Filling Board Vacancies

Timelines for Filling 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. In the event that the 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.

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.

Procedure for Making a Provisional Appointment

If the Board chooses to make an appointment, it shall establish a procedure for doing so. The Board may use or modify the procedure as set forth by Board Regulation.

Appointment and Public Notice of Provisional Appointment

Appointment to a vacant position shall be made by majority vote at an open meeting of the Board. The appointment shall be a provisional appointment for a period of 30 days. A provisional appointment shall confer all powers and duties of a Board member upon the appointee immediately following her/his appointment. At the expiration of the 30 day period, if no petition is filed for an election, the person shall hold office until the next regularly scheduled election for the Board.

Within 10 days after the appointment is made, the Superintendent 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 and posted in at least three public places within San Mateo County. The notice shall contain the date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation; the full name of the appointee; the date of appointment; and 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.

Legal References:

- Education Code 1008 Vacancies, procedures for filling
- Education Code 5000-5033 Elections
- Education Code 5090-5095 Vacancies
- Education Code 5300-5304 Elections
- Education Code 5320-5329 Order and call of election
- Education Code 5340-5345 Consolidation of elections
- Education Code 5440-5442 Miscellaneous provisions, elections
- Education Code 35178 Resignation with deferred effective date

Adopted SMCBE 9/1/71
Revised SMCBE 1/16/80, 8/19/87, 3/27/91, 9/25/91, 10/01/08