

## MSBA AMENDMENT DRAFT:

### An Act to Establish a Recall Process for Public School Board Members

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §1005 is enacted to read:

#### §1005. Recall of school board members

1. Grounds for recall. Notwithstanding any provision of law, ordinance or municipal charter to the contrary, a school board member may not be recalled unless the school board member: ~~A school board member may only be recalled by the inclusion of a provision in a municipality's charter. Notwithstanding any additional requirements, the local charter provision must include that a school board member may not be recalled unless the school board member:~~

A. Has been convicted of a crime punishable under the laws of this State or another jurisdiction by imprisonment for a term of one year or longer, the conduct of which occurred during the school board member's term of office;

B. Has failed to perform duties prescribed by ~~state or local statute, law, or~~ including, but not limited to:

1) MRSA Title 20-A, subsection §1001;

2) Board Member Oath of Office: MRSA 20-A, §1206; MRSA 30-A, §2525,1.C; MRSA 30-A, §2526,9

3) MRSA Title 5, Chapter 337, Subchapter 5-B: Educational Opportunity;

4) MRSA Title 26, Chapter 9-B: §979-D. Obligation to bargain;

5) Code of Maine Rules 071: Rules of the Department of Education and State Board of Education;  
or:

6) any other statute specific to school board member service; or

C. Has willfully misused, converted or misappropriated, without legal authority, public property or public funds.

A school board member's performance of a required duty or a discretionary duty is not a ground for recall.

2. Petition for recall. A written petition to recall a school board member must be signed:

A. If the school board member was elected by the voters of a municipality ~~or district~~, by a number of voters equal to at least 25% of the number of voters in that municipality ~~or district~~ who voted in the last gubernatorial election; or

B. If the school board member was elected as a school board member-at-large in a school administrative unit, by a number of voters equal to at least 25% of the number of voters in the school administrative unit who voted in the last gubernatorial election.

3. Notice of intention. In order to initiate a recall election under subsection 2, the initiator of the petition shall file a notice of intention of recall with the municipal clerk of the municipality in which the school board member was elected or with each municipal clerk of all municipalities in a school administrative unit, if the school board member was elected at large. A notice of intention of recall under this subsection must include

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the name, address and contact information of the person filing the notice, the name of the school board member subject to recall under this section and the reason for the recall initiative, which must comply with subsection 1. A notice of intention of recall must include specific examples of violations of subsection 1, as well as any associated evidence.

Only a person registered to vote in the municipality or district in which the school board member was elected, or in a municipality in the school administrative unit if the school board member was elected at large, may file a notice of intention of recall under this subsection.

**4. Review of notice of intention to recall:** Within 3 business days of receipt of a notice of intention of recall under subsection 3, the municipal clerk shall share the notice with a municipal attorney for review. Within 10 business days of receipt of the notice, the municipal attorney shall determine, based on the reasons and evidence provided, whether grounds for recall have been met. If the attorney determines that grounds for recall have not been met, the municipal clerk shall alert the initiator of the petition. If the attorney determines that grounds for recall have been met, the municipal clerk shall prepare petition forms as outlined in subsection 6.

**4.5. Petition forms.** Within 3 business days of receipt of a notice of intention of recall under subsection 3, receiving notice that grounds for recall have been met, the municipal clerk shall prepare petition forms for the collection of signatures under subsection 5 and send notice to the initiator of the petition under subsection 3 that the petition forms are available. If the school board member was elected at large, the municipalities shall coordinate in preparing and providing the petition forms and sending notice and shall designate one municipal clerk to handle the submission of signatures under subsection 5.6. A municipality may charge the initiator of the petition a reasonable fee for preparing and providing the petition forms under this subsection. A petition form under this subsection must include:

- A. At the top of the form, the name of the school board member subject to recall, the name and contact information of the initiator of the petition and the date by which the signatures must be submitted to the municipal clerk under subsection 5.6;
- B. The reason for the recall initiative;
- C. Spaces for each voter's signature, street address and printed name; and
- D. Space at the bottom of the form for the name, address and signature of the person circulating the petition form.

**5. 6. Collection and submission of signatures.** A petition form under subsection 4.5 may be circulated or signed only by registered voters of the municipality or district in which the school member was elected, or of a municipality within the school administrative unit if the school board member was elected at large. A circulator of a petition form shall oversee the collection of signatures and ensure that the information required under subsection 4.5, paragraph C is accurate and complete. The initiator of the petition under subsection 3 shall collect the petition forms from all circulators and submit the signed petition forms to the municipal clerk who prepared the petition forms within 14 days of receipt of notice from the municipal clerk that the petition forms are available under subsection 4.5. A municipal clerk may not accept a petition form submitted more than 14 days after sending notice of availability to the initiator under subsection 4.5, and any voter signatures on that petition form are invalid.

**6. 7. Petition certification and notification.** Within 14 business days of receiving petition forms under subsection 5.6, the municipal clerk shall determine whether the petition forms meet the criteria under subsection 5.6 and certify the validity of any signatures on the petition forms. If the municipal clerk finds that the number of valid signatures submitted under subsection 5.6 meets or exceeds the requirements under subsection 2, the municipal clerk shall certify the petition and immediately send notification of the certification

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to the appropriate municipal officers, the initiator of the petition and the school board member subject to the recall. If the municipal clerk finds that the number of valid signatures submitted under subsection 56 does not meet the requirements for a petition under subsection 2, the municipal clerk shall file the petition and the petition forms in the municipal clerk's office and notify the initiator of the petition and, if the school board member was elected at large, the clerks of the other municipalities within the school administrative unit that the number of valid signatures does not meet the requirements for a petition under subsection 2.

**7- 8. Scheduling recall election.** Within 21 business days of certification of the petition under subsection 6, the municipal officers shall schedule a recall election to determine whether the school board member subject to the petition should be recalled. The election must be held no less than 45 days and no more than 75 days after certification of the petition under subsection 67 unless a regular municipal election is scheduled to be held within 90 days of the certification of the petition under subsection 67, in which case the recall election must be held on the date of the regular municipal election. If the municipal officers fail to schedule a recall election within 21 business days of certification of the petition under subsection 67, the municipal clerk shall schedule, or in the case of an at-large election, the municipal clerks of the municipalities within the school administrative unit shall jointly schedule the recall election in accordance with the requirements of this subsection.

**8- 9. Ballots for recall election.** If the school board member subject to the recall does not resign from the school board member's position within 21 business days of certification of the petition under subsection 67, the ballots for the recall election under subsection 78 must be printed. A ballot for a recall election under this section must read:

"Do you authorize the recall of (name of school board member) from the (school administrative unit) school board?

Yes    No"

**9- 10. Valid election.** The recall must be approved by a majority of voters in an election in which the total number of ballots is at least 35% of the number of votes cast in the municipality or district in the last gubernatorial election or, if the school board member was elected as a school board member-at-large, 35% of the number of votes cast in the school administrative unit in the last gubernatorial election.

**10- 11. Results of recall election.** Within 2 business days of a recall election under this section, the municipal clerk, or, if the election was for a school board member-at-large, the municipal clerks of each municipality within the school administrative unit, shall certify and record the election results and notify the municipal officers of those results. If a majority of voters vote to remove the school board member, the recall takes effect on the date the election results are recorded pursuant to this subsection.

**Sec. 2. 30-A MRSA §2505, first ¶**, as enacted by PL 2011, c. 324, §1, is amended to read:

Except as otherwise provided by the municipality's ordinances or charter, an elected official of a municipality may be recalled from office pursuant to this section. For purposes of this section, "official" has the same meaning as in section 2604, subsection 2, except that "official" does not include a member of a school board whose recall is governed by Title 20-A, section 1005.