

Filling Board Vacancies

Frequently Asked Questions

1. What are the requirements for a candidate? (EC 35107)

Any person, regardless of sex, who is 18 years of age or older, a citizen of the state, a resident of the school district, a registered voter, and who is not disqualified by the Constitution or laws of the state from holding a civil office is eligible to be elected or appointed a member of a governing board of a school district without further qualifications.

2. May a school employee serve as a trustee in the same school district in which he/she is employed?

An employee of a school district may not be sworn into office as an elected or appointed member of that school district's governing board unless, and until, he/she resigns as an employee. If the employee does not resign, the employment will automatically terminate upon being sworn into office.

3. How does a person become a candidate?

Candidates may obtain a *Declaration of Candidacy* packet from the Registrar of Voters office, 2724 Gateway Drive, Riverside, California 92507. The telephone number for information is 951-486-7200.

4. What happens if there are no applicants for the board vacancy?

Notice of a vacancy and a request for applicants to fill the vacancy must be posted in three public places within the district and shall be published. If there is no newspaper of general circulation published in the district, notice need not be published.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 the filing of, and the effective date of, the resignation. If the governing board fails to make an appointment or order an election, the county superintendent of schools shall call an election to fill the vacancy.

5. What is a provisional appointment? (EC 5091)

All appointments are considered provisional, with the exception of a board member appointed in lieu of election. If, after 30 days, there has been no successful petition calling for a special election, the appointment shall become permanent. An appointment confers all powers and duties of a governing board member upon the appointee immediately following his/her appointment.

6. What determines if a term is a short term? (EC 5091)

A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. For example: If the regular term expires in 2001, and a vacancy occurred in 1998, an appointee would serve a short term until the next regularly scheduled election in 1999, at which time an election would fill the position. At the regularly scheduled election for that position in 2001, the position would again be up for election, thus restoring the natural election cycle for that board seat.

A person elected at a special election to fill a vacancy would hold the office for the full unexpired term.

A person appointed in lieu of election because of a lack of candidates at the regular election would serve the full term.

7. When does the term of office expire? (EC 5017)

The term of office expires on the 1st Friday in December of the appropriate election year for the seat in question. Any member of the governing board of any school district or community college district whose term has expired shall continue to discharge the duties of the office until his/her successor has qualified.

8. When does a trustee take the Oath of Office?

a.) Vacant Seat. After an election, if a board member has already vacated the seat, the Oath of Office may be administered any time after the certification of the election. After an appointment, swearing in must occur within 60 days of the vacancy.

b.) All Other Instances. Administration of the Oath of Office usually takes place at the governing board's organizational meeting, following the election, which meeting must be held at the "first meeting within 15 days commencing with and including the first Friday in December." For example, in 1999, the organizational meeting must occur between Friday, December 3 and Friday, December 17, 1999. (EC 35143)

If the trustee is unable to attend the meeting because of illness, emergency, etc., the oath may be taken with as much or as little ceremony or formality as desired, as long as it is done before a person properly authorized to administer oaths. No special meeting need be called.

9. Must everyone take the Oath of Office? Is an incumbent required to take the Oath of Office upon reelection to his/her office?

Everyone, even reelected incumbents, must take the Oath of Office. Government Code Section 1360 provides that before any officer enters on the duties of his/her office, he/she shall take and subscribe the oath or affirmation set forth in Section 3 of Article

XX of the Constitution of California.

Government Code Section 1303 specifies that every person who exercises any function of a public office without taking the Oath of Office is guilty of a misdemeanor. Of potentially more serious consequence is the fact that under subsection (i) of Section 1770 of the Government Code, the refusal or neglect of an officer to file his required oath or bond creates a vacancy in the office, which may be filled as otherwise provided by law.

10. Who may administer the Oath of Office? (EC 60, GC 1362)

Those authorized to administer and certify oaths include the Superintendent of Public Instruction, Deputy and Assistant Superintendents of Public Instruction, secretary of the Superintendent of Public Instruction, members of the Board of Governors of the California Community Colleges, the Chancellor of the California Community Colleges, county superintendents of schools, school trustees, members of boards of education, secretaries and assistant secretaries of boards of education, city superintendents of schools, district superintendents of schools, assistant superintendents of schools, principals of schools, and every other officer charged with the performance of duties under the provisions of this code.

11. Does administering the Oath of Office need to be witnessed?

No witnesses are required to be present at the swearing in.