

Mike DeWine, Governor
Paolo DeMaria, Superintendent of Public Instruction

FROM: **Paolo DeMaria, State Superintendent**

RE: **Extension of time for local school boards to fill vacancy of an elected board member**

Sec. 17 (I) of Am. Sub. H.B. 197 of the 133rd General Assembly grants the State Superintendent of Public Instruction the authority to:

"...extend or waive any deadline for an action required of the State Board of Education, the Department of Education, or any person or entity licensed or regulated by the State Board or Department during the duration of the Director of Health's order under section 3701.13 of the Revised Code "In re: Order the Closure of All K-12 Schools in the State of Ohio" issued on March 14, 2020, or any local board of health order, and any extension of any order, based on the implications of COVID-19, as necessary to ensure that the safety of students, families, and communities are prioritized while continuing to ensure the efficient operation of the Department and public and private schools in this state."

The procedure for filling vacancies that arise on a board of education (that is not a joint vocational or cooperative education school district) is described in Revised Code section 3313.11. The applicable language is as follows:

"If the board members are selected by election, the board shall fill any such vacancy at its next regular or special meeting, not earlier than ten days after such vacancy occurs. A majority vote of all the remaining members of the board may fill any such vacancy."

This action is qualified by the language of Ohio Revised Code section 3313.85 as follows:

*"If the board of education of any city, exempted village, or local school district or the governing board of any educational service center fails to fill a vacancy in that board **within a period of thirty days after the vacancy occurs**, the probate court of the county in which the district or service center is located, upon being advised and satisfied of that failure, shall act as that board to fill any vacancy as promptly as possible."*

This language essentially establishes a deadline by which a board (an entity regulated by the Department of Education), that is not a joint vocational or cooperative education school district board) must act prior to the county probate court taking action to fill a vacancy.

In recognition of the challenges that face city, exempted village, or local school districts or the governing boards of educational service centers to conduct public meetings and address necessary business, I am extending this deadline so that a board may have up to 60 days after a vacancy occurs to take action at any regular or special meeting prior to triggering action by the county probate court. A 60 day deadline recognizes that state law still requires local boards to meet at least once every two months. Even with this deadline extension, boards are encouraged to take action as quickly as possible recognizing the importance of having a full complement of members to duly conduct the business of the school district.

This extension is valid for any board vacancy that currently exists through any vacancy that occurs during the duration of the Ohio Department of Health's March 14 order, or any local board of health order, and any extension of any order .