

# PREPARING FOR AND CONDUCTING SPECIAL MEETINGS

WISCONSIN ASSOCIATION OF SCHOOL SUPERINTENDENT ASSISTANTS  
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## Regular School Board Meetings

- Schools boards are required to meet at least once per month at a time and place determined by the school board.
- The School Board President presides over the meeting or the Vice President (or another school board member) in the absence of the President.
- The School District Clerk records the minutes of the meeting or another school board member in the absence of the Clerk.

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## Special School Board Meetings

- Special school board meetings are those that are not deemed "regular" school board meetings by the school board.
- In a common or unified school district:
  - A special school board meeting may be held upon the written request of any school board member filed with the School District Clerk.
  - School board members must be notified of the time and place of the special school board meeting at least 24 hours before the meeting.
  - If all school board members are not notified at least 24 hours before the meeting of the time and place of the special school board meeting, the meeting can still occur, if all school board members are present and consent to the meeting, or if every school board member consents in writing to the meeting.
- In a unified school district, a special meeting may be held upon the President's direction or if a majority of school board members submit a written request with the school district clerk.
- Open meetings law still applies.
- When a school board member is not present for a special meeting, it is advisable to make a record of the notice and/or consent.

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## School Board Annual Organization Meeting

- During this meeting, the school board elects its officers:
  - In a common or union high school district, the school board elects a President, Vice President, Clerk and Treasurer from its members.
  - In a unified school district, the school board must elect a 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.
- The annual organization meeting must occur at a school board meeting held on or within 30 days after the 4<sup>th</sup> Monday in April.
- School board officers may be elected at the annual organization meeting by secret ballot, without violating Wisconsin Open Meetings Law.

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## School Board Vacancy

- Vacancies in a school board must be filled:
  - By appointment by the remaining members.
  - An appointee shall hold office until a successor is elected and takes office.
  - When a vacancy occurs in the office of a board member who is in the last year of his or her term, or when a vacancy occurs after the spring election but on or before the last Tuesday in November in the office of a board member who is not in the last year of his or her term, the successor shall be elected at the next spring election.
  - When a vacancy occurs after the last Tuesday in November and on or before the date of the next spring election in the office of a board member who is not in the last year of his or her term, the successor shall be elected at the 2nd following spring election.
- In 2016, the statutes were modified to authorize the Board President to fill a school board vacancy that has existed for more than 60 calendar days.
- School board members determine (through policy or adopted procedure):
  - Advertising/posting vacancy.
  - Interviewing procedure.
  - Voting method.
- Vacancies must be filled by majority vote of the remaining school board members.
- Only in rare circumstances would the interview of a school board candidate occur in closed session.

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## Student Expulsion Hearings

- Prior to expelling a student, the school board must hold a hearing.
- Students can demand the hearing be closed but cannot demand that the hearing be open.
- Wis. Stats. § 19.85(1)(a) and (f) should be used in the meeting notice to identify the Open Meetings Law basis for the closed session, regardless of whether the student requests a closed hearing. Often, the meeting notice will also reference the confidentiality afforded to pupil records under Wis. Stat. § 118.125.
- The student and his/her parent(s)/guardian(s) have a right to be represented at the hearing by counsel.
- The school board may identify the date of the hearing, but should attempt to select a date that works for all involved.
  - It is not automatic grounds for the State Superintendent to overturn the expulsion if the student and his/her parent(s)/guardian(s) are unavailable for the hearing.
- Some school boards use an independent hearing panel or independent hearing officer appointed by the school board for expulsion hearings.
  - Independent hearing officer or panel must keep full record of the hearing.
  - Independent hearing officer or panel may be required to prepare a full transcript of hearing.
  - Within 30 days after the date on which the order is issued by the independent hearing officer or panel, the board must review the expulsion order and approve, reverse or modify the order.

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## Student Expulsion Hearing Notice

- Must be in writing and specify the statutory grounds for expulsion and factual particulars of the alleged conduct.
- That the date, time and place of the hearing.
- That the hearing may result in the student's expulsion.
- That, upon request, the hearing shall be closed.
- That the student and his/her parent(s)/guardian(s) may be represented by counsel.
- That the school board shall keep written minutes of the hearing.
- That any school board order of expulsion shall be mailed with a copy of the order to the student and, separately, to the student's parent(s)/guardian(s).
- That the student may appeal the school board's decision to the State Superintendent.
- That the State Superintendent of Public Instruction has 60 days to review and decide an appeal.
- That the decision of the school board shall be enforced while the Department reviews the school board's decision.
- That an appeal from the decision of the State Superintendent of Public Instruction may be taken within 30 days to the circuit court for the county in which the school is located.
- That the state statutes related to student expulsion are Wis. Stats. §§ 119.25 and 120.13(1).
- Most common deficiency:
  - Failure to state with specificity the particulars of the alleged conduct.
  - At a minimum, the Notice of Expulsion Hearing should include:
    - Date of conduct.
    - Location of conduct (e.g., High School).
    - Specific conduct.
- Must be sent at least 5 calendar days before date of hearing:
  - Do not count day of mailing but count day of hearing.
- Do not need to send the expulsion notice by certified mail, but many school districts do for proof of receipt.

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## Student Expulsion Hearing Procedure

- Some school districts have the attorney meet with the student and his/her parent(s)/guardian(s) before the hearing begins.
- The attorney (or the board president, if an attorney is not present) should read an outline of the procedures and rights prior to the beginning of the hearing.
- It is important that the student and his/her parent(s)/guardian(s) understand the process and are able to have all their questions answered.
  - Most school districts administer an oath to witnesses prior to testifying.
    - The oath is not required, but often lends credence to proceeding.
    - In order to save time, the oath is often administered to the group of witnesses.
- First, the administration presents its case in support of expulsion.
- Second, the student and his/her parent(s)/guardian(s) are given an opportunity to present their case.
- After both the administration, the student and his/her parent(s)/guardian(s) have presented their cases regarding expulsion to the board, the administration will make a recommendation regarding whether to expel, the length of the expulsion and any opportunity for early readmission.
- The student and his/her parent(s)/guardian(s) should then have the opportunity to address the board concerning the administration's recommendation.
- The board members should also be given the opportunity to ask questions of both the administration, the student and his/her parent(s)/guardian(s) regarding the recommendation.

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## Student Expulsion Hearing Procedure (Continued)

- After all the evidence and arguments are submitted by the administration, the student and his/her parent(s)/guardian(s), the hearing is closed and all exhibits should be admitted.
- The administration, the student and his/her parent(s)/guardian(s) should leave room during the board's deliberations.
- If the board has follow-up questions for the administration, the student and his/her parent(s)/guardian(s), the hearing must be reopened and the administration, the student and his/her parent(s)/guardian(s) should be brought back into the room to hear and respond to the follow-up questions.
- Whether there is sufficient evidence to support the expulsion of the student is for the board to decide.
- The board must determine whether to expel the student based only on the evidence presented at the hearing.
- The board must make the following findings:
  1. Whether the student is guilty of the conduct alleged in the notice of student expulsion.
  2. If, by doing so, the student engaged in conduct that met the stated ground for expulsion.
  3. If so, whether the interest of the school demands the student's expulsion.
- The board must issue a written Expulsion Findings and Order.
  - The order must be in writing and mailed to the student and his/her parent(s)/guardian(s) in separate envelopes.
  - The Order must reflect the decisions reached by the board during the hearing.

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## Student Expulsion Hearing Minutes

- The school board must keep written minutes of the expulsion hearing.
  - The minutes must reflect who was present, what evidence was presented in support of the allegations of misconduct and what decision or action the board took based on the evidence presented.
  - The minutes do not have to reflect every statement made by the board members or by hearing participants.
  - DPI has suggested that it is helpful when the minutes identify which individuals present at the hearing testified and were cross examined.
- Most school districts audio record meetings. However, it is not a requirement to tape record meetings.
  - If a recording system is used, make sure that is of sufficient quality.
  - It is important to make sure microphones can capture the voices.
- If a hearing examiner or hearing panel is used, the school district must be able to prepare a transcript of the hearing.

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## Meetings for the Purpose of Negotiations/Collective Bargaining

- The initial exchange of collective bargaining agreements between the school board and the labor union, and the discussion of the supporting rationale, must be held in open session, even if the agreement is only a proposal.
- Once the initial exchange has occurred, the school board may then meet in closed session to formulate a strategy for engaging in negotiations with the labor union.
- The school board must conduct its deliberations leading up to the final ratification or approval of a collective bargaining agreement in open session.
  - Note: No governmental body may commence a meeting, subsequently convene in closed session and thereafter reconvene again in open session within 12 hours after completion of the closed session, unless public notice of such subsequent open session was given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session. Wis. Stat. § 19.85(2).
- These statutes do not apply to meetings where the school district employees are not represented by a labor organization/union. If the school board is meeting to consider the salary/hourly increase for a group of employees, this discussion and action must occur in open session, even if the school board has invited "representatives" to meet with the board to discuss such increases. Only if the school board will be discussing a salary/hourly increase for a particular employee(s) is it possible for the school board to discuss the increase in closed session.

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## Teacher and Administrator Contract Termination and Nonrenewal Hearings/Meetings

- Format of the hearing/meeting depends upon the level of due process required.
  - Check contract language, Board policies, grievance procedure, and more.
- Likely requires written notice of the meeting to the employee.
- May require an opportunity for the employee to be present, to hear the recommendation to terminate, and to respond to the recommendation.
- May require an opportunity for the employee to demand that the meeting occur in open session.
- Determine format and employee rights ahead of time and notify the employee of the plans.

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## School District Reorganization (Boundary) Meetings

- Reorganization means the consolidation of 2 or more school districts, detachment/attachment of territory from one school district to another, or the creation of a new school district.
- Detachment is the most common reorganization process. To seek detachment, a petition must be filed in accordance with the following rules:
  - It must be signed by the majority of the electors residing in the territory or the owners of at least 50% of the territory.
  - It must include a description of the territory and the number of enrolled pupils who reside in the territory.
  - It must be filed with the School District Clerk in the school district where the territory is presently located.
  - It must be filed before February 1 to be effective on July 1.
- Before adopting a resolution that grants or denies a reorganization petition, the school boards for the impacted school districts must give the electors and the owners who signed the petition an opportunity to meet with the board to present their reasons for/against the proposed reorganization.
  - Joint or Separate hearings?
- The school board must consider and weigh the following factors as they affect the educational welfare of all the children of all the school districts affected by the proposed reorganization:
  - Geographical and topographical characteristics of the affected school districts, including travel time;
  - Educational needs of all children residing in the affected school districts and the available programs;
  - Any adverse effect on the programs currently offered by the school district, including both curricular and extracurricular aspects of that program;
  - Testimony of and written statements filed by the residents of the affected school districts;
  - Estimated fiscal effect on the school districts, including the effect of the apportionment of assets and liabilities;
  - Whether the proposed reorganization will make any part of a school district's territory noncontiguous; and
  - The socioeconomic level and racial composition of the pupils.

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## School District Reorganization (Boundary) Meeting Procedure

- Appoint a chairperson and a secretary.
- Review the notice and the petition.
- Introduce the board members.
- Explain the statutory factors to be considered.
- Invite the petitioners to present.
- Invite any other proponents of the petition to present.
- Invite any opponents to present.
- Offer rebuttal presentations, as necessary.
- Explain the options available to the board.
- Encourage the board members to review and discuss the statutory factors.
- Take action on a motion to grant or deny the petition.
- Adopt a resolution and authorize issuance of the order regarding the petition.
- Adjourn.
- Ensure that the minutes reflect:
  - Who presented.
  - What documentation was reviewed.
  - The board's decision.
- Thereafter, determine whether an appeal is necessary.

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## Annual and Special Meetings of the Electors

- Annual meetings and special meetings of the electors are required in common and union high school districts.
- Unified school districts do not hold annual meetings or special meetings of the electors.
- It is important to know the type of school district where you are working. Don't be fooled by the name!
  - An elector is a US citizen, who is 18 years old or older, and who has resided in the school district for at least 10 calendar days before the meeting.
  - A residence is the place where the person's habitation is fixed without any present intent to move and to which, when absent, the person intends to return.

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## Powers of the Electors

- Elect a Chairperson.
- Establish annual salaries for school board members OR for school board per diem.
- Authorize payment of school board member expenses.
- Authorize reimbursement of school board member for loss of earnings.
- Designate sites for school district buildings.
- Authorize the erection of buildings.
- Authorize the leasing of buildings.
- Authorize the purchase of real estate.
- Authorize the school district to lease property to a person/entity.
- Direct and provide for the prosecution or defense of a legal action.
- Direct the school board to furnish school lunches to students.
- Authorize the school board to pay for student accident insurance.
- Reduce the two mile minimum distance for student transportation.
- Change the number of school board members and/or apportionment plan.
- Approve borrowing resolutions and applications for state trust fund loans.
- Impose taxes or levies for the following purposes:
  - To build, rent, lease or purchase and furnish, equip and maintain school district buildings.
  - To purchase, operate and maintain transportation vehicles and to purchase liability insurance for such vehicles.
  - For the operation of the schools of the school district.
  - To discharge any debts or liabilities of the school district.
  - To create a fund for the purpose of paying all current bonded indebtedness for capital expenditures.
  - To create a fund for the establishment, operation and maintenance of a recreation department.
- **NO LONGER** required to secure authorization to sell school district property.
- Electors only have the powers specified.

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## Annual Meeting

- Unless the electors decide to change the date/time of the annual meeting:
  - Common school districts must hold their annual meeting at 8 p.m. on the fourth Monday in July.
  - Union high school districts must hold their annual meeting at 8 p.m. on the third Monday in July.
- Typically, at an annual meeting, the electors may vote to set the date of the next meeting or may authorize the school board to do so.
- No annual meeting may be held before May 15 or after October 31.
- Notice of the time and place of the Annual Meeting must be published using a Class 2 notice.
- The second Annual Meeting notice must be published no more than 8 days before the Annual Meeting and no less than 1 day before the Annual Meeting.
- Procedure:
  - Call to Order.
  - Explain the Purpose for the Meeting.
  - Review the agenda.
  - Seek nomination for chairperson.
  - Preside over the meeting where only proper subjects for the electors should be covered/acted upon.
- Minutes:
  - The school district clerk is required by statute to record the proceedings of the meeting. If the school district Clerk is not at the meeting, the electors must elect a person to act as the clerk of the meeting.
  - The minutes need to reflect the essential substantive elements of every motion made, who initiated and seconded the motion, the outcome of any vote on the motion, and, if a roll-call vote, how the electors voted.

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## Annual Public Budget Hearing

- The Annual Public Budget Hearing is required to be held at the same time and place as the Annual Meeting.
- Notice of the Annual Public Budget Hearing must:
  - Be published not less than 10 days before the Annual Meeting using a Class 1 notice.
  - Include a summary of the proposed budget.
  - Include information related to the place where the budget detail is available for public inspection.
  - Identify the time and place for the Annual Public Budget Hearing.
- The electors must be given the opportunity to provide feedback to the school district during the Annual Public Budget Hearing.
- Electors have the right to be heard, but not the right to approve the budget.
- The school board is the entity that approves the budget.

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# Special Meeting of the Electors

- A Special Meeting of the electors may be call upon a petition signed by 3 percent of the electors or 100 electors, whatever is fewer, or upon a motion by the school board.
- No more than 2 special meetings may be held between annual meetings, except counties with a population of 750,000 may hold no more than 4 special meetings between annual meetings.
- The same meeting procedure and minutes rules that apply to the Annual Meeting apply to a Special Meeting of the Electors.

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