



PROPOSED AGENDA ITEM

BOARD MEETING DATE: May 28, 2009

SUBJECT: Secretary election

INITIATED BY: Paul Fritz, Business Manager / Secretary

DESCRIPTION:

Erie County Technical School Policy No. 005 and PA School Code Section 1850.3 require that the Operating Committee shall during the month of May, once every four years, elect a secretary to serve a term of four years, beginning the first Monday of July following such election.

RECOMMENDATION:

Motion to elect Paul Fritz as Secretary for a four year term beginning July 1, 2009

More than the district record-keeper, the board secretary also ensures district compliance with legal requirements, handles contentious situations, responds to the needs of board members and the public.

Board Secretary Legal Responsibilities

The School Code of Pennsylvania and other laws detail various legal duties that either directly or indirectly involve the secretary's position. The following sections of law are referenced for general informational purposes. Each section is written and presented in a condensed fashion for ease of explanation. This is not the exact wording of these laws and should not be used for specific legal review. If specific wording is needed, the applicable statutes or cases should be consulted.

School districts are classified according to total population within their boundaries. Philadelphia is a first class district, a classification that requires 1.5 million or more residents. Pittsburgh, designated first class A, falls in the 350,000 to 1.5 million classification. There are 94 second class districts (30,000 to 350,000), 384 third class districts (5,000 to 30,000) and 21 fourth class districts (less than 5,000).

The fiscal year of all school districts extends from July 1 to June 30 next, except that school districts of the first, first class A and second class may, by majority vote, establish a fiscal year to coincide with the calendar year.

Beginning of School Year: Organization Meetings (Section 401)

The school year begins on the first day of July of each year for school districts of the second, third and fourth class. Reorganization meetings for school boards, except the first class district, occur each year during the first week of December, at which time the board president and vice president are elected for a one-year term.

Reorganization Meeting (Section 402)

The secretary must give all members of the board at least five days' notice, by mail, of the annual December Reorganization meeting. The election procedure involves selecting a temporary president who conducts the election for the office of presidency and vice presidency. New members take the oath of office required by the School Code.

Permanent Organizations (Sections 403, 404)

In districts of the first class and first class A (Philadelphia and Pittsburgh) the school directors create the permanent organization by electing their officers, including a board secretary who may not be a member of the board. In all other districts, the school board secretary is elected for a four-year term during May of the year the term expires (1993, 1997, 2001, 2005, etc.). The new term begins on July 1. When vacancies are filled, the new secretary serves for the remainder of the unexpired term.

In districts of the second class the board secretary cannot be a member of the board; in third and fourth class districts, the secretary may be a member.

Absence of the Secretary (Section 405)

In the absence of the board secretary, the school directors may elect a secretary pro tempore for that meeting only, and make a note of such appointment in the minutes of that meeting. The board also may have an assistant secretary as per Section 434.

Rules and Regulations (Section 407)

Each board of school directors may adopt reasonable rules and regulations for its government and control. (These need not be Robert's Rules of Order.)

Open Records (Section 408)

In third and fourth class districts, the accounts and records of proceedings of the board are available for inspection by any

district taxpayer who makes a written request to the board at a regular meeting. The 1957 Right-To-Know Act allows all citizens of the commonwealth to inspect all "vouchers, bills, minutes," etc.

Regular Meetings (Section 421)

During the school term, the board must meet at least once every two months. "Regular meetings" must be scheduled for specific times and places.

Special Meetings (Section 423)

"Special meetings" of the board may be scheduled from time to time. The board shall adopt reasonable rules directing the kind and length of notice that the secretary will give to board members. Be sure to refer to the Sunshine Law when scheduling meetings, especially for advertising requirements.

Secretary's Bond (Section 431)

Prior to beginning official duties, the secretary of the board must furnish a surety bond for the faithful performance of the duties of the office. The board shall determine the amount and type of surety and may pay for the cost of the bond. The secretary also may furnish his or her own collateral bond.

Compensation (Section 432) Chapter 1

The board of directors may authorize compensation for the services of the board secretary. Any compensation received must be annually reported to the secretary of education.

Duties of the Secretary (Section 433)

1. Keep a correct and proper record of all the proceedings of the board, and shall prepare such reports and keep such accounts as are required by the provisions of this act.
2. After the board has acted on and approved any bill or account for the payment of money authorized by this act, prepare and sign an order on the treasurer for the payment of the same. He may prepare and sign orders on the treasurer for the payment of amounts owing under any contracts which previously shall have been approved by the board, and by the prompt payment of which the district will receive a discount or other advantage, without the approval of the board first having been secured.
3. Attest, in writing, the execution of all deeds, contracts, reports and other instruments that are to be executed by the board.
4. Furnish, whenever requested, any and all reports concerning the school affairs of the district, on such form, and in such manner, as the State Board of Education or the superintendent of public instruction (now called secretary of education) may require.
5. Have general supervision of all the business affairs of the school district, subject to the instructions and direction of the board of school directors.
3. 'Be the custodian of all the records, papers, office property and official seal of the school district, and at the expiration of his term shall turn the same over to his successor.
7. Keep contract accounts with each receiver of taxes, school treasurer or school collector of the district, reporting a statement of the same, together with a statement of the finances of the district, at each regular meeting of the board, which statement shall be entered in full upon the minutes.
3. Perform such other duties pertaining to the business of the district as are required by this act or as the board of school directors may direct.

Assistant Secretary (Section 434)

Every school board may appoint an assistant board secretary who, in the absence or disability of the secretary, shall perform the duties of the office. An assistant secretary may be a member of the board who is not an officer and must be bonded. Assistant secretaries may not receive compensation.

Removal of Secretaries (Section 514)

The School Code authorizes the board to remove any of its officers, employees or appointees for incompetency, intemperance, neglect of duty, violation of any of the school laws or any other improper conduct. (Note: in *Buell v. Union Township School District*, 395 PA 567, 150 A.2d 852 (1959) and *Narducci v. School District of City of Erie*, 4 PA Comm. Ct. 202, 285 A.2d 888 (1971) it has been held that since secretaries are "appointed officers" rather than elected board members, their removal is authorized at the pleasure of the appointing body as provided for in Article VI, Section 4 of the State Constitution and presumably have little if any due process rights under the Local Agency Law or any other statute.) Either a member or nonmember board secretary may be appointed by a school board as a delegate to the annual PSBA state convention. The secretary's expenses as a delegate shall be reimbursed.

Board Records (Section 518)

Each school board is required to keep the minute book, each annual auditor's report and each annual financial report as a permanent record of the district. Other financial records must be retained by the district for at least six years.

Limitations on Payments (Section 607)

Neither the board president nor the board secretary may sign a school payment order unless there are sufficient funds in the treasury of the district to pay the same.

Notice of Election of Superintendent (Section 1073)

At a regular meeting of the board occurring at least 150 days prior to the expiration date of the incumbent superintendent the agenda shall include an item indicating whether the board intends to retain the superintendent or seek other candidates for the office. Before electing or approving a new (or the incumbent) superintendent, the board secretary shall mail to each member a notice of the time, place and purpose of such meeting at least five days before such meeting.

Violations of Compulsory Attendance Laws (Section 1333)

Before any proceeding is brought against a parent or guardian for violation of the compulsory attendance laws, the board secretary, or other named district official, must give the offending party three days' written notice.

Neglected Children (Section 1334)

The board secretary, among other designated district officials, must promptly report to the proper social services agency any case of a child who is unable to attend school because of the lack of necessary clothing or food.

Delinquent Children (Section 1338)

The board secretary, or other named district official may be authorized by the board to proceed against delinquent children in the juvenile court system.

Penalty for Interfering with Attendance Officer (Section 1345)

Fines and imprisonment may be imposed for interfering with the performance of the attendance officer.

Names of School Children (Section 1352)

The board secretary or other designated person is required to furnish each school with the list of the names and addresses of all school children assigned to that school. That person also must provide the secretary of education with the required statistics on the district's school children each year.

Additional Names (Section 1353)

The board secretary has the power to add additional names of school children to the school census throughout the year.

Exceptional Children (Section 1373)

The board secretary is required to submit annual reports on or before November 1 to the secretary of education in regard to special education for exceptional children in the school district.

Tax-Levying Resolutions

The Department of Community Affairs requires the board secretary to file a copy of every tax-levying resolution adopted or enacted by the board of school directors. The resolution must be filed within 15 days after it becomes effective.

Vacancies

The Election Code requires the board secretary to verify the number of positions to be placed on the ballot for both primary and general elections. In addition to the normal 5-4 rotation schedule every other two years, the board could have more positions on the ballot because of deaths or resignations.

False Swearing (Section 4903 of the Crimes Code)

A person who makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he does not believe the statement to be true is guilty of a misdemeanor of the second degree if: (1) the falsification occurs in an official proceeding; or (2) the falsification is intended to mislead a public servant in performing his official function.

A person who makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of such a statement previously made, when he does not believe the statement to be true, is guilty of a misdemeanor of the third degree if the statement is one which is required by law to be sworn or affirmed before a notary or other person authorized

to administer oaths.

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