

## **Bylaws of the Board**

### **Filling Vacancies on the Board**

**BB 9121**

#### **Occurrence of Events or Conditions**

A vacancy on the Board occurs as provided by law including on the happening of any of the following events or conditions before the expiration of the term:

1. The death of a Board Member.
2. The adjudication pursuant to a quo warranto proceeding declaring that a Board Member 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.
4. A Board Member's removal from office, including by recall.
5. A Board Member's ceasing to be a resident of the trustee area which he/she represents on the County Board.
6. A Board Member's absence from the state for more than 60 days, except in the following situations:
  - a. Upon business of the Board 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 for an additional period not to exceed 30 days.
  - 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.

## **Filling Vacancies on the Board (cont.)**

**BB 9121**

8. A Board Member's conviction of a felony or any offense involving a violation of his/her official duties.
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. The making of an order vacating a Board Member's office or declaring the office vacant when the Board Member fails to furnish an additional or supplemental bond.
12. A 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.
13. A "failure to elect" in which no candidate has filed to run for a Board seat(s).

## **Meeting Attendance**

Board Members are expected to make every effort to attend all meetings. If a member is unable to attend a meeting or fulfill his/her duties, he/she shall notify the Board President, the Vice President and/or the office of the superintendent. If a Board Member has not discharged his or her duties for three consecutive months or is absent from the state for more than 60 days, without the permission required by law, or is unable to continue his/her duties, the Board President, or the Vice President in the case the member is the President, shall determine whether a replacement is warranted. If they believe a replacement is warranted, the Board must file a quo warranto action with the California Office of the Attorney General to request that the Board Member be removed from office. For purposes of this section, the term "meeting" shall include both County Board meetings and Standing Committee meetings.

*Legal Reference: Government Code section 1064; 1770; Elections Code section 11384; Education Code section 5090, 5326, 5328*

## **Resignation**

A vacancy resulting from a resignation occurs when the written resignation is filed with the office of 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 effective on that date. For purposes of this rule, filing occurs when the document is actually received on a working day by the office of the County Superintendent.

*Legal Reference: Education Code sections 1008, 5090*

**Timeliness for Filing a Vacancy**

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

1. When a vacancy occurs less than four months before the end of a Board Member's term, the Board shall take no action.
2. When 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.
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.

**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. A committee consisting of less than a quorum of the Board shall 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.

Within 10 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 pursuant to Government Code 6061 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

**Filling Vacancies on the Board (cont.)****BB 9121**

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 County Board Members and shall be afforded all the powers and duties of a Board Member upon appointment.

*Legal Reference: Education Code section 1008; 5090 et seq.*

**School District Governing Board Vacancies**

When a vacancy occurs on a school district governing board, the remaining members of the board shall follow the provisions of E.C. 5090-5093. If vacancies should occur in a majority of the offices on any school district board, the president of the County Board of Education shall appoint members of the County Board of Education to the school district governing board until new members of the governing board are elected or appointed. The President shall appoint a sufficient number to constitute a quorum of the district board and may appoint additional members to provide for a full district board.

*Legal Reference: Education Code sections 5090 et seq., 5094, 5095*

