

## **Governor Appointed State School Board Members Process Requirements - Statutes, Rules and Regulations**

### ***Bill Search and Legislative Education Staff Network (LESN) Listserv responses***

**Question Posed:** In states where the governor appoints members of the state board of education, is there language in statute/rules/regulations that lays out guidelines for which the governor must follow, such as appointees should represent certain constituencies - business, labor, students, educators, parents, etc. - or other proscriptive language? Or, does the governor have autonomy over the process?

#### **Arkansas**

Arkansas's statute only requires geographic diversity and presumably the racial/minority diversity "reflected in general education." Otherwise, they just need to be upstanding citizens and qualified electors. A board member cannot hold or be a candidate for elective office, a teacher or superintendent, or a board member or employee of an institution of higher education. 6-11-101. Members.

**(a) The State Board of Education shall be composed of nine (9) members:**

**(1) Two (2) members to be selected from each of the congressional districts of the state as they exist on the July 31, 2007; and**

**(2) One (1) member to be appointed at large from within the state.**

**(b)(1) The term of office of a member of the state board shall be for a single term of seven (7) years.**

**(2)(A) Any member appointed to the state board to fill a vacancy for an uncompleted term with less than three (3) years remaining on the original term may be reappointed to an additional term of seven (7) years.**

**(B) No member serving three (3) or more years on the state board may be reappointed.**

**(3) No current or new member shall be allowed to resign in order to be appointed to a new term on the state board.**

**(4) Nothing in this section shall be construed to change the terms of any member of the state board who was appointed prior to June 3, 2004.**

**(c) The membership of the state board shall reflect the diversity in general education.**

**(d)(1) No person may serve as a member of the state board unless he or she is a qualified elector and is a person of high moral standards and recognized ability.**

**(2) Neither the Commissioner of Education nor any candidate for public office, holder of a public office in the state, schoolteacher, county or city superintendent, employee of a state-supported college or university, or member of any board of trustees of any state institution of higher learning shall serve as a member of the state board.**

**(e) The members of the state board shall be appointed by the Governor, subject to the confirmation of the Senate and shall take the oath of office for officers prescribed by the Arkansas Constitution.**

**(f)(1) Whenever a vacancy occurs in the membership of the state board, the Governor shall appoint a successor who shall serve the remainder of the unexpired term of the member that he or she succeeded, subject to all other provisions of this section.**

**(2) Resignation, removal from the district from which he or she is appointed, disqualification, incapacitation from mental or physical disability or otherwise, or change in status from the eligibility requirements for membership on the state board shall automatically create a vacancy in the membership of the state board, and no such member shall thereafter exercise any of the functions of membership on the state board even though his or her successor has not been appointed.**

**(g)(1) Members of the state board shall be subject to removal from office by the Governor when the**

actions or condition of a member shall be considered as sufficient cause for removal.

(2) However, before a member may be removed for cause, this cause must have been accepted as true, good, and sufficient by a majority written vote of all members of the state board after a formal hearing at a regular or special session of the state board.

(h) The members of the state board shall serve without remuneration but may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq., as follows:

- (1) Actual expenses while attending regular and special meetings of the state board; and
- (2) A per diem allowance when in attendance at regular or special meetings of the state board.

### **Arizona**

SCR 1022; Ballot Measure 105 Adopted, on November (2004) Proposed amendment to the Arizona Constitution. Changes the composition of the state board of education by removing a member of the State Junior College Board and adding a president or chancellor of a community college district, an owner or administrator of a charter school and a lay member.

<http://www.azleg.state.az.us/legtext/46leg/2r/bills/scr1022h%2Epdf>

### **California**

California the governor has full discretion as to who to appoint, except that s/he must appoint one student member (a student enrolled in good standing in grade 12 in a public high school). The Governor appoints 10 members to the State Board + 1 student member, for a total of 11. The Governor's appointees must be confirmed by 2/3 of the members of the state Senate.

*\*There has been at least one bill to try to require the Governor to appoint people that represent specific constituencies, but those bills have never gotten to the governor's desk for signature.*

### **Iowa**

281 IAC 1.1, 1.2, 1.4 (2003)

Establishes rules giving public secondary students in Iowa a voice, although not a vote, on the State Board of Education. Gives voting Board members the benefit of the thoughts and experiences of the secondary student. IOWA REG 2176 (SN)

### **Iowa**

H.B. 2515 (2002) Adds one nonvoting student member to state board, making total board membership 10, provides for application process and appointment of student member.

<http://www.legis.state.ia.us/GA/79GA/Legislation/HF/02500/HF02515/Current.html>

### **Kentucky**

**KRS 156.029 requires the Governor to appoint 11 members to the state board; seven (7) members to represent each of the Supreme Court districts as established in statute, and four (4) members to represent the state at large. Appointments are to be made without reference to occupation, political affiliation, or similar consideration; however, the statute prohibits a member from being a professional educator.**

KRS 156.029 follows:

156.029 Kentucky Board of Education -- Membership -- Functions.

**(1) There is hereby established a Kentucky Board of Education, which shall consist of eleven (11) members appointed by the Governor and confirmed by the Senate and the House of Representatives**

**of the General Assembly, with the president of the Council on Postsecondary Education serving as an ex officio nonvoting member.** Seven (7) members shall represent each of the Supreme Court districts as established by KRS 21A.010, and four (4) members shall represent the state at large. Each of the appointed members shall serve for a four (4) year term, except the initial appointments shall be as follows: the seven (7) members representing Supreme Court districts shall serve a term which shall expire on April 14, 1994; and the four (4) at-large members shall serve a term which shall expire on April 14, 1992. Subsequent appointments shall be submitted to the Senate and to the House of Representatives for confirmation in accordance with KRS 11.160. Each appointment by the Governor shall be agreed upon by both chambers in order for the person to be confirmed. Each confirmed appointee shall take office on April 15.

**(2) Appointments shall be made without reference to occupation, political affiliation, or similar consideration. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.** Pursuant to KRS 63.080, a member shall not be removed except for cause.

(3) A vacancy in the membership of the board shall be filled by the Governor for the unexpired term with the consent of the Senate and the House of Representatives. In the event that the General Assembly is not in session at the time of the appointment, the consent of the Senate and the House of Representatives shall be obtained during the time the General Assembly next convenes.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

(5) The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(6) The commissioner of education shall serve as the executive secretary to the board.

(7) The primary function of the board shall be to develop and adopt policies and administrative regulations, with the advice of the Local Superintendents Advisory Council, by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

## **Kentucky**

S.B. 152 (2003) Clarifies the specific qualifications for members of the State Board of Education regarding age, education, business or political ties, relation to any education department employee, etc.

**Members shall be at least 30 years old; have at least an associate's degree or its equivalent; have been a resident of the state for at least three years preceding appointment; not hold a state office requiring the constitutional oath; not be a member of the General Assembly; not hold or discharge the duties of any civil or political office; deputyship or agency under the city or county of his or her residence; not be directly or indirectly interested in the sale to the board of books, stationery, or any other property, materials, supplies, equipment or services for which board or department funds are expended; not have relative who is employed by the Department of Education; not have been removed from the board for causes; and not be engaged as an elementary or secondary education professional educator.** <http://www.lrc.state.ky.us/RECORD/03RS/SB152.htm>

*Lawsuit pending:* KY has a court case pending about whether or not the law is constitutional as to confirmations by the Senate and the House. The suit alleges only the Senate can confirm under our Constitution.

### **Louisiana (hybrid)**

R.S. 17:2 and Const. Art. VIII, Sec 3 The board has 8 members elected from districts and **three members appointed at large by the governor**. The constitution does include a term limit. ("No person who has served as a member of the board for more than two and one-half terms in three consecutive terms shall be elected or appointed to the board for the succeeding term.")

### **Maine**

H.B. 133 (2007) Expands the membership of the State Board of Education to include one student member.

### **Maine**

S.B. 240 (2007) Changes the composition of the State Board of Education by requiring that membership of the board be broadly representative of the geographic regions of the State and of municipalities of varying sizes.

### **Maryland**

In Maryland, there are neither laws nor regulations relating to the representation of specified constituencies for the State Board of Education.

§2–202.

(a) The State Board consists of 11 regular members, and 1 student member, **appointed by the Governor with the advice and consent of the Senate**.

(b) (1) In making appointments to the State Board, the Governor shall consider representation from:

(i) All parts of this State; and

(ii) Areas of this State with concentrations of population or unique needs.

(2) The members of the Board shall be appointed from the general public.

(3) The following individuals may not be appointed to the Board:

(i) Except for the student member, any individual who is subject to the authority of the Board;

(ii) The Governor; and

(iii) The State Superintendent.

(4) The student member shall be selected by the Governor from a list of 2 persons nominated by the Maryland Association of Student Councils.

(c) (1) The student member shall be:

(i) A regularly enrolled student; and

(ii) In good standing in a public high school in the State.

(2) The student member may attend and participate in an executive session of the Board.

(3) The student member may not vote on any matter that relates to:

(i) The dismissal of or other disciplinary action involving personnel; or

(ii) Appeals to the State Board under § 2–205, § 4–205, or § 6–202 of this article.

(d) (1) Each regular member serves for a term of 4 years and until a successor is appointed and qualifies. These terms are staggered as required by the terms of the members serving on the State Board as of July 1, 1989.

(2) The Governor shall appoint a new member to fill any vacancy on the Board for the remainder of that term and until a successor is appointed and qualifies.

(3) A member is eligible for reappointment but may not serve for more than two full 4-year terms.

(4) The student member shall serve for a term of 1 year. A student member is eligible for

reappointment but may not serve more than two full 1-year terms.

[http://mlis.state.md.us/asp/statutes\\_respond.asp?article=ged&section=2-202&Extension=HTML](http://mlis.state.md.us/asp/statutes_respond.asp?article=ged&section=2-202&Extension=HTML)

### Massachusetts

H.B. 4903 (2004) Relates to the membership makeup of the State Board of Education.

<http://www.mass.gov/legis/bills/house/ht04903.htm>

### Missouri

Missouri's State board of education is established in Article IX, section 2(a) of the Missouri Constitution. It requires eight lay members appointed by the Governor with the advice and consent of the Senate. The only restriction is that no more than four members at any time can be from the same political party.

Missouri statute, section 161.032 requires that board members be of high moral standards and recognized ability in their business and profession. They are prohibited from being connected to any school or university. There is also a five year residency requirement.

### North Carolina

Sec. 4. State Board of Education.

(1) Board. **The State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor, subject to confirmation by the General Assembly in joint session. The General Assembly shall divide the State into eight educational districts. Of the appointive members of the Board, one shall be appointed from each of the eight educational districts and three shall be appointed from the State at large.** Appointments shall be for overlapping terms of eight years. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

(2) Superintendent of Public Instruction. The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education.

§ 115C 10. Appointment of Board.

The State Board of Education shall consist of the Lieutenant Governor, the State Treasurer, and 11 members appointed by the Governor, subject to confirmation by the General Assembly in joint session. **Not more than two public school employees paid from State or local funds may serve as appointive members of the State Board of Education. No spouse of any public school employee paid from State or local funds and no spouse of any employee of the Department of Public Instruction may serve as an appointive member of the State Board of Education. Of the appointive members of the State Board of Education, one shall be appointed from each of the eight educational districts and three shall be appointed as members at large.** Appointments shall be for terms of eight years and shall be made in four classes. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

**The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, on or before the sixtieth legislative day of the General Assembly, the names of the persons appointed by the Governor and submitted to the General Assembly for confirmation; thereafter, pursuant to joint resolution, the Senate and the House of Representatives shall meet in joint session for consideration of an action upon such appointments.**

## North Carolina

S.B. 698 (2003) Adds 3 advisory members to the state board of education, one of whom is a superintendent; another is principal of the year; and the third is an award-winning board member. <http://www.ncga.state.nc.us/html2003/bills/AllVersions/Senate/S698vc.html>

## Oklahoma

Oklahoma the only eligibility requirement on who can be appointed to the State Board of Education is the person must have a high school diploma or certificate of high school equivalency. **There is a residency requirement, that one person must be appointed from each congressional district, and not more than one person from any one county, city or town.**

§70-3-101. State Board of Education - Members - Terms - Travel expenses.

The State Board of Education shall be the governing board of the State Department of Education and shall consist of seven (7) members. The State Superintendent of Public Instruction shall be a member and the chairperson of said Board. **The remaining six members shall be appointed by the Governor by and with the advice and consent of the Senate. No person shall be eligible to be appointed to serve on the State Board unless said person has been awarded a high school diploma or certificate of high school equivalency.** Any member appointed to the State Board after the effective date of this act shall complete the workshop requirements of a new school board member pursuant to Section 5-110 of this title within thirteen (13) months following or preceding the appointment of the member.

Notwithstanding any provision of law to the contrary, the State Department of Education shall not charge any member of the State Board of Education a fee for any workshop provided by the Department for board members pursuant to Section 5-110 of this title and shall not pay a fee to any organization or institution of higher education on behalf of a member of the State Board of Education, or reimburse any member of the Board for a fee paid to any organization or institution of higher education, for attendance at a workshop or courses to satisfy the requirements of Section 5-110 of this title.

The Governor shall appoint one member to serve for one (1) year; one member to serve for two (2) years; one member to serve for three (3) years; one member to serve for four (4) years; one member to serve for five (5) years; and one member to serve for six (6) years. Said members shall serve until their successors are duly appointed and qualified. Their successors shall be appointed for a term of six (6) years, and thereafter the term of each member of said Board shall be six (6) years. An appointment shall be made to take effect on April 2 of each year. **Except for the State Superintendent of Public Instruction, a member shall be appointed from each congressional district, and any remaining members shall be appointed from the state at large, not to exceed more than one member from any one county, city or town.** However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member. No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district. Upon the occurrence of a vacancy the same shall be filled by the Governor, subject to confirmation by the Senate at the next session of the Legislature, such appointments to be made for the

unexpired term.

Terms of the members shall be staggered so that only one term expires each year. Each member of the Board shall receive necessary traveling expenses while in the performance of his duties in accordance with the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. Provided, that persons serving as members of the State Board of Education on the effective date of this act shall continue to serve as members of the State Board of Education for the terms for which they were appointed.

### **Ohio (hybrid)**

11 elected by nonpartisan ballot; 8 appointed by governor. Four of the eight appointed members must represent rural school districts.

3301.03 Board members to be qualified electors - oath, salary, expenses.

Each elected voting member of the state board of education shall be a qualified elector residing in the territory composing the district from which the member is elected, and shall be nominated and elected to office as provided by Title XXXV [35] of the Revised Code. Each appointed voting member of the board shall be a qualified elector residing in the state. **At least four of the appointed voting members shall represent rural school districts in the state, as evidenced by the member's current place of residence and at least one of the following:**

**(A) The member's children attend, or at one time attended, school in a rural district;**

**(B) The member's past or present occupation is associated with rural areas of the state;**

**(C) The member possesses other credentials or experience demonstrating knowledge and familiarity with rural school districts. No elected or appointed voting member of the board shall, during the member's term of office, hold any other public position of trust or profit or be an employee or officer of any public or private elementary or secondary school.** Before entering on the duties of office, each elected and appointed voting member shall subscribe to the official oath of office. Each voting member of the state board of education shall be paid a salary fixed pursuant to division (J) of section 124.15 of the Revised Code, together with the member's actual and necessary expenses incurred while engaged in the performance of the member's official duties or in the conduct of authorized board business, and while en route to and from the member's home for such purposes.

Effective Date: 10-05-2000

### **Oregon**

*ORS 326.051*

Appt by the Governor (and confirmed by the Senate):

5 members who each represent one of Oregon's five congressional districts

2 at large members

Additionally an appointed member may not be engaged in teaching or participating in the administration or operation of a school.

### **South Dakota**

There are no guidelines for the Governor to follow. He appoints nine members, and they must be confirmed by the state senate.

### **Tennessee**

**Tennessee Code Annotated 49-1-301. State Board of Education - Composition Chair Meetings.**

(a) (1) The state board of education shall be composed of **nine (9) appointed members, one (1) public high school student member** and one (1) ex officio member. **One (1) appointed member shall be appointed from, and represent, each congressional district. The member shall reside within the congressional district from which the member is appointed as such district is apportioned at the time of the member's appointment.** The position of any member shall become vacant when the member ceases to reside in such district. Appointments from reapportioned congressional districts shall be made as vacancies occur. No incumbent member shall be removed from the incumbent member's seat prior to the expiration of the incumbent member's current term as a result of changes in congressional districts occasioned by reapportionment. The position of any member shall become vacant when the member misses, without cause, more than two (2) consecutive meetings within any twelve-month period. Cause shall be determined by the board.

(2) The terms for all members shall begin April 1, 1984. The terms of the initial nine (9) appointments shall be three (3) years for three (3) members, six (6) years for three (3) members, and nine (9) years for three (3) members as designated by the governor in the governor's appointments. As the terms expire, successors shall be appointed for five-year terms. Vacancies shall be filled for the remainder of the unexpired term. **At least three (3) members shall be appointed from both the majority and minority parties, as defined in 2-1-104. At least one (1) member shall be a member of the minority race.** Board members may be reappointed. **In making appointments to the board, the governor shall strive to ensure that at least one (1) person appointed to serve on the board is sixty (60) years of age or older. Appointments made after January 1, 1995, shall alternate such that every other appointment of a new member to the board shall be a female until the membership of the board reflects the percentage of females in the population generally, after which the provisions of this sentence shall cease to be effective.**

(3) **All appointive members shall be appointed by the governor subject to confirmation by the senate and house of representatives, but appointments shall be effective until adversely acted upon by the senate and house of representatives.** Members of the existing board of education shall continue to serve until their successors are appointed and confirmed.

(4) **No appointed member of the board shall be an elected official or employee of the federal, state or a local government. Beginning with appointments made on or after January 1, 2004, at least one (1), but not more than one (1), appointed member of the board shall be employed, at the time of the appointment, as a kindergarten through grade twelve (K-12) public school teacher.**

(5) The executive director of the higher education commission shall be an ex officio, nonvoting member of the board.

(6) **The high school student shall be of superlative standing and shall serve for a one-year term in an ex officio capacity. The student member shall be appointed each year from nominees chosen by the local board of education in each school system at each board's discretion, with no more than one (1) student from each school system being nominated, and with the students having reached their junior or senior year in high school.**

**Tennessee**

H.B. 455 (2003) Relates to the state board of education; requires one appointee to be a K-12 public school teacher.

**Texas**

§ 21.033. STATE BOARD FOR EDUCATOR CERTIFICATION. (a) The State Board for Educator Certification



is composed of **14 members**. **The commissioner of education shall appoint an employee of the agency to represent the commissioner as a nonvoting member. The commissioner of higher education shall appoint an employee of the Texas Higher Education Coordinating Board to represent the commissioner as a nonvoting member. The governor shall appoint a dean of a college of education in this state as a nonvoting member. The remaining 11 members are appointed by the governor with the advice and consent of the senate, as follows:**

- (1) four members must be teachers employed in public schools;**
- (2) two members must be public school administrators;**
- (3) one member must be a public school counselor; and**
- (4) four members must be citizens, three of whom are not and have not, in the five years preceding appointment, been employed by a public school district or by an educator preparation program in an institution of higher education and one of whom is not and has not been employed by a public school district or by an educator preparation program in an institution of higher education.**

**(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the person appointed.**

**(c) A board member is immune from civil suit for any act performed in good faith in the execution of duties as a board member.**

### **Vermont**

Governor is autonomous, except that s/he appoints State Board members with the advice and consent of the Senate. The only qualification is that "consideration shall be given to the selection of [the members] as shall adequately represent all sections of the state." 16 VSA 161.

### **Vermont**

H.B. 234 (2000) Expands the Vermont State Board of Education from seven to ten members. The three additional members will be appointed by the Governor. One new member will be an adult, appointed for a six-year term. Two students shall be appointed by the Governor for a transition year after an open application process. One student shall be appointed for a one-year term and the other for a two-year term. The student serving the one-year term shall be a full voting member. The student holding the two-year term shall become a voting member in the second year of his or her term. Thereafter, annually the Governor shall appoint one student for a two-year term to replace the departing student State Board member.

### **Virginia**

In Virginia, state law does not specify certain constituencies that the Governor must appoint. The appointments are pretty much at his discretion and must be confirmed by the General Assembly.

#### **§ 22.1-9. Appointment, terms and vacancies.**

The Board of Education shall consist of nine members appointed by the Governor. Every appointment to the Board shall be for a term of four years, except that appointments to fill vacancies other than by expiration of term shall be for the unexpired terms. All appointments, including those to fill vacancies, shall be subject to confirmation by the General Assembly, and any appointment made during the recess of the General Assembly shall expire at the end of thirty days after the commencement of the next session of the General Assembly. No member of the Board shall be appointed to more than two consecutive four-year terms.

## **Washington**

For the Governor-appointed members (which comprise 7/14 voting members): individuals who have demonstrated interest in public schools and are supportive of educational improvement, have a positive record of service, and who will devote sufficient time to the responsibilities of the board. Governor must consider the diversity of the population of the state.

## **Washington**

S.B. 5732 (2005) Revises the powers, duties, and membership of the state board and the Washington professional educator standards board and eliminates the Academic Achievement and Accountability Commission. **The governor will appoint seven of the 16 board members, with another five elected by school directors and one by private school board members.** The state superintendent and two students also serve. The board will address student learning and education program accountability. The Professional Educator Standards Board will set policy for teacher preparation and certification programs, formerly a task of the state board. <http://www.leg.wa.gov/pub/billinfo/2005-06/Pdf/Bills/Senate%20Passed%20Legislature/5732-S.PL.pdf>

## **Wyoming**

S.B. 87 (2006) Relates to the State Board of Education; expands board voting membership to include the State superintendent of public instruction. The superintendent, however, may not participate in board deliberations on or vote on any matter relating to a contested case involving actions of the department of education.

<http://legisweb.state.wy.us/2006/Enroll/SF0087.pdf>

## **Additional Resources**

### **State Education Governance: State-by-State Chart of Essential Governance Information (November 2010)**

*National Association of State Boards of Education*

Attached

### **State Education Governance Models (January 2011)**

*Education Commission of the States (ECS)*

Attached

