret ballots shall be used, or that specify that the board will determine its method of voting for officers each year at the outset of the reorganization process.
- ▶ Generally, a school board may amend or suspend the application of any such policy if necessary, but it is important to know if the board has such a policy and what it currently says.



Electing Officers: Voting



- ▶ **Virtual School Board Meeting Election of Officers:**
- ▶ **For example, a board could approve one of the following options:**
 - **Traditional In-Person Meeting:** The board could decide to hold the election of officers at a meeting called by the board where remote participation by board members will not be permitted and secret ballots will be used (i.e., conduct a traditional in-person meeting to select officers).
 - **Remote Participation:** If the meeting at which the election of officers occurs will include the remote participation of a board member(s), the board could decide (via a motion or policy adopted by the board) not to use secret ballots in the election of officers this year.



Electing Officers: Voting



- ▶ **Virtual School Board Meeting Election of Officers:**
- ▶ **Remote Participation Option 1:** The board could decide to authorize board members to participate in the election of officers either in person or remotely, such that individuals who are present in person may submit unsigned ballots, whereas remote participants would not have that option. However, the board would need to recognize that, in some scenarios under this process, some or all votes from an unsigned ballot may be able to be attributed to a specific board member by process of elimination.
- ▶ **Remote Participation Option 2:** A board could approve some other process for submitting votes for board officers that addresses both a desire for secrecy and the need to ensure that the vote was validly cast. A board may wish to have any such option reviewed by legal counsel prior to moving forward with it.



Electing Officers: Voting



- ▶ **Virtual School Board Meeting Election of Officers:**
- ▶ **The next step is figuring out what the board wants to do. For example, a board could approve one of the following options:**
 - The first option listed is likely the path of least resistance for boards that wish to conduct the election of officers with the remote participation of board members. However, it is important to reiterate that
 - (1) boards are not required to use secret ballots for the election of board officers; and
 - (2) any board decisions about the procedures for electing officers need to be made by accounting for any existing policies or procedures that have been adopted by the board (including any newly-adopted policy about conducting virtual meetings).

Electing Officers: Procedural Tips

- ▶ Most boards elect a president first.
- ▶ Have a process in place that permits nominations to be made and accepted, and that accounts for the possibility that multiple rounds of nominations and voting may be needed.

Electing Officers: Procedural Tips

- ▶ When there are three or more nominees for an office, a board does not have to automatically “drop the nominee with the fewest votes” from all subsequent rounds of voting.
- ▶ Board members who are absent may be elected to an office, but cannot cast a vote via proxy.
- ▶ If possible, confirm that the individual who is elected accepts the office before going on to the next office.

After the Organizational Meeting – Removal/Replacement of Officers

- ▶ Officers serve at the pleasure of the board.
- ▶ A school board could choose to elect different officers after the reorganization meeting, provided open meetings law requirements are met.
- ▶ [WASB Legal Comment May 1980](#)

After the Organizational Meeting – Removal/Replacement of Officers

- ▶ The Wisconsin Attorney General has opined that when a school board annually "elects" its officers, in reality the school board members are exercising their power of appointment, thereby making the lesser standards for removal of appointive, as opposed to elective, officers applicable.
- ▶ [WASB Legal Comment May 1980](#)

After the Organizational Meeting – Removal/Replacement of Officers

- ▶ Accordingly, a non-city school board officer who is elected by the school board to serve a one-year term apparently can be removed at pleasure during the term thereof by a majority vote of all the members of the school board.
- ▶ School boards should always undertake to exercise reasonable discretion when carrying out this apparent authority to summarily remove a board officer. However, a hearing into the reasons for the removal of the board member would not ordinarily have to be conducted by the board. Op. Atty. Gen. (July 10, 1979). Section 17.13 (I).
- ▶ [WASB Legal Comment May 1980](#)

After the Organizational Meeting – Filling Officer Vacancies

- ▶ Board officer vacancies can occur if the officer resigns from the board or from the specific office.
- ▶ When an officer has also resigned from the board, the vacancy in the *officer role*:
 - is filled separately from the vacancy on the board (except on 3-member boards);
 - can be (and often is) filled sooner than the board seat.

After the Organizational Meeting – Filling Officer Vacancies

- ▶ The meeting notice/agenda should assume that filling the known board officer vacancy could trigger other officer vacancies (e.g., the current treasurer becomes the president).
- ▶ School boards should be cautious of appointing a board officer to discharge the general duties of another officer.
 - For example, appoint the board clerk to carry out the duties of the board treasurer when he/she is unable to do so. Such appointment could create a problem with incompatibility of offices.

Board Officers: Sources of Authority

- **Wisconsin statutes** outline the basic duties of school board officers. See, e.g., Section [120.15 - 120.17](#) (e.g., “School district president; duties”).
NOTE: Many other statutes come into play other than just the ones cited above.
- **Board policy** can assign additional responsibilities and provide additional guidance to the board’s officers, but policy cannot conflict with the statutes (i.e., district policy cannot be used to “opt out” of mandatory legal duties).

Delegation of Officer Duties to a Non-School board Member

► General Rule:

Officers may not delegate discretionary duties of their office to non-board members except as otherwise expressly provided by law.

Officers may delegate ministerial and administrative duties to non-board members (e.g., the clerk may delegate the duty of receiving declarations of candidacy and other election documents to the school district administrator).

A number of officer duties would likely be deemed “ministerial” or “administrative,” but there is no clear line that can be relied upon.

► Delegation of Actual Responsibility Does Not Necessarily Transfer Legal Responsibility

Officers Unable to Perform Duties

120.05 School board officials. (3) If the school district president, vice president, treasurer or clerk of any school board is unable to discharge the duties of the office due to disability or absence, the school board may appoint a person to discharge the duties of such person until the disability or absence no longer exists. In the case of a 3-member school board, the appointee shall be an elector of the school district.

Officers Unable to Perform Duties

- ▶ **120.05 School board officials. (3) (continued)**
- ▶ In the case of a larger school board the appointee for the president shall be the vice president and the appointee for the other officers shall be another school board member.
- ▶ The school board shall determine the compensation of such appointees.
- ▶ A person acting as school district clerk or school district treasurer shall have the powers of a deputy and shall take and file an official bond covering the person's acts unless the bond of such officer includes a bond for the officer's deputy.

WASB Online Learning Platform

- ▶ Further Information on Board Officer Roles, including an in-depth review of the Board President's Roles and Responsibilities is available in the [WASB Online Learning Platform](#).
- ▶ For Information on the WASB Online Learning Library, visit wasb.org.

Presenter Bio

Bob Butler has been a WASB staff counsel since 1990. He is also, along with attorney Barry Forbes, the Association's co-associate executive director. Bob directly represents more than 40 school districts in Wisconsin on employment, human resources and school law matters. Bob also provides membership services, including general legal information, to all school districts that are members of WASB.

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