



Board Reorganization FAQ's

After the April elections, districts must swear in newly elected Board members and reorganize the Board by electing officers. Every year MSBA receives hundreds of calls on the details of the reorganization meeting.

The following are answers to common questions. Please note that the answers vary depending on whether the district is a traditional seven-director district, the St. Louis School District, or districts classified as "urban" under state statute (Columbia, Ft. Zumwalt, Independence, Kansas City, Lee's Summit, Springfield, and St. Joseph).

Swearing In

What if there is a tie for a Board position and the district is waiting for a recount or another election?

The law is not clear. Arguably, the district could swear in any Board members it knows won the election and operate with six members until the remaining seat is resolved.

What if the county clerk or election commission has not released the final results of the election by the swearing-in date?

Missouri law requires that the Board meet within 14 (or 10) days of the election, and the common interpretation of this statute is that the Board must meet, certify the election results, swear in recently elected (including re-elected) members, and elect officers at this meeting. However, MSBA does not recommend that a district swear in the recently elected members until it receives official election results. There is no case law in this area, but it is unlikely that a court would require a district to swear in members based on unofficial information. This said, many districts do go ahead and swear in Board members if it was not a close race and the district is confident that the unofficial results will be verified.

Our district did not have an election because we had the same number of candidates as we had positions.

How do we reorganize if there was no election?

The candidates will be sworn in and take office just as if the election had taken place. Remember, incumbents who are beginning a new term must be sworn in again as well. Arrange for a reorganization meeting after the election date, as if one had been held, and before the deadline for swearing in Board members. Rather than accepting the results of the election, the Board president will simply announce that the district was not required to hold an election and introduce the new members to be sworn in. The minutes should reflect that there was no election pursuant to §115.124, RSMo., and list the names of the Board members beginning their terms.

If the district does not hold an election because the number of candidates is the same as the number of positions, the election authority (usually the county clerk) must publish notice that there will be no election by April 1 prior to the election. The notice must be published in a qualifying newspaper of general circulation and must include the names of the candidates who will take office.

When are recently elected Board members sworn in?

Missouri law requires seven-director districts to meet within 14 days of the annual election to swear in Board members.

Districts classified as "urban" must meet within 10 days of the election.

What happens if we cannot arrange a meeting within 14 (or 10) days?

The statute does not give consequences, and there are no court cases to instruct us on what would happen. The point of the statute is to prevent the "old" Board from withholding authority from the "new" Board. However, if the recently elected Board members cannot attend to be sworn in, it would be pointless to have a meeting. MSBA recommends that the Board meet as soon as possible to swear in recently elected Board members and to be prepared to explain why the meeting could not take place earlier.

MSBA also recommends that districts schedule reorganization meetings prior to the beginning of candidate filing. If all the Board members and candidates have the date saved on their calendars many months ahead of time, scheduling conflicts may be avoided.

Are we required to swear in an incumbent who wins another term?

Yes. Swearing the Board member in again begins the new term.

A candidate who won the election has died before he was sworn in. What do we do?

In this unfortunate situation, a vacancy now exists on the Board. The Board should follow its policy on filling a vacancy.

How do we swear in the Board members?

The Missouri Constitution requires elected officials to "take and subscribe an oath or affirmation to support the Constitution of the United States and of this state, and to demean themselves faithfully in office." Mo.Const.Art. VII, §11. This means that Board members need to be sworn in and sign (subscribe) an oath.

MSBA recommends the following language:

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Missouri, and that I will faithfully and impartially discharge the duties of School Director in the _____ School District, to the best of my ability, according to law.

According to MSBA Policy BCA, the Board secretary will administer the oath, although district policies on this issue may vary. MSBA's sample form, BCA-AF, provides the oath in writing for the Board member to sign. MSBA recommends that districts keep a copy of this form for their records.

May the "old" Board meet after the election, but prior to swearing in the newly elected Board members?

Yes, but it is not recommended. The current Board stays in office until the newly elected members are sworn in. Understandably, the previous Board may want to meet to finalize issues that may be confusing to new Board members. However, meeting after the election but before swearing in the newly elected Board members could confuse the public - particularly if an incumbent was not re-elected. Such an action could be perceived as an unwillingness to turn over authority to the new Board. MSBA recommends that the Board finalize important business prior to the election if at all possible. If not possible, the old Board may legally meet, but should keep the business to a minimum.

A candidate won the election but has decided he or she does not want to be on the Board or has learned that he or she is moving out of the district for work or other reasons and cannot serve. What do we do?

The candidate needs to state in writing that he or she is not able or is not willing to serve on the Board. The candidate does not take the oath and a vacancy exists. State statute requires that the Board fill the vacancy, but does not mandate a process. MSBA policy BBE sets out a process for filling a vacancy. The vacancy is filled until the next election, when candidates will run for the remainder of the term, which in this situation would be two years.

Many Boards in this situation are tempted to simply appoint a candidate who ran for School Board, but was not elected. MSBA does not recommend this. Although the fact that a person ran for the Board is certainly an indication that the person is committed to the position, the fact that the public did not elect this person may be significant as well. MSBA recommends that districts go through the application process in BBE and invite unsuccessful candidates to apply. This allows the Board to weigh all options and does not create an expectation that any time there is a vacancy an unsuccessful candidate will be appointed.

May a Board member be sworn in electronically?

The law does not prohibit taking the oath over the telephone or through other electronic means, so we assume this is acceptable. Make sure that any Board members who are sworn in electronically also sign the oath - preferably before the reorganization meeting. The Missouri Constitution states that the candidate must take the oath and subscribe to the oath "before taking office." Mo. Const. Art. VII, §11.

Reorganization Meeting

What should the agenda look like for a reorganization meeting?

The statute does not address this, and districts conduct these meetings in a variety of ways. Minimally, the meeting should include in this order: a) certification or acceptance of the election results, b) swearing in of the recently elected (including re-elected) Board members, and c) the election of officers. As long as the district's agenda includes these elements, the meeting was a success.

Are we required to vote to dissolve the old Board?

Some districts have the tradition or practice of voting to dissolve the old Board or adjourning sine die to mark the end of the "old" Board. The "new" Board will then convene a meeting to elect officers. This is a nice formality, but it is not required by law. Once the swearing in occurs, the "new" Board is already in existence and the Board members whose terms have expired cease to be Board members.

Is the reorganization meeting a separate meeting (does it have a separate agenda) or just an agenda item during our regular meeting?

The district may hold a separate reorganization meeting or may simply include reorganization on the agenda for a regular meeting.

If the reorganization meeting is part of the regular meeting, may the "old" Board decide issues before swearing in the newly elected Board members?

Yes, as long as the district has not exceeded the 14 (or 10) day window to swear in newly elected Board members. However, MSBA recommends that districts minimize the business the "old" Board conducts prior to the swearing in ceremony because the public may not understand why the "old" Board is still operating after the election.

May a Board member participate in a reorganization meeting electronically?

The Sunshine Law permits Board members to participate in meetings electronically, with one limitation. If a vote is taken by roll call, members participating electronically may only vote if they are participating through video-conferencing of some type. Members participating via "voice-only" methods can discuss any item of business, but cannot participate in roll call votes.

The reorganization meeting is held in open session and districts are not required to take roll call votes in open session, so it should not be a problem for any Board member participating electronically to discuss and vote during the reorganization meeting. If the Board chooses to vote by roll call, even in an open meeting, a board member participating electronically using audio only could discuss business but could not vote. Any members participating electronically shall be counted as present, although the Board Secretary may include in the minutes that the Board member was participating electronically.

Electing Officers

When do we elect officers?

Election of the president and vice president should take place at the reorganization meeting. Missouri law gives districts until July 15 to fill the positions of secretary and treasurer, though most Boards do so in April at the reorganization meeting. Board members should carefully review the duties of the officers before deciding to run for an office.

See MSBA policies BCB and BCC.

Who presides during the election of officers?

Robert's Rules of Order Newly Revised provides for the use of a temporary chair to preside over elections until the actual chair is elected. According to MSBA policy BCA, the superintendent presides at the organizational meeting until a president and vice-president are elected.

May we elect the Board secretary and treasurer at the reorganization meeting and have them take office immediately?

Yes. The secretary and treasurer can be elected as late as July 15, but the district does not need to wait that long.

May we elect officers by secret ballot?

No. The use of secret ballots is contrary to the directive in the Sunshine Law that votes in open session are public.

What process should we use to elect officers?

The law does not address this process and districts may use a variety of methods for electing officers.

MSBA works with a professional parliamentarian, Dr. Leonard Young, who recommends the following process:

1. The superintendent asks for nominations for President. Anyone who is properly nominated remains in nomination unless he or she withdraws his or her name.
2. All nominations are received and noted. Nominations do not need to be seconded.
3. The superintendent calls for a vote on the nominees in the order nominated.
4. If someone receives a majority vote, he or she is elected. If no one receives a majority vote, then the vote is taken again. This process continues until someone gets a majority vote.

According to Robert's Rules, the chair does not have the discretion to do a "run-off" election by eliminating all but the top two candidates and voting again. However, districts are not legally obligated to follow Robert's Rules and as long as district policy does not otherwise require the Board to follow Robert's Rules, the Board may adopt a different method of electing officers that includes a "run-off" election. The Board should discuss the process that will be used to elect officers prior to accepting nominations so that everyone understands the rules.

MSBA members receive access to a professional parliamentarian free of charge. Contact Dr. Leonard Young at 816-289-9103 or cofdrleonardyoungnprp@yahoo.com

May a Board member cast a vote for himself or herself as an officer?

Yes. Nepotism only occurs when a Board member votes to appoint a family member, not himself or herself.

May a district employee hold an office?

Missouri law specifically allows Boards to appoint district employees as secretary or treasurer. In fact, MSBA encourages districts to appoint the person who actually does all the work required of these positions - usually the superintendent's secretary and bookkeeper - to the positions. MSBA encourages districts to review policy BCC and determine who is in the best position to ensure the duties of the secretary and treasurer are fulfilled.

Some Board members are particularly nervous about allowing a school employee into closed session to take minutes, but in reality the Board has more control over its employees than it has over its fellow Board members. An employee appointed secretary should be notified that strict confidentiality is an essential part of the job. Further, the Board always has the ability to ask a district employee to leave a closed session as long as someone is appointed to fulfill the secretary duties during the meeting.

May we elect someone to office if he or she is not present at the reorganization meeting and has not been sworn in?

The law does not address this issue. Presumably you may, but if for some reason that person is unwilling to serve, the Board will need to elect a new officer.

Do the nepotism rules apply to election of officers?

Yes. Board members may not vote to employ or appoint a person to a Board office if that person is related to them within the fourth degree by blood or marriage. Mo.Const. Art. VII § 6. A Board member who does so has committed nepotism. Although most Board members know that they cannot participate in a motion to employ a relative, many forget that the law also prohibits action to appoint a relative to a position - even if the position is unpaid.

What happens if there is a tie vote when we elect officers?

In that event no one has been elected, and the Board will need to vote again. The Board is the only entity that can elect its officers. No one will come in to break the tie. The Board must make a decision.

MSBA encourages the Board to review the duties of the positions and discuss the essential qualities of a good officer. Board members need to remember that this is not a popularity contest. All Board members are leaders. However, some Board members are more willing and able to serve as a spokesperson, conduct a meeting, and serve as an intermediary between the administration and the Board.

If Board members believe a tie is imminent, the Board could agree to having a run-off election on the top two vote receivers or even to flip a coin. This decision needs to be made prior to receiving nominations, however. The Board also needs to understand that Robert's Rules does not provide for this method of voting.

If the Board simply cannot resolve the tie, the Board may adjourn the meeting. However, electing officers needs to be the first order of business at the next meeting. The Board has many more difficult decisions to make than electing officers.

May a new Board member vote to approve the minutes from the last meeting of the "old" Board?

Yes, although MSBA recommends that Board members who are not present at a meeting abstain from approving the minutes. The approval motion is intended to verify that the minutes are a correct reflection of the meeting, which is difficult for a Board member to determine if he or she was not in attendance.

Our former Board president was not re-elected. May the new president sign the minutes for the previous meeting after the minutes are approved, even if he or she wasn't present at the previous meeting?

Yes. Signing the minutes simply verifies that they are official and have been approved by the Board. The law does not require Board presidents or anyone else to sign the minutes, but it is a good formality because it distinguishes the final and approved minutes from drafts. MSBA policy BDDG includes this formality in policy.

Once a Board member is elected president, may that person make a motion, second a motion or vote even if there is not a tie?

Yes. Even Robert's Rules recognizes that the formalities are different for small boards than large assemblies. A Board member does not lose the right or ability to make a motion, second or vote on a motion simply because he or she has been appointed president.

Other than the president, vice-president, secretary and treasurer, are there any other officers we need to elect?

Yes! Your board should select an MSBA delegate. The delegate represents your board at the MSBA Delegate Assemblies and is MSBA's primary contact with your board on advocacy issues. The delegate also serves on the Regional Action Committee in your region of the state. MSBA encourages the board president to serve as the delegate but the board does have the option of selecting another member as the delegate.