

Memo from Ancel Glink Concerning Board of Director Vacancies

The memo below was created by Julie Tappendorf at Ancel Glink. Feel free to share this document with your boards as you evaluate the best course of action for your library. It is our recommendation that you also review this with your library's attorney before taking any action.

Below is a “cheat sheet” of sorts for filling vacancies in the various types of board of trustees positions. Please note that a vacancy occurs, generally, when a trustee resigns or is unable to serve in his or her position for some reason (death, moving out of the jurisdiction). Note that there are different procedures in some cases for the appointment of successor trustees (i.e., what happens at the end of a trustee's term rather than filling a “vacancy” that occurs during a trustee's term).

1. Villages (non-commission form)

- In a village (non-commission form), the initial board of trustees is elected by the general public at the same time the establishment of a public library is on the ballot. The seven individuals who received the most votes for their respective terms (as listed on the ballot) constitute the library board. **75 ILCS 5/4-3.**
- In the case of a vacancy, the remaining trustees are tasked with filling the vacancy until the following election where **any** library trustees are up for reelection (at which point someone is elected to fill the unexpired term). **75 ILCS 5/4-4.** (Note that there are special rules governing vacancies within 3 months of an election).

2. Cities (non-commission form)

- In a city (non-commission form), the initial appointment of a board of 9 library trustees is made when the corporate authorities decide to establish a public library—the mayor appoints the trustees with the approval of city council. **75 ILCS 5/4-1.**
- Annually thereafter the mayor shall, before the first of July of each year, appoint as before 3 trustees to take the place of the retiring trustees. Although the statute only references the mayor's appointment, there must be some meaning to “as before,” which I would interpret as also requiring the approval of the city council, which is the procedure for the initial appointment. That makes some practical sense since the initial appointments are by the mayor with approval of the city council and vacancies are also filled in the same manner as original appointments, which would be mayor appointment and approval by the city council.
- In the case of a vacancy, the library board must report the vacancy to the Mayor, who will fill the vacancy using the same procedure as initial appointments (with the approval of city council). **75 ILCS 5/4-4.** The language of the statute specifically says that the vacancy shall be “filled in like manner as original appointments” which means appointment by Mayor and approval by the City Council – see highlighted language in the statute reprinted at the bottom of the email.

3. Towns (non-commission form)

- In a town (non-commission form), the initial board of trustees is elected by the general public at the same time the establishment of a public library is on the ballot. The seven individuals who received the most votes for their respective terms (as listed on the ballot) constitute the library board. **75 ILCS 5/4-3.**
 - In the case of a vacancy, the remaining trustees are tasked with filling the vacancy until the following election where **any** library trustees are up for reelection (at which point someone is elected to fill the unexpired term). **75 ILCS 5/4-4.** (Note that there are special rules governing vacancies within 3 months of an election).
4. **Villages (commission form)**
- In a village under the commission form, the initial board of 6 trustees is appointed by the village council at the first regular meeting following the election establishing a library district. **75 ILCS 5/4-2.**
 - In the case of a vacancy, the library board must report the vacancy to the President, who will fill the vacancy using the same procedure as initial appointments (the village council will appoint a new trustee). **75 ILCS 5/4-4.**