

VENTURA COUNTY BOARD OF EDUCATION

BOARD POLICY NO. 9223

ADOPTED: 04/22/24

CLASSIFICATION: Board Bylaws

REVISED:

SUBJECT: Filling Vacancies

EVENTS CAUSING A VACANCY

A vacancy on the County Board of Education may arise from any of the following events:

1. The death of an incumbent
2. The adjudication pursuant to a quo warranto proceeding declaring that an 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 County Board member's resignation
4. A County Board member's removal from office by recall
5. A County Board member's ceasing to inhabit the trustee area represented on the County Board
6. A County Board member's absence from the state for more than 60 days, except in the following situations:
 - a. Upon County Board business with the approval of the County Board
 - b. With the consent of the County Board, for an additional period not to exceed a total absence of 90 days. However, 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 County 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 County Board member for military deployment exceeds six months, the County 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 County Board may appoint an interim member to serve during the absence.

If two or more County Board members are absent by reason of military deployment, and those absences result in the inability to establish a quorum at a regular meeting, the County Board may immediately appoint one or more interim members, as necessary, to enable the County Board to conduct business and discharge County Board responsibilities. The term of an interim member appointed in these circumstances shall not extend beyond the return of the absent County Board member or beyond the next regularly scheduled election for that office, whichever occurs first.

7. A County Board member's ceasing to discharge the duties of the office for the period of three consecutive months, except when prevented by illness or when absent from the state without the permission required by law
8. A County Board member's conviction of a felony or any offense involving a violation of official duties or conviction of a designated crime resulting in a forfeiture of office
9. A County Board member's refusal or neglect to file the required oath within the time prescribed
10. The decision of a competent tribunal declaring void a County Board member's election or appointment
11. A County Board member's commitment to a hospital or sanitarium as a drug addict, dipsomaniac, inebriate, or stimulant addict by a court of competent jurisdiction, in which case 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 County Board seat(s)

TIMELINES FOR FILLING A VACANCY

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

1. When a vacancy occurs within four months of the end of a County Board member's term, the County Board shall take no action.
2. When a vacancy occurs between six months and 130 days before a regularly scheduled County Board election at which the vacant position is not scheduled to be filled, a special election to fill the position shall be consolidated with the regular election. The person elected shall take office at the first regularly scheduled County Board meeting following the certification of the election and shall serve until the end of the term of the position which the person was elected to fill.

3. When a vacancy occurs any time outside of the statutory time windows identified in Items #1 and #2 above, the County Board shall either order an election or make a provisional appointment within 60 days of the date of the vacancy or the filing of the member's deferred resignation. If the County Board fails to make a provisional appointment or order an election within 60 days, the County Superintendent of Schools must call an election to fill the vacancy.

ELIGIBILITY

In order to be appointed or elected to fill a vacancy on the County Board, a person must meet the eligibility requirements specified in Education Code 1000 and 1006 and described in Board Bylaw 9220.

When the boundaries of the trustee area represented by a County Board member have changed since the County Board member's term of office became effective, any special election to fill the seat vacated by the County Board member shall be held subject to the trustee area boundaries in effect when the County Board member was elected.

PROVISIONAL APPOINTMENTS

When a special election is not required, the County Board is authorized by law to make a provisional appointment to fill a vacancy on the County Board. Before making a provisional appointment, the County Board shall advertise in the local media to solicit candidate applications or nominations. The County Board shall ensure that applicants are eligible for County Board membership, interview the candidates at a public meeting, accept oral or written public input, and select the provisional appointee by a majority vote.

Within 10 days after the appointment is made, the County 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 pursuant to Government Code 6061 and posted in at least three public places within the jurisdiction of the County Board.

The notice shall contain:

1. The date that the vacancy occurred or the date of the filing of, and the effective date of, the resignation
2. The full name of the provisional 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 within 30 days of the provisional appointment, the appointment shall become effective

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

If within 30 days of the County Board's appointment, registered voters of the trustee area for which the appointment is made submit a petition for special election which the County Superintendent determines to be legally sufficient, the provisional appointment is terminated, and a special election shall be held in accordance with Education Code 5091 to fill the vacancy. Any such petition for a special election shall contain the county election official's estimate of the cost of conducting the special election, expressed on a per-student basis.

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 an election will not be held, the County 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 election.

When an appointment is being made because of a failure to elect, the County 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 County 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 specified above in the "Provisional Appointments" section.

Legal Reference:

EDUCATION CODE

35107	School district employees
35178	Resignation with deferred effective date
5000-5033	Election of school district board members
5090-5095	Vacancy on the Board
5200-5208	Districts governed by boards of education
5300-5304	General provisions, conduct of elections
5320-5329	Order and call of elections
5340-5345	Consolidation of elections
5360-5363	Election notice
5420-5426	Cost of elections
5440-5442	Miscellaneous provisions

ELECTION CODE

10600-10604 School district elections
11000-11386 Candidates for recall

GOVERNMENT CODE

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

PENAL CODE

88 Bribery, forfeiture from office

Management Resources:

CSBA PUBLICATION

Filling a Board Vacancy, rev. December 2010

ATTORNEY GENERAL OPINIONS

58 Ops.Cal.Atty.Gen. 888 (1975)
105 Ops.Cal.Atty.Gen. 182 (2022)