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Governance support resources

Board members missing three meetings without prior leave

Three strikes and you are out!

Schedule 23, clause 12, subclause (1)(c) of the Education and Training Act 2020, states that an elected, appointed or co-opted board member's office (on the board) becomes vacant if they are absent from three consecutive meetings of the board without prior leave.

Giving an apology is not the same as obtaining prior leave

It is important to note that tendering apologies at meetings is not the same as obtaining prior leave from the board. It is appropriate for a board member to send an apology where they fully intended to attend a meeting but have been prevented from doing so by some unexpected event such as illness. Prior leave is sought where a board member knows, in advance, that they are going to be absent from one or more board meetings. The leave is sought from the board prior to the period of absence commencing.

Granting prior leave

The board should consider the request and may grant or decline prior leave by way of a resolution. This will be recorded in the minutes of the relevant meeting. If the board does grant prior leave the board member concerned can be absent for the agreed duration without their office becoming vacant. If the board declines the request for prior leave and the board member is absent from three consecutive meetings of the board, their office becomes vacant. Please note that the board does not have to grant this leave just because the board member asks. The board should weigh up how not having the board member will affect the board's ability to govern during the leave period.

The board has no discretion over this matter

It is also important to note that the board does not have any discretion as far as the application of the rule is concerned. Once a board member misses three meetings in a row and prior leave has not been sought from the board, the legislation dictates that their office is vacant and they are no longer a member of the board. The board will then be left with a casual vacancy which has to be filled in the appropriate manner.

All board members should be aware of this rule. Remember that ignorance of the law is no excuse.



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For further advice please contact the *Advisory and Support Centre* on
0800 782 435, option 1 or
govadvice@nzsta.org.nz