



November 12, 2025

Brian D. Mayo, Esq.
Attorney, Newton Municipal School District
Post Office Box 218
Newton, Mississippi 39345

Re: Mississippi Code Annotated Section 37-7-203

Dear Mr. Mayo:

The Office of the Attorney General has received your request for an official opinion.

Background

In 2024, the Mississippi Legislature amended Mississippi Code Annotated Section 37-7-203, adding subsection (5)(a), to require that members of the Newton Municipal School District Board of Trustees ("Board") be elected rather than appointed by the Newton Board of Aldermen ("Aldermen"). Accordingly, an election was held in November of 2024, and new Board members took office in January of 2025. Thereafter, one Board member resigned. The Board declared a vacancy, and the vacancy was filled by the Aldermen from the qualified electors of the vacant member's voting district, pursuant to Section 37-7-203(1).

Questions Presented

1. Must a special election now be held for the vacant Board seat, or may the appointed member serve the remaining term of the vacant member?
2. If a special election is required to be held, when should it be held?

Brief Response

1. The plain language of Section 37-7-203 does not require a special election.
2. Given the response to question one, this question is moot.

Applicable Law and Discussion

As an initial matter, you state in your request that the Aldermen have already filled the vacancy on the Board from the qualified electors of the vacant member's voting district. Pursuant to Mississippi Code Annotated Section 7-5-25, official opinions of the Attorney General are limited to prospective questions of state law only and can neither validate nor invalidate past action. *See MS AG Op., Turnage at *1 (Oct. 11, 2021)*. Therefore, this opinion is offered for prospective application only.

Section 37-7-203 is the statute governing the boards of trustees for municipal separate school districts. Subsection (5)(b) specifically pertains to the Newton Municipal Separate School District. While the statute speaks to the failure of an individual to qualify, it does not speak to a vacancy occurring on the Board due to a member's resignation before January 1, 2028:

(b) On the first Tuesday after the first Monday in November 2024, an election shall be held in the municipal separate school district for local school board members in the same manner and at the same time as the presidential election is held and conducted, for the purpose of electing the board of trustees of the municipal separate school district. All members of the board of trustees elected pursuant to this paragraph (b) shall take office on the first Monday of January immediately following the date of their election, and may serve until the first Monday in January 2028, at which time the trustee elected pursuant to paragraph (c) of this subsection shall take office. *If no individual qualifies for the elective office of school district trustee, the trustee for that specific trustee district shall be filled by appointment of the municipal governing authority*; however, the person so appointed to fill the vacancy may serve only until the first Monday in January 2028, at which time the trustee elected pursuant to paragraph (c) of this subsection shall take office.

From and after January 1, 2028, any vacancy on the board of trustees shall be filled by appointment by the remaining members of the board of trustees within sixty (60) days after the vacancy occurs. The appointee must be selected from the qualified electors of the trustee election district in which the vacancy occurs. The appointee shall serve until the first Monday of January succeeding the next general election, at which election a member from that trustee election district shall be elected for the remainder of the unexpired term.

(emphasis added). Section 37-7-203(1) governs, “[e]xcept as otherwise provided in subsections (3), (4), and (5) of this section. . . ,” and provides in relevant part:

All vacancies shall be filled for the unexpired terms by appointment of the governing authorities of the municipality. . . .

Neither Section 37-7-203(5), specifically pertaining to the Newton Municipal Separate School District, nor Section 37-7-203(1), governing the selection, term, and qualifications for board vacancies, provides for a special election for a vacancy due to a trustee's resignation before January 1, 2028.

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In conclusion, it is the opinion of this office that there is no requirement to hold a special election to fill the vacant board seat.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Caleb A. Pracht*

Caleb A. Pracht
Special Assistant Attorney General

OFFICIAL OPINION