



STATE OF KANSAS

*Office of the Attorney General*

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*Curt T. Schneider*  
*Attorney General*

September 13, 1976

ATTORNEY GENERAL OPINION NO. 76- 282

Mr. Theodore C. Geisert  
Attorney, Unified School  
District 332  
103 Avenue A East  
Kingman, Kansas 67068

Re: Schools--Boards of Education--Vacancies

Synopsis: The board of education has an affirmative duty to act within a reasonable time after the occurrence of a vacancy to publish notice thereof, and to fill the position by appointment.

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Dear Mr. Geisert:

As counsel for Unified School District No. 332 of Kingman County, you inquire concerning the filling of a vacancy on the board of education.

You advise that due to a resignation, a vacancy has occurred on the board. The term in which the vacancy has occurred expires next July 1, 1977, and the position is due to be filled at the school election in April, 1977. You inquire whether the board is required to fill the vacancy for remainder of the period or whether it may allow the vacancy to continue until the expiration of the term.

K.S.A. 25-2022 states thus:

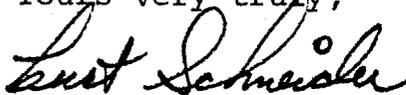
"Any board shall have power to fill by appointment any vacancy which occurs thereon, and such appointee shall serve for the unexpired term. When a vacancy occurs, the board shall publish a notice one time in a newspaper

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having general circulation in the school district stating that the vacancy has occurred and that it will be filled by appointment by the board not sooner than fifteen (15) days after such publication. If such vacancy occurs before January 1 of an odd-numbered year leaving an unexpired term of more than two years such appointee shall serve until the July 1 after the following general school election as provided in K.S.A. 1972 Supp. 25-2023 or any amendments thereto."

This section imposes on the board a mandatory duty to fill vacancies. When the vacancy occurs, the board "shall publish" a notice thereof and stating that it will be filled by appointment not sooner than fifteen days. The statute does not specify the period of time following the occurrence of the vacancy within which the notice must be published, nor the period of time within which the appointment must be made following the appointment. Absent a precise statutory direction, the statute necessarily implies that these acts shall be done within a reasonable time. Clearly, in my judgment, the nine months remaining until July 1, 1977, far exceeds a reasonable time. Electors of the district are entitled to the benefit of a governing body of the district composed of a full membership, and the board has an affirmative duty to act promptly in order that a vacancy shall not exist for an unreasonable period of time.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj