

Julia Hosford Barnes, P.C.



Legal Memorandum:

To: PEC
From: Julia Barnes
Re: PEC Absenteeism
Date: 8/24/23

In looking at the PEC Rules of Procedure a question was raised regarding whether the PEC has the authority to put into its Rules of Procedure that a member who misses a certain number of meetings is deemed to have vacated the position. I do not find any authority that would allow for a provision of this type.

Provisions regarding vacancies are established by statute or constitution. The constitutional provision related to the PEC allows the governor to appoint a new member if there is a vacancy. (Article XII, Education, Section 6.) There is no mention of a vacancy being created by the absenteeism of a member.

New Mexico statute does have a provision regarding local school boards that deems a member to have vacated his/her position after missing six regular meetings. (NMSA 22-5-12(C) However, there is not a comparable provision set out for the PEC.

It is possible to provide a process for the Chair or Executive Committee to approach a member who is missing many meetings to try to encourage the member to be more active. The member always has the option to resign, and then the Governor can appoint a new member.



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