

## **BYLAWS OF THE BOARD**

### **Filling Vacancies**

#### **Events Causing Vacancy Before Expiration of Term**

An office becomes vacant on the happening of any of the following events before the expiration of the term:

1. The death of the incumbent.
2. The adjudication pursuant to a quo warranto proceeding declaring that the incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of his/her office for the remainder of his/her term.

3. A Board member's resignation.

A vacancy resulting from resignation occurs when the written resignation is filed with the County Superintendent of Schools, except where a deferred effective date is specified in the resignation so filed, in which case the resignation shall become operative on that date. A Board member may not defer the effective date of his/her resignation for more than 60 days after he/she files the resignation with the County Superintendent. Upon being filed with the County Superintendent, a written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable.

4. A Board member's removal from office, including by recall.
5. A Board member's ceasing to be an inhabitant of the county, or for which the member was chosen or appointed or within which the duties of his/her office are required to be discharged.

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

6. A Board member's absence from the state without the permission required by law for more than 60 days, except in the following situations:
  - a. Upon county office business with the approval of the Board.
  - b. With the consent of the Board for an additional period not to exceed a total absence of 90 days.

In the case of illness or other urgent necessity, and upon a proper showing thereof, the time limited for absence from the state may be extended by the Board.

- c. For federal military deployment, not to exceed an absence of a total of six months, as a member of the armed forces of the United States or the California National Guard.

If the absence of the Board member for this purpose exceeds six months, the Board may approve an additional six-month absence upon a showing that there is a reasonable expectation that the member will return within the second six-month period, and the Board may appoint an interim member to serve in his/her absence. If two or more members of the Board are absent by reason of these circumstances, and those absences result in the inability to establish a quorum at a regular meeting, the Board may immediately appoint one or more interim members as necessary to enable the Board to conduct business and discharge its responsibilities. The term of an interim member appointed in these circumstances shall not extend beyond the return of the absent Board member or beyond the next regularly scheduled election for that office, whichever occurs first.

7. A Board member's ceasing to discharge the duties of his/her office for the period of three consecutive months, except when prevented by illness, or when absent from the state with the permission required by law.
8. A Board member's conviction of a felony or of any offense involving a violation of his/her official duties or conviction of a designated crime resulting in a forfeiture of office.
9. A Board member's refusal or neglect to file his/her required oath or bond within the time prescribed.
10. The decision of a competent tribunal declaring void a Board member's election or appointment.
11. A Board member's commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict; but in that event the office shall not be deemed vacant until the order of commitment has become final.
12. A "failure to elect" in which no candidate or an insufficient number of candidates have filed to run for a Board seat(s).

### **Timelines for Filling a Vacancy**

When a vacancy occurs, the Board shall take the following action, as appropriate:

1. When a vacancy occurs within four months of the end of the Board member's term, the Board shall take no action.

2. When a vacancy occurs longer than four months before the end of a Board member's term, the Board shall, within sixty (60) days of the date of the vacancy or the filing of the Board member's deferred resignation, either order an election for the next regular election date or make a provisional appointment, unless a special election is mandated as described in item #3 below.
3. When 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.

### **Eligibility**

In order to be appointed or elected to fill a vacancy on the Board, a person must meet the eligibility requirements specified in Education Code 35107.

### **Provisional Appointment**

When authorized by law to make a provisional appointment to fill a vacancy on the Board, the Board desires to draw from the widest possible number of candidates. The Board shall:

1. Advertise the vacancy in suitable local media to solicit candidate applications or nominations.
2. A committee consisting of less than a quorum of the Board shall ensure that applicants are eligible for Board membership and announce names of candidates.
3. The Board shall interview the candidates at a public meeting and accept oral or written public input.
4. The Board shall select the provisional appointee by majority vote at a public meeting.

Within ten days after the appointment is made, the Board shall post notices of the actual vacancy, or the filing of a deferred resignation, and the provisional appointment. The notice shall be published in the local newspaper and posted in at least three public places within the county.

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 the provisional appointment shall become effective immediately and shall continue 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.

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

### **Appointment Due to Failure to Elect**

When a vacancy occurs because no candidate or an insufficient number of candidates have been nominated (i.e., a failure to elect) and a county election will not be held, the Board shall appoint a qualified person to the office. This appointment shall be made at a meeting prior to the day fixed for the election and the appointee shall be seated at the organizational meeting as if elected at the county election.

When an appointment is being made because of a failure to elect, the Board shall publish a notice once in a newspaper of general circulation published in the county, or if no such newspaper exists, in a newspaper having general circulation within the county. This notice shall state that the Board intends to make an appointment and shall inform persons of the procedure available for applying for the appointment.

The procedure for selecting and interviewing candidates shall be the same as the procedures for "Provisional Appointments," as specified above.

- cf.* 9100 Organization  
9220 Governing Board Elections  
9224 Oath or Affirmation

Legal Reference:

**EDUCATION CODE**

5000-5033 Elections

5012 Declaration candidacy or nomination; withdrawal

5090-5095 Vacancy

5200-5208 Districts governed by boards of education

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  
35178 Resignation with deferred effective date

ELECTIONS CODE

10600-10604 School district elections  
11381-11386 Candidates for recall

GOVERNMENT CODE

1064 Absence from state  
1770 Vacancies: definition  
3000-3003 Forfeiture of office  
3060-3075 Removal other than by impeachment  
6061 One time notice  
54950-54963 The Ralph M. Brown Act

PENAL CODE

88 Bribery, forfeiture from office

UNITED STATES CODE, TITLE 18

704 Military medals or decorations