



ADMINISTRATIVE **PROCEDURE**

2110

DESERT COMMUNITY COLLEGE DISTRICT

VACANCIES ON THE BOARD

Vacancies are created on the Board for a regular Board Member when a written resignation or deferred resignation is filed with the County Superintendent of Schools. Once the written resignation or deferred resignation has been accepted by the County Superintendent of Schools, it is irrevocable.

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

- A. The death of the incumbent;
- B. An 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. This subdivision shall not apply to offices created by the California Constitution or to federal or state legislators;
- C. His or her resignation;
- D. His or her removal from office;
- E. His or her ceasing to be an inhabitant of the state, or if the office be local and one for which local residence is required by law, of the district, county, or city for which the officer was chosen or appointed, or within which the duties of his/her office are required to be discharged;
- F. His or her absence from the state without the permission required by law beyond the period allowed;
- G. His or her ceasing to discharge the duties of his/her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law;
- H. His or her conviction of a felony or of any offense involving a violation of his or her official duties. An officer shall be deemed to have been convicted under this subdivision when trial court judgment is entered. For the purposes of this subdivision, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding;

- I. His or her refusal or neglect to file his or her required oath or bond within the time prescribed;
- J. The decision of a competent tribunal declaring void his or her election or appointment;
- K. The making of an order vacation his or her office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond;
- L. His or her commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, alcoholic, or stimulant addict; but in that event the office shall not be deemed vacant until the order of commitment has become final.

Whenever a vacancy occurs, or whenever a resignation has been filed with the County Superintendent of Schools containing a deferred effective date, the Board of Trustees shall within 60 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing 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 of Schools.

When an election is ordered, it shall be held on the next regular election date provided pursuant to Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code not less than 130 days after the occurrence of the vacancy or after the written resignation is filed with the County Superintendent of Schools.

If a provisional appointment is made within the 60-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. The petition list shall meet the requirements of Education Code §5091.

When the Board determines to fill the vacancy by appointment, the Superintendent/President of the College shall assure that there is ample publicity to and information for prospective candidates. Publicity shall include posting in three public places in the District and publication in a newspaper of general circulation. (Note: This publication, which is required by Section 6061 of the Government Code, is only required to be published once. If there is no newspaper of general circulation published in the District, notice need not be published.)

The posted notice of vacancy shall include directions regarding applications or nominations of legally qualified candidates. Persons applying or nominated must meet the qualifications required by law for members of the Board.

Persons applying for appointment to the Board shall receive a letter from the Chair containing information about the District and the Board, and include a candidate information sheet to be completed and returned by a specific date.

The Board may request personal interviews with candidates. Interviews will be conducted in a public hearing scheduled for that purpose.

Each Board member will review all candidate information sheets, with final selection made by a majority vote of the Board members at a public meeting called for that purpose.

Whenever a provisional appointment is made, the Board shall, within 10 days of the provisional appointment, post notices of both the actual vacancy or the filing of a deferred resignation and the provisional appointment in three public places in the District. It shall also publish a notice in a newspaper of general circulation. (Note: This publication, which is required by Section 6061 of the Government Code, is only required to be published once. 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. It shall also contain the full name of the provisional appointee to the board, the date of 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 county superintendent of schools within 30 days of the date of the provisional appointment, it shall become an effective appointment.

A provisional appointment made pursuant to subdivision (a) confers all powers and duties of a governing board member upon the appointee immediately following his/her appointment.

A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, where upon an election shall be held to fill the vacancy for the remainder of the unexpired term.

There shall be no special election or appointment to fill a vacancy on a governing board if the vacancy occurs within four months of the end of the term of that position.

Short-term appointments shall constitute a vacancy in excess of four months but with not more than ten months remaining until the next election. The Governing Board shall have the option of appointing a person to fill the vacancy. All vacancies in excess of ten months of the next general election shall be selected through a special election.

Reference: Education Code Section 5090 et seq.; Government Code Section 1770, 6061

Board Approval: April 18, 2008

Administrator: Superintendent/President

Executive Cabinet Review: February, 2016

College Planning Council Review/Approval, 1st Reading: March 11, 2016

College Planning Council Review/Approval, 2nd Reading: April 8, 2016

Board of Trustees Review: April 15, 2016

Next Review: April 2021