



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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January 31, 1996

FILE NO. 96-012

UNIVERSITIES & COLLEGES:
Community College
Board Vacancy

Geraldine A. Evans
Executive Director
Illinois Community College Board
509 South Sixth Street, Suite 400
Springfield, Illinois 62701-0123

Dear Ms. Evans:

I have your letter wherein you inquire whether a vacancy in office occurs when a member of a community college district board of trustees relocates his or her residence to a place outside of the boundaries of the community college district. For the reasons hereinafter stated, it is my opinion that the office of community college district trustee becomes vacant when the officeholder ceases to be an actual resident of the district.

In your letter, you have noted that section 3-7 of the Public Community College Act (110 ILCS 805/3-7 (West 1994)), which sets forth the procedure for the filling of vacancies in the office of trustee, is silent as to the events that cause a

Ms. Geraldine Evans - 2.

vacancy to occur. You have also pointed out, however, that prior to its amendment by Public Act 80-1469, effective December 1, 1980, section 3-7 expressly provided, inter alia, that a vacancy would arise if a trustee relocated his residence to a place outside of the district. (See Ill. Rev. Stat. 1979, ch. 122, par. 103-7.)

A community college district board of trustees is a body politic and corporate (110 ILCS 805/3-11 (West 1994)), the members of which are elected to serve fixed terms of office (110 ILCS 805/3-7 (West 1994)). By establishing a procedure for the filling of vacancies, section 3-7 clearly contemplates that vacancies in the office of community college trustee can occur. Although section 3-7 does not specify the circumstances in which vacancies may arise, section 25-2 of the Election Code (10 ILCS 5/25-2 (West 1994)) provides:

"Every elective office shall become vacant on the happening of any of the following events before the expiration of the term of such office:

- (1) The death of the incumbent.
- (2) His or her resignation.
- (3) His or her becoming a person under legal disability.
- (4) His or her ceasing to be an inhabitant of the State; or if the office is local, his or her ceasing to be an inhabitant of the district, county, town, or precinct for which he or she was elected; provided, that the provisions of this paragraph shall not apply to township officers whose township

boundaries are changed in accordance with Section 10-20 of the Township Code, nor to township or multi-township assessors elected under Sections 2-5 through 2-15 of the Property Tax Code.

(5) His or her conviction of an infamous crime, or of any offense involving a violation of official oath.

(6) His or her removal from office.

(7) His or her refusal or neglect to take his or her oath of office, or to give or renew his or her official bond, or to deposit or file such oath or bond within the time prescribed by law.

(8) The decision of a competent tribunal declaring his or her election void.

* * *

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(Emphasis added.)

This provision, or one similar thereto, has been in effect in this State since July 1, 1872. (See 1871-1872 Ill. Laws 433, 450.)

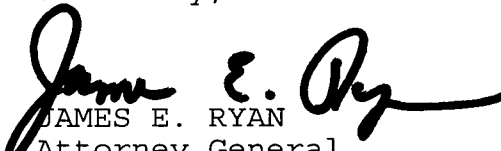
Prior to its amendment by Public Act 80-1469, sec. 10, effective December 1, 1980 (1978 Ill. Laws 1788, 1944), section 3-7 included a sentence declaring that a vacancy in the office of community college trustee would occur upon the happening of any of seven events before the expiration of the term of office, one of which was the officeholder's "ceasing to be an inhabitant of the State, district or particular area for which he was elected". (Ill. Rev. Stat. 1979, ch. 122, par. 103-7.) The amendment of section 3-7 by Public Act 80-1469 deleted not merely that particular ground, but the entire sentence listing events which

Ms. Geraldine Evans - 4.

would create vacancies. To conclude that because of the amendment of section 3-7, the establishment of a residence outside of the district does not create a vacancy in the office of trustee would also necessitate the conclusion that none of the other previously-listed events, including death, resignation and removal from office, would create a vacancy, despite the express language in section 25-2 of the Election Code so providing. Such a construction would be patently absurd, and must be avoided. People v. Bole (1993), 155 Ill. 2d 188, 195).

It is, therefore, my opinion that under section 25-2 of the Election Code, a vacancy in the office of community college district trustee occurs when the officeholder ceases to be an actual resident of the district to the board of which he or she was elected.

Sincerely,


JAMES E. RYAN
Attorney General