

Policy: #1024 – Director Absences and Filling a Vacancy

SCOPE OF POLICY: Board of Directors

RESPONSIBILITY: Board of Directors, Board President

I. Policy

Pursuant to Neb. Rev. Stat. §70-615, and in addition to the events listed in Neb. Rev. Stat. §32-560, a vacancy on the board of directors shall exist in the event of the (a) removal from the chartered area of any director, (b) removal from the subdivision from which such director was elected except as otherwise provided in subsection (2) or (3) of section §70-612, (c) elimination or detachment from the chartered area of the territory in which a director or directors reside, or (d) expiration of the term of office of a director AND failure to elect a director to fill such office at the preceding general election. After notice and hearing, a vacancy shall also exist in the event of the absence of any director from more than two consecutive regular meetings of the board, unless such absences are excused by a majority of the remaining board members.

II. Procedure

A. Director's Absences

1. If a director expects to be absent from a future board meeting, the director is encouraged, but not required, to give notice in advance so that whether or not to excuse the absence can be considered at the earliest possible time. At the board meeting when the director is absent, the board at its discretion may excuse the absence at that time or may defer the matter for later consideration by a majority vote of the board.
2. If the absence of a director is not ruled to be excused at or before the meeting when it occurs, the absence from the meeting shall be recorded in the minutes as unexcused, subject to further review.
3. Mailing to any director of minutes from a previous board meeting showing the absence of the director as unexcused shall serve as notice to the director that the absence stands unexcused. The director receiving the notice may ask that the absence be placed on the agenda for consideration at a later meeting, but failure to do so shall not waive the right of the director to raise the question upon notice and hearing as provided for in paragraph five (5).
4. If any director shall be absent for more than two consecutive regular board meetings for which an excused absence has not been recorded, the secretary of the district (or the president, if the director in question is the secretary) shall cause a notice to be sent to the director in question, at the director's last known address, by certified mail, return receipt requested. The notice shall be conclusively presumed to be received by the director three business days after the mailing of the notice. In addition to certified mail, the secretary may also provide notice by email (with read receipt requested) or personal delivery to the director's last known address, provided that such additional notice is documented in the district's records. Sending the notice may be delegated to the manager or other administrative employee of Elkhorn Rural Public District (ERPPD). The notice shall be addressed to the director in question and shall specify a hearing date, time and place. The hearing date shall be at least 20 days after the

notice is mailed and will, unless a special meeting is lawfully called, take place during a regular meeting of the board of directors. All notices and hearings conducted pursuant to this paragraph shall comply with the Nebraska Open Meetings Act, Neb. Rev. Stat. §§84-1407 to 84-1414.

5. A hearing shall be held at the time and place specified in the notice, unless lawfully continued or adjourned. Formal rules of evidence will not be followed, and the minutes of previous meetings may be received as prima facie evidence. The president (or vice-president if the president is the director in question) may serve as hearing officer or appoint a hearing officer. The hearing officer shall admit and give effect to all relevant testimony and evidence presented that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. After such hearing and based solely on the evidence and arguments there produced, the remaining members of the board of directors shall vote as to whether the director in question was absent from more than two consecutive regular meetings of the board and whether such absences should be excused. If a majority of the remaining board members shall determine that the director in question was absent from more than two consecutive regular meetings of the board and that such absences are not excused, a vacancy shall thereupon exist for the board position of the director in question.

- B. When a vacancy exists on the Board of Directors, the board as a whole may choose to conduct the appointment process:
1. Advertise the vacancy through the newsletter, newspapers with general circulation within the district; and through other means such as social media.
 2. Interested candidates will submit a cover letter, resume and complete the ERPPD Board of Directors Application Form (attached) and the Manager and President will determine if the candidates qualify for the position.
 3. Qualified candidates will be interviewed at a regular board meeting or special board meeting depending on time constraints and number of candidates.
 4. The board as a whole will choose the best candidate and make the appointment.

The appointment duration shall be in accordance with Neb. Rev. Stat. §70-615. Specifically: (a) if a vacancy occurs prior to the deadline for filing for the next general election and the unexpired term extends beyond the first Thursday after the first Tuesday in January following that general election, the appointment shall be until that date, and candidates may file nomination papers as provided by law for election to the unexpired term; and (b) if a vacancy occurs after the deadline for filing for the next general election, the appointment shall be until the first Thursday after the first Tuesday in January following the next general election for which candidates may file nomination papers as provided by law. Any appointment made pursuant to this policy shall be filed with the Nebraska Secretary of State by certified mail, as required by Neb. Rev. Stat. §70-615(5).

Any director appointed to fill a vacancy shall, prior to assuming duties, affirm in writing that he or she has no conflict of interest in serving on the ERPPD Board of Directors. A conflict of interest includes, but is not limited to, any financial interest, employment relationship, or organizational affiliation that could impair the director's ability to act in the best interest of ERPPD and its customers.

- C. If the board of directors thinks it is in the best interest of ERPPD, the vacancy may be filled by election. In such event, the secretary of ERPPD shall give notice to the public by publishing the notice of vacancy, length of term, and the deadline for filing, once in a newspaper or newspapers of general circulation within the district.



Elkhorn Rural Public Power District Board of Directors Application Form

Thank you for your interest in the Elkhorn Rural Public Power District (ERPPD) Board of Directors.

Board of Director Qualifications:

As pursuant to Neb. Rev. Stat. §70-619: “A candidate for director shall be a registered voter residing within the chartered territory or subdivision as defined in the charter of the district or a retail customer duly certified in accordance with subsection (3) of section §70-604.03.

Please fill out the following form and return along with a cover letter and resume by mail to: ERPPD Attn: Board of Directors, PO Box 310, Battle Creek NE 68715 or email to mjohnson@erppd.com, subject line: Board Vacancy Application. The following information will be shared with all of the board members.

Name: _____

Home Phone Number: _____ Cell number: _____

Residential address:

Email address (please print):

Are you a registered voter at the address listed? Yes _____ No _____

Briefly describe why you would like to join our Board of Directors:

Your current organizational affiliations (names of the organization and your role(s): (Please use an additional sheet if necessary)

1. _____
2. _____
3. _____
4. _____

What skills will you bring to the ERPPD Board? _____

If appointed to the ERPPD Board, what are some goals you have personally and for the organization?

If you are appointed to the Board, you agree that you can attend monthly Board Meetings (2nd Tuesday of the month starting at 10:00 a.m. and usually lasting to approximately 3 p.m.) and other affiliated meetings as needed, and that you do not have any conflict-of-interest in participating on the ERPPD Board.

Your signature: _____ Date: _____