

FILLING VACANCIES

A vacancy on the Board of Education may occur for any of the events specified in Government Code 1770 (see Exhibit 9223) or by a failure to elect. Removal by recall election shall also create a vacancy on the Board. The Board defines failure to discharge duties as non-attendance at a meeting. However, the Board may, by majority vote, authorize Board member leaves of absence.

A vacancy on the Board also occurs when a Board member ceases to inhabit the trustee area which he/she represents on the Board.

If a vacancy occurs less than four months before the end of a Board member's term, the Board shall take no action.

If a vacancy occurs four or more months before the end of a Board member's term, the Board shall, within 60 days of the date of the vacancy or the filing of the member's deferred resignation, either order an election or make a provisional appointment, unless a special election is mandated as described below.

Mandated Special Election

If a vacancy occurs from six months to 130 days before a regularly scheduled Board election at which the position is not scheduled to be filled, a special election to fill the position shall be consolidated with the regular election. The person so elected shall take office at the first regularly scheduled Board meeting following the certification of the election and shall serve only until the end of the term of the position which he/she was elected to fill.

Provisional Appointments

When the special election described above is not required, the Board may make a provisional appointment.

In order to draw from the largest possible number of candidates, the Board shall advertise in the local media to solicit candidate applications or nominations. The board may designate a committee consisting of less than a quorum of the Board to ensure that applicants are eligible for Board membership and announce the names of the eligible candidates. The Board shall interview the candidates at a public meeting, accept oral or written public input, and select the provisional appointee by a majority vote.

Notice and Duration of Provisional Appointment

Within 10 days after the appointment is made, the Board shall post notices of the vacancy or resignation and the provisional appointment. The notice shall be published in the local newspaper and posted in at least three public places within the Trustee Area.

The notice shall contain:

1. The date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation
2. The full name of the appointee
3. The date of appointment
4. A statement notifying the voters that unless a petition calling for a special election pursuant to Education Code 5091 is filed in the office of the County Superintendent of Schools within 30 days of the provisional appointment, it shall become an effective appointment

The person appointed shall hold office until the next regularly scheduled election for Board of Education members and shall be afforded all the powers and duties of a Board member upon appointment.

Legal Reference:

EDUCATION CODE

1006 Qualifications for office
1008 Vacancies; procedure for filling
5090 Definition (vacancy)
5091 Special election or provisional appointment
5092 Public notice of vacancy and provisional appointment
5093 Re vacancies occurring near end of term and incumbent not reelected
5094 Power of president of county board of education when majority of offices vacant
5095 Powers of remaining board members and new electees or appointees
5300-5304 Elections
5320-5329 Order and call of election
5340-5345 Consolidation of elections
5360-5363 Election notice
5420-5426 Cost of Elections
5440-5442 Miscellaneous provisions, elections
35107 Eligibility of board members
35178 Resignation with deferred effective date

ELECTIONS CODE

10603-10604 School district elections
11384 Vacancy in office if majority vote for recall

GOVERNMENT CODE

1064 Absence from state
1770 Vacancies: definition
3000-3003 Forfeiture of office
3060-3074 Removal other than by impeachment
6061 One time
54950-54962 The Ralph M. Brown Act, especially
54953 Meetings open and public; secret ballots

PENAL CODE

88 Bribery, forfeiture from office

UNITED STATES CODE, TITLE 18

704 Military medals or decorations

ATTORNEY GENERAL OPINIONS

58 Ops. Cal. Atty. Gen. 888 (1975)

Bylaw

HUMBOLDT COUNTY OFFICE OF EDUCATION

Adopted: November 17, 1999

Eureka, California

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