



**Town of Arlington  
Legal Department**

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To: Select Board, Board of Assessors, Town Manager

From: Douglas W. Heim, Town Counsel

Date: July 12, 2021

Re: Interim Assessor Process

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Members of the Select Board and Board of Assessors ("BOA"), I have the unhappy duty to write to you regarding the process for filling a vacancy given the passing of the recently re-elected BOA member Kevin Feeley. As you may recall from prior vacancies on the BOA, M.G.L. c. 41, § 11, sets forth the procedure for filling a vacancy on an interim basis.<sup>1</sup> In short the process is as follows:

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<sup>1</sup> A full copy of the statute is attached hereto for your convenience.

1. The Board of Assessors should formally notify the Town Clerk and Select Board of the vacancy;
2. The Select Board must notice its intention to hold a joint meeting with the remaining members of the BOA to appoint an Interim Assessor for at least one (1) week;<sup>2</sup>
3. The Select Board and remaining BOA members by roll-call vote appoint an Interim Assessor to serve until the next Annual Town Election.

The appointed Interim Assessor shall fill the vacancy until the next Town Election in April of 2022, at which point a special election must be held for the Board of Assessors. The successfully elected candidate will then serve the remainder of Mr. Feeley's present term (i.e., however many years remained before his position would have been up for re-election).

In terms of qualifications for the position, the only requirement under the law for the Interim Assessor appointment is that they must be a registered voter in the Town of Arlington. You may otherwise select an Interim by whatever criteria and process you so choose; neither interviews, nor applications are required to fill the vacancy. However, any applications received by either the Assessors or the Select Board should be placed before the joint body.

When the respective board chairs agree on a date and time to convene a joint meeting, I will provide further information with recommendations for a nominations and voting. If you have any questions in the meantime, please do not hesitate to contact me.

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<sup>2</sup> In an abundance of caution, while this is a joint meeting, I recommend both the Select board and the BOA noticing the meeting for Open Meeting purposes.

## **TITLE VII CITIES, TOWNS AND DISTRICTS**

### **Ch. 41 Officers and Employees of Cities, Towns and Districts**

#### **Section 11 Appointment to Fill Vacancy in Town Office**

As used in this section, the term "vacancy" includes a failure to elect. If a vacancy occurs in any town office, other than the office of selectman, town clerk, treasurer, collector of taxes or auditor, the selectmen shall in writing appoint a person to fill such vacancy. If there is a vacancy in a board consisting of two or more members, except a board whose members have been elected by proportional representation under chapter fifty-four A, the remaining members shall give written notice thereof, within one month of said vacancy, to the selectmen, who, with the remaining member or members of such board, shall, after one week's notice, fill such vacancy by roll call vote. The selectmen shall fill such vacancy if such board fails to give said notice within the time herein specified. A majority of the votes of the officers entitled to vote shall be necessary to such election. The person so appointed or elected shall be a registered voter of the town and shall perform the duties of the office until the next annual meeting or until another is qualified.