

LAWS OF DELAWARE  
VOLUME 85  
CHAPTER 50  
153rd GENERAL ASSEMBLY  
FORMERLY  
HOUSE BILL NO. 82  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO SCHOOL BOARD MEMBERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1 Amend Subchapter III, Chapter 10, Title 14 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

§ 1041. Definitions.

As used in this subchapter:

(1) “Inhabitant” means a person who both claims legal residence and physically resides in a designated area or school district.

~~(1)~~ (2) “Reorganized school district” ~~as used in this subchapter~~ means a school district constituted and established under this chapter whether by reorganization, consolidation or division.

~~(2)~~ (3) “School board” ~~as used in this subchapter~~ means the board of education of a school district which is constituted and established under this chapter whether by reorganization, consolidation or division.

~~(3)~~ (4) “School board member” ~~as used in this subchapter~~ means a person duly elected or appointed to a school board in accordance with the provisions for such election or appointment as provided elsewhere in this chapter.

§ 1052. Number; qualifications of members; election of members; term of members.

(b) Each member must be a citizen of the State and ~~resident~~ inhabitant of the school district in which elected or appointed and must be qualified to vote at a school election in that district at the time of such election or appointment.

§ 1054. Vacancy on school board.

(a) (1) a. Except as otherwise provided in this subsection, if any if a school board member ceases to be a ~~resident~~ an inhabitant of the reorganized school district, that member shall cease to be a member of its school board. For purposes of this subsection, a school board member who is not physically present in the school board

member's district for more than 75% of the days in any consecutive year-long period of the school board member's term is no longer an inhabitant of the district.

b. A school board member whose absence from the district is attributable to deployment in military service is still considered physically present in the district during any period of deployment for purposes of a calculation under paragraph (a)(1)a. of this section.

c. A school board member whose absence from the district is due to an event that can neither be anticipated nor controlled is not considered absent during such time for purposes of a calculation under paragraph (a)(1)a. of this section.

(2) If a resident of a reorganized school district has good cause to believe that a school board member has ceased to be an inhabitant of a reorganized district during that school board member's term, but the school board has not declared a vacancy, the resident may bring an action in the Superior Court to have the school board member's seat declared vacant.

(3) If the Court issues an order declaring the school board member is no longer an inhabitant of the reorganized school district and declaring the school board member's seat vacant, that member shall cease to be a member of its school board. The remaining school board members shall then proceed under subsection (b) of this section.

§ 1064. Reorganized vocational-technical school districts.

(a) The members of the school board of any reorganized vocational-technical school district shall be appointed by the Governor from the ~~residents~~ inhabitants of such district. The school board shall be composed of 7 members. Annually, the Governor shall appoint 1 member for the term of 7 years to fill the vacancy caused by the expiration of the term of the member whose term expires at such time. Any vacancy in the office of any such member, caused by death, resignation, removal from the district or any other cause whatever, shall be filled by the Governor for the unexpired term. Every member, at all times, shall be ~~a resident~~ an inhabitant of the reorganized vocational-technical school district, or that member's office shall be considered vacant and a successor shall be appointed for the unexpired term as provided in this section. After the expiration of the terms of the present members, not more than 4 members of the school board shall be of the same political party, and no member shall fail to state that member's own political affiliation.

§ 1066A. Elections to the school boards of the Brandywine School District, the Christina School District, the Colonial School District and the Red Clay Consolidated School District.

(a) Notwithstanding anything contained in this chapter to the contrary, members of the school boards of the Brandywine School District, the Christina School District, the Colonial School District, and the Red Clay Consolidated School District shall be elected by the procedures described herein. Elections shall be conducted in accordance with § § 1071-1086 of this title; provided, however, that:

(4) Candidates for the school boards of the Brandywine School District, the Christina School District, the Colonial School District and the Red Clay Consolidated School District shall file for candidacy in accordance with § 1075 of this title, except that a candidate must be ~~a resident~~ an inhabitant of the district for the seat that candidate seeks.

§ 1068. Indian River School Board.

(g) All members of the Board of Education of Indian River School District shall be elected from the several representative districts in which they reside by the qualified electors of those districts. Each member of the Board of Education shall be ~~a resident~~ an inhabitant of the Indian River School District and of the representative district from which that member is elected. All qualifications to be a member of the Board of Education shall be continuing qualifications and the failure of any member of the Board of Education to have any of the qualifications required by this title during that member's term of office shall create a vacancy in the office.

§ 1069. School Board for Cape Henlopen School District.

(c) School board members shall be elected in the following manner:

(6) All subsequent school board elections shall follow a schedule with a 5 year sequence as herein listed and thereafter:

2002 — Elect 1 member who is ~~a resident~~ an inhabitant of Area D.

2003 — Elect 1 member who is ~~a resident~~ an inhabitant of Area A.

2004 — Elect 1 member who is ~~a resident~~ an inhabitant of Area C and 1 member who is ~~a resident~~ an inhabitant of the district at large.

2005 — Elect 1 member who is ~~a resident~~ an inhabitant of Area B and 1 member who is ~~a resident~~ an inhabitant of the district at large.

2006 — Elect 1 member who is ~~a resident~~ an inhabitant of the district at large.

(8) The notice of candidacy filed by each candidate qualified to be a school board member shall provide a declaration of intention as to whether the candidate is to serve at large, if elected, or if the candidate is to serve from the candidate's legal place of residence whether it be Area A, B, C or D, depending upon board members to be elected in a given year. Filings in either case shall be by ~~residents~~ inhabitants of the school district as provided elsewhere in this chapter. At the election, whether by voting machine or ballot, the names of all persons properly filed shall be listed alphabetically in appropriate groupings by area and/or "at large." If in a given year when notices of candidacy may be filed for members living in a specific area and no filings are so made, and if during that given year a notice of candidacy may also be filed for a member to serve "at large," the member "at large" living in the area receiving the highest number of votes shall be declared duly elected to the position of school board member; if the same candidate should also have received the highest number of votes of all candidates who had filed a notice of candidacy to serve "at large," then the person receiving the second highest number of votes shall be declared duly elected to the position "at large" in the school district.

§ 1070. School Board for Milford School District.

Notwithstanding anything contained in this chapter to the contrary, the School Board of the Milford School District shall be composed of 7 members. Three members shall be elected at large from the reorganized Milford School District and 1 board member shall be elected from each of the 4 areas "A," "B," "C" and "D" described in paragraph (1) of this section.

(2) School Board members shall be elected in the following manner:

a. At the regular school election in 1974 the qualified electors in the school district shall choose 1 member who is ~~a resident~~ an inhabitant of Area A for a term of 4 years;

b. At the regular school election in 1974 the qualified electors in the school district shall choose 1 member who is ~~a resident~~ an inhabitant of Area B for a term of 5 years;

c. At the regular school election in 1974 the qualified electors in the school district shall choose 1 member who is ~~a resident~~ an inhabitant of Area C for a term of 2 years;

d. At the regular school election in 1974 the qualified electors in the school district shall choose 1 member who is ~~a resident~~ an inhabitant of Area D for a term of 3 years;

e. At large board members shall be chosen in accordance with the schedule contained in paragraph (3) of this section. No at large board members will be chosen at the regular school election in 1974. An at

large board member is any ~~resident~~ inhabitant of Milford School District who meets other qualifications for school board membership as determined elsewhere in this chapter. Area designation is not applicable to at large board members.

(4) The notice of candidacy filed by each candidate qualified to be a school board member shall provide a declaration of intention as whether the candidate is to serve at large, if elected, or if the candidate is to serve from that candidate's own legal place of residence whether it be Area A, B, C or D, depending upon board members to be elected in a given year. Filings in either case shall be by ~~residents~~ inhabitants of the school district as provided elsewhere in this chapter. At the election, whether by voting machine or ballot, the names of all persons properly filed shall be listed alphabetically in appropriate groupings by area and/or at large. If in a given year when notices of candidacy may be filed for members living in a specific area and no filings are so made, and if during that given year a notice of candidacy may also be filed for a member to serve "at large," the member "at large" living in the area receiving the highest number of votes shall be declared duly elected to the position of school board member; if the same candidate should also have received the highest number of votes of all candidates who had filed a notice of candidacy to serve "at large," then the person receiving the second highest number of votes shall be declared duly elected to the position "at large" in the school district.

Approved June 30, 2025