

The procedure to fill a board member vacancy is as follows:

The law requires a school district governing board to order an election or to make a provisional appointment within sixty (60) days from the date of the vacancy or of the filing if the resignation contains a deferred effective date (Education Code Section 5091). The effective date of the resignation may not be deferred for more than sixty (60) days after the filing with the County Superintendent of Schools (Education Code Section 5091). If the resignation contains a deferred effective date, the resigning member has the right to exercise all the powers granted to members of the governing board except that he or she does not have the right to vote on the provisional appointment of his or her successor (Education Code Section 35178). In the event that a governing board fails to make an appointment or order an election during the 60-day period, the County Superintendent is required by law to order an election to fill the vacancy.

The provisional appointment of the new member must be made and announced in a public meeting. A provisional appointment confers all powers and duties of a governing board member upon the appointee immediately following his or her appointment. Within ten (10) days after the provisional appointment, the governing board shall post notices of the actual vacancy or of the filing of a deferred resignation, and also the name of the provisional appointee in three (3) public places in the district and, further, shall publish the notice in a newspaper of general circulation published in the district. If no newspaper of general circulation is published in the district, the notice need not be published. The notice shall state the fact of the vacancy or resignation and the date of the occurrence of the vacancy or the date of filing of and the effective date of the resignation. The notice shall also contain the full name of the provisional appointee to the board, and the date of his or her appointment, and a statement that unless a petition calling for a special election containing a sufficient number of signatures is filed in the office of the County Superintendent of Schools within thirty (30) days of the provisional appointment, the appointment shall become an effective appointment (Education Code Section 5092).

If a petition is received and determined to be legally sufficient, an election must be held no later than the 130th day after the determination. Nevertheless, if a regular election date will occur between the 130th and 150th day, the County Superintendent may call the election to be held on the regular election date (Education Code Section 5091). A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs.

Within a waiting period of thirty (30) days after the provisional appointment, if the district has not received a petition demanding an election from a number equaling 1-1/2 percent of the number of registered voters of the district at the time of the last regular election for governing board members, the appointment becomes an effective appointment.

If the appointment becomes effective, the appointee only serves until the next regularly scheduled election for district governing board members at which time an election is held to fill the vacancy for the remainder of the unexpired term.

Reminder: Under a district's conflict of interest code, a board member leaving office must file a leaving office statement and a newly appointed board member must file an assuming office statement. These forms are available from the County Clerk and must be filed with the County Clerk within 30 days of the board member leaving or assuming office.

NOTE: The appointment procedure (or election by reason of a voter petition) does not apply if the vacancy occurs within four (4) months of the end of the term of that position. It also does not apply if the vacancy or the filing of a deferred resignation with the County Superintendent of Schools occurs between six (6) months and one hundred and thirty (130) days before a regularly scheduled governing board election and the position is not scheduled to be filled at that election. In both these situations, the position must remain vacant and is filled at the regularly scheduled election.

If the position was scheduled to be filled at the regularly scheduled election, the person elected at that election shall only hold office for the remainder of the term of that position (Education Code 5093).