

10103 Procedure for Filling Vacancies on the Board of Governors

- (1) Pursuant to Neb.Rev.Stat. § 32-560 (R.R.S. 2016), a vacancy on the Board shall exist in the event of:
 - (A) Resignation of the incumbent;
 - (B) Death of the incumbent;
 - (C) Removal of the incumbent from office;
 - (D) Decision of a competent tribunal declaring the office of the incumbent vacant;
 - (E) Incumbent ceasing to be a resident of the Area or, for an incumbent representing a district, a resident of his or her district;
 - (F) Failure to elect at an election when there is no incumbent to continue in office until his or her successor is elected and qualified;
 - (G) The candidate who received the highest number of votes is ineligible, disqualified, deceased, or for any other reason is unable to assume the office for which he or she was a candidate;
 - (H) Forfeiture of office as provided by law;
 - (I) Conviction of a felony or of any public offense involving the violation of the oath of office of the incumbent; or
 - (J) Incumbent assumes a high elective office.
- (2) In the event of a vacancy from any of such causes or otherwise, such vacancy shall be filled by the remaining Board members for the balance of the unexpired term. The person appointed to a vacancy must possess all qualifications required by law for the appointment, including the residency requirements for appointment. When filling a vacancy, the remaining Board members shall consider the diversity of the area the College serves. Such appointment shall be made in writing and certified to the Office of the Secretary of State. If, after a primary election, there shall be through any cause whatsoever a vacancy upon the ballot, such vacancy shall be filled by a petition candidate pursuant to Nebraska statute section 32-625 or other applicable state statute or as otherwise required by law. An incumbent shall not be permitted to hold over the term, but such office shall automatically become vacant and an appointment shall be made within one calendar month to fill such vacancy for the ensuing term. If there are vacancies in the offices of a majority of the members of the Board, there shall be a special election conducted by the Secretary of State to fill such vacancies.
- (3) As required by Nebraska statute section 32-574, the Board will fill a vacancy within forty-five (45) days after the vacancy occurs unless otherwise provided by law or unless good cause is shown that the forty-five day requirement imposes an undue burden.

- (4) As used in this policy, "Former Member" means the former member of the Board whose position on the Board has become vacant, and "Appointee" means the person appointed to the Board to succeed the Former Member.
- (5) Whenever the Board declares a vacancy on the Board to exist as a matter of law or a vacancy otherwise is known to exist, the Board shall meet as soon as may be practicable and establish a calendar schedule for the filling of the vacancy. The calendar schedule shall fix:
 - (A) The date(s) or approximate date(s) for advertising the vacancy and solicitation of applications to fill the vacancy.
 - (B) The date and time by which applications for the vacancy must be submitted to the Office of the Board. Applications not received on or before the date and time so fixed will not be further considered.
 - (C) A date, time and place at which the Board shall meet to select applicant finalists to be interviewed by the Board for consideration of appointment to fill the vacancy. The Nebraska Open Meetings Act (the "Act") requires open roll call voting and does not permit a closed meeting for discussion of the appointment or election of a new member to the Board. Except as otherwise allowed by the Act, the meeting of the Board to select applicant finalists to be interviewed for consideration of appointment to fill the vacancy shall be conducted in open public session. The votes of the members of the Board for inclusion of applicants in the group of applicant finalists to be interviewed shall be by open roll call vote. The selection of applicant finalists to be interviewed will be based upon submitted application materials and applicants will not be allowed to address the Board at this stage of the process.
 - (D) A date, time and place at which the Board shall meet to interview the selected applicant finalists and select an applicant finalist to fill the vacancy. Except to the extent otherwise allowed by the Act, such meeting and selection shall be conducted in open public session. The votes of the members of the Board on the selection of an applicant finalist to fill the vacancy shall be by open roll call vote.
- (6) Whenever the Board declares a vacancy on the Board to exist as a matter of law or a vacancy otherwise is known to exist, the College legal counsel, in consultation with the Board Chair, shall prepare a summary of the required legal qualifications for appointment to the vacancy (including applicable residency requirements) and an application form upon which applicants may apply to fill the vacancy. Once the calendar schedule for filling the vacancy has been established as above provided, the Board recording secretary shall make the qualifications summary and application form reasonably available to persons requesting them. The Board recording secretary shall arrange for the advertising of the vacancy in the *Omaha World-Herald* and any other newspaper of general circulation as determined by the Board, and for the receipt at the Board Office of applications to fill the vacancy. A notice of the vacancy, the qualifications summary and the application form shall also be published on the College's web site.
- (7) When an application to fill the vacancy is received in the Board Office, the College legal counsel shall confirm that the applicant meets the required legal qualifications for the

appointment sought (including any residency requirements) and may cause a criminal background check to be performed on each candidate by a qualified law enforcement agency if requested by the Board.

- (8) Upon expiration of the time established for submission of applications, the Board recording secretary shall provide a complete copy of each submitted application (and all material submitted with the application) to each member of the Board. Any application received at the Board Office after the deadline established for submission of applications to the Board Office shall also be provided to each member of the Board, with a clear indication that the application was not received by the established deadline and therefore ought not be considered by the Board. The Board recording secretary shall also inform the members of the Board of any disqualifying circumstance concerning any applicant and any criminal conviction history of any applicant that becomes known to the College legal counsel.
- (9) At the meeting at which the Board meets to select the applicant finalists to be interviewed by the Board for consideration for appointment to fill the vacancy, the following process shall be followed:
 - (A) The Board Chair shall publicly declare that prior to the meeting each Board member received complete copies of the applications submitted by applicants whose qualifications were confirmed by College legal counsel to meet the required legal qualifications for the appointment sought;
 - (B) The Board Chair will publicly state those applicants' names and residence addresses in order to acknowledge for the record those applications that the Board is further considering;
 - (C) If any of those applicants are present at the meeting, they may be invited to stand and state their names, but applicants will not be allowed to address the Board at this stage in the process;
 - (D) Each Board member will be provided with an interview preference form which will list the applicants in alphabetical order and which will include blanks for the Board member to write his or her own name and to nominate four (4), and not more or less than four (4), applicants to be interviewed by the Board for the vacancy; provided, however, if there are fewer than four (4) applicants for the vacancy, the Board Chair may propose an alternate number of applicants to be listed by each Board member on the interview preference form;
 - (E) Each Board member will then complete his or her interview preference form and submit the completed form to the College legal counsel present at the meeting;
 - (F) Upon receiving the completed interview preference forms, the College legal counsel will publicly read each form stating the name of the Board member and the names of the applicants the Board member has nominated to be interviewed. If video screen(s) are available in the meeting room, the nomination results may be tallied on the video screen(s) as the nominations are read so that the vote totals for each applicant are visible. The process shall continue until all of the interview preference forms completed by Board members have been publicly read;

- (G) After the preference vote tally has been completed, the Board shall determine the number of applicants to be selected for interviews by open roll call vote;
 - (H) After the Board has determined the number of applicants to be selected for interviews, the Board, by a separate open roll call vote or votes, shall determine by resolution the applicants to be interviewed by the Board for the vacancy; and
 - (I) Within three business days following the meeting, the College legal counsel shall transmit written notice to the applicants advising them whether they were selected as a finalist to interview for the vacancy.
- (10) If a vacancy on the Board is to be filled at a meeting at which officers of the Board are to be elected for the year pursuant to Board Policy 10301, or at which memberships on or officers of one or more committees of the Board are to be appointed or elected, the vacancy on the Board shall be filled at such meeting before those items of business are considered.
- (11) A majority vote of a quorum of the members of the Board present and voting is sufficient to fill a vacancy.
- (12) The statutory oath of office will be administered to the Appointee and subscribed by the Appointee immediately following his or her selection to fill the vacancy, and the Appointee shall then be seated with the Board. As soon as practicable thereafter, the Secretary of the Board or his or her delegate shall file the written and subscribed oath of office with the Secretary of State of Nebraska.
- (13) The occurrence of a vacancy on the Board shall automatically also create a vacancy in each committee membership, Board office, Board committee office and Board-appointed position (hereafter, "Board Organizational Assignments") that had been held by the Former Member. The Appointee shall not succeed automatically to any vacancies in the Board Organizational Assignments of the Former Member. Following selection of the Appointee, the Board may fill any vacancies in the Board Organizational Assignments of the Former Member in the same manner and by the same processes by which the Board customarily makes or approves such Board Organizational Assignments in the usual course under Board policies 10301, 10302, and 10603. Any vacancies in any Board Organizational Assignments of the Former Member not covered by those listed Board Policies (including any assignments to the Metropolitan Area Planning Agency (MAPA), the Metropolitan Community College Foundation Board of Directors, and any other external boards, agencies or associations on which the Board is represented) may be filled by action of the Board.
- (14) This policy is for the use and guidance of the Board and the College Administration only. It does not confer any rights on any applicant for a vacancy or any other person. Any noncompliance with any of the provisions of this Policy or informality in its application shall not invalidate any appointment of any person to the Board that is otherwise in compliance with the provisions of law.

(Amended 9/22/92; 12/17/96; 4/25/06; 11/27/12; 2/25/14; 9/17/19; 9/14/21)