

**AMEND BOARD RULE 6-28**  
**CHALLENGES TO LSC MEMBER ELIGIBILITY**

**THE GENERAL COUNSEL RECOMMENDS:**

The General Counsel Recommends amending Board Rule 6-28 regarding local school council member eligibility.

**Sec. 6-28. Challenges to LSC Member Eligibility.**

Definitions

Wherever used in this Section, the following words and phrases shall have the following meaning:

Parent: Means a (a) biological or adoptive parent, (b) stepparent or (c) legal guardian of an enrolled student of an attendance center.

Stepparent: means a person who is (a) married to the child's parent, (b) resides with the child and (c) exercises care and custody of the child. In order to establish that he/she exercises care and custody of a child, the stepparent must provide: (i) a marriage certificate, and (ii) a sworn affidavit by the biological parent attesting that the stepparent, in conjunction with the parent, does exercise care and custody of the child. Other evidence that may demonstrate care and custody includes but is not limited to the following: (iii) the child is declared as a dependent on the stepparent's most recent income tax return; (iv) the child is covered under the stepparent's health insurance; or (v) the child is listed as the stepparent's child for Medicare, Social Security, Medicaid or other public aid programs. This Board Rule shall not be construed to give stepparents any right to access to student records except as provided in the Illinois School Student Records Act (105 ILCS 10/1 et seq.).

Legal guardian: means a person who has been (a) formally appointed guardian of a child by a court of competent jurisdiction or (b) a foster parent appointed by the Department of Children and Family Services.

Employed at the School: Means any person, including an employee of a third-party, who is receiving compensation and acting under the direction and supervision of a principal or his/her designee who oversees the detail of the person's work and who is providing services similar or identical to staff or performing work that is an integral part of the administration of the school. An employee of a third party may not serve on a local school council at a school at which he or she is employed, however, he or she may be eligible to serve at another school.

Employed by the Board of Education: Means any person in the employ of the Board of Education whether or not employed at the school.

Child enrolled in a school: means that the student is currently attending the school at which the parent or legal guardian serves.

Graduation is on the last day of the academic school year or semester and not on the date of a graduation ceremony or commencement exercise. Pursuant to the Illinois School Code, the last day of the academic year or semester is determined by the Chicago Board of Education.

Eligibility

Persons who have been elected to serve on a Local School Council (LSC) may serve and continue to serve for the length of their term provided they meet and continue to meet the eligibility requirements set forth below. (Amended 09-27-95; 02-23-00)

—A person may serve and continue to serve as a parent representative as long as he/she:  
 (i) has a child enrolled in the school in which he/she serves; and

- (ii) is not employed at the school in which he/she serves; and
- (iii) is not employed by the Board of Education.

If a parent representative of a Local School Council ceases or fails to have a child enrolled in the school at which membership on the Local School Council at which he/she serves, for reasons other than graduation or voluntary transfer of the child, or becomes an employee of the Board of Education, the parent's membership on the local school council and all voting rights are shall be terminated immediately upon the written determination of ineligibility by the General Counsel following the challenge procedures set forth below, as of the date of the child's graduation or voluntary transfer. In cases where the parent representative's membership ends due to graduation of his or her child, he or she serves until the end of the school year or semester in which his or her child graduates. In cases where the parent representative's membership ends due to the voluntary transfer of the child, the parent's membership and voting rights shall be terminated as of the date of the transfer. (Amended 01-25-95; 02-23-00)

--A person may serve and continue to serve as a community representative as long as he/she:

- (i) resides in the attendance area served by the school;
- (ii) is not employed at the school in which he/she serves;
- (iii) is not employed by the Board of Education; and
- (iv) is not a parent of a student enrolled at the school.

If a community representatives ceases to reside in the attendance area of, or has a child enrolled in, the school at which he/she serves, or becomes an employee of the Board of Education, his or her membership on the Local School Council and all voting rights are terminated immediately upon the written determination of ineligibility by the General Counsel following the challenge procedures set forth below, as of the date of any of the three aforementioned conditions.

--A teacher representatives may continue to serve as long as he or she is employed and assigned to perform a majority of his or her duties at the school, provided that if a teacher representative resigns from employment with the Chicago Board of Education or ~~takes a leave of absence from employment with the Chicago Board of Education~~ or voluntarily transfers to another attendance center, the teacher's membership on the Local School Council and all voting rights are terminated immediately as of the date the teachers' resignation is received by the Board of Education, or the effective date of the teacher's voluntary transfer to another attendance center. If a teacher representative is absent from employment at the school for an extended and defined period of time due to illness, disability, leave of absence, the initiation of dismissal proceedings, or any other reason, the Board will declare a temporary vacancy and appoint an interim teacher representative following a non-binding poll until such time as the teacher representative returns to his or her duties at the school or for the remainder of the term. The principal shall notify the ~~Office Department of School and Community Relations~~ the Chief Executive Officer of a teacher representative's extended absence. The ~~Office Department of School and Community Relations~~ the Chief Executive Officer shall certify that a temporary vacancy exists. When a vacancy is certified, the ~~Office Department of School and Community Relations~~ the Chief Executive Officer shall issue a letter to the principal and the local school council advising the school to initiate the advisory poll. (Amended 01-25-95; 02-23-00)

~~Where an elected Local School Council member failed, at the time of his or her election, to meet, or thereafter fails to maintain, the aforesaid eligibility requirements and said ineligible member fails to voluntarily resign from the local school council, such member may be removed from the Local School Council by the Office of School and Community Relations, after an opportunity to be heard, as set forth below. (Amended 01-25-95; 02-23-00)~~

#### Audit of Records

The Secretary of the Board shall periodically cause to be reviewed pertinent records relating to individual LSC members in order to discover any relevant changes in an LSC member's eligibility. If such a review indicates that an LSC member does not meet the eligibility criteria in this Board Rule, an investigation shall be conducted in accordance with the local school council member removal procedures set forth below.

Local School Council Removal Procedures

~~Members of an LSC shall be removed in accord with the provisions of this Rule if they fail to maintain the eligibility standards provided by law.~~

1. Any person may challenge the eligibility of an LSC member based on the eligibility criteria in this Board Rule. All Challenges shall be in writing and shall include:
  - a. the challenger's name, address, and phone number of the person filing the challenge;
  - b. a statement of facts upon which the challenge is based and any evidence which supports the challenger's position, reasons for the challenge; and
  - c. evidence, which supports the challenger's position that the local school council member being challenged is no longer eligible to serve.
  
2. In cases where an allegation of ineligibility under this Board Rule is made by another LSC member or an employee of the Board, the identity of the LSC member or Board employee may not be disclosed during any investigation of the allegation without his or her written consent. 105 ILCS 5/34-2.4(c) ("Whistle Blower Protection").
  
3. In addition, the Board, its agents and employees, may act upon knowledge or information of council members' ineligibility including, but not limited to, the audit of records described above. A Board employee or agent with information indicating that an LSC member is not eligible under this Board Rule may initiate an investigation by submitting a written request for investigation to the Law Department.
  
24. Filing of Challenges - All Challenges and requests for investigation pursuant to this Rule shall be filed at with the Law Department, the Office of School and Community Relations. A petition challenging the eligibility of an LSC member may be filed at any time.
  
4. Declaration of Vacancy - Any vacancy on the LSC caused by a disqualification shall be declared by the Office of School and Community Relations in those cases where a finding of ineligibility is made.

Any vacancy that is declared by the Chief Education Officer Office of School and Community Relations or designee shall be effective on the date that the Office of School and Community Relation's declaration determination is issued; however, such vacancy shall not be filled until the appeal process is exhausted.
  
53. Investigation of Ineligibility - The Office of School and Community Relations General Counsel shall review and conduct an investigation based on challenges and requests for investigation reports or ineligibility received and make a finding as to whether the LSC member is eligible to serve. If the General Counsel determines that the challenge or request has merit, the General Counsel shall forward the matter to the Office of the Chief Executive Officer to conduct an investigation. The results of the investigation shall be reviewed by the General Counsel. If the results of the investigation indicate that the LSC member may be ineligible, the General Counsel shall refer the matter for a hearing. The concerned council member shall be notified in writing of the date, time, and place of the hearing, of his or her right to have a representative at the hearing, and the specific basis for his or her alleged ineligibility.
  
6. A hearing officer shall conduct a hearing and shall afford The challenged LSC member shall be afforded the concerned council member an opportunity to personally present statements and evidence substantiating his/her eligibility to serve on the council at a hearing conducted by a hearing officer. As soon as possible after the conclusion of the hearing, the hearing officer shall make a recommended finding to the Office of School and Community Relations General Counsel shall make a determination regarding the council member's eligibility within two weeks or as soon thereafter as possible.

7. The General Counsel shall decide the question of the council member's eligibility. If the General Counsel finds that the concerned council member is ineligible to serve based on the eligibility criteria in this Board Rule, the General Counsel shall declare a vacancy on the council which shall be effective on the date the declaration is issued. However, the vacancy may be filled only after: (1) the concerned council member fails to appeal within the time allowed; or (2) the concerned council member's appeal is denied.
85. Notice of Declaration of Vacancy - ~~The General Counsel~~ Office of School and Community Relations shall forward the determination to each challenger and challenged LSC member in writing by regular and certified mail. (Amended 01-25-95; 09-27-95; 02-23-00)

Appeal Process

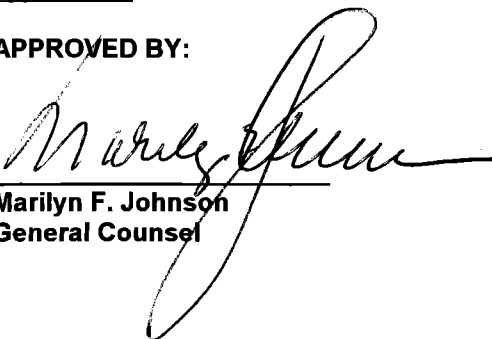
1. Within thirty (30) days of after the declaration of vacancy by the determination of the General Counsel, Office of School and Community Relations either the challenger or the challenged LSC member may file an appeal of that decision with the Office of the Chief Executive Officer or designee. Failure to file an appeal within 30 days after the declaration of the vacancy will render the declaration of vacancy to be a final decision. The appeal should state specific reasons or grounds for rescinding the General Counsel's prior determination concerning the council member's eligibility. (Amended 01-25-95; 09-27-95; 02-23-00)
2. ~~The Office of the~~ Chief Executive Officer or designee shall review the determination. New evidence not readily available at the time that the challenge was filed may be submitted. The decision of the Chief Executive Officer or designee shall be final and shall be forwarded to the challenger, the challenged LSC member, and the affected Local School Council. (Amended 01-25-95; 09-27-95)

Appointment to Vacancy

If ~~the a~~ a challenged parent or community LSC member is found to be ineligible to serve on the council pursuant to this process and a vacancy is declared, the LSC shall proceed to fill the vacancy by appointment of a qualified person who meets the eligibility requirements. (Adopted 02-28-90; Amended 12-16-92; 01-25-95; 09-27-95)

If a challenged teacher or student LSC member is determined to be ineligible to serve on the council and a vacancy is declared, the Board shall fill the vacancy by appointment of a qualified person who meets the applicable eligibility requirements after a non-binding advisory poll of school staff or students, whichever is appropriate.

APPROVED BY:



Marilyn F. Johnson  
General Counsel