Filling Board Vacancies

Timelines for Filling a Vacancy

When a vacancy occurs, the County 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 County Board shall take no action.

2. When a vacancy occurs more than four months before the end of a County Board member's term, the County Board shall either order an election or make a provisional appointment within 60 days of the date of the vacancy or the filing of the member's deferred resignation unless a special election as described in item #3 below is required. (Education Code 5091, 5092). In the event that the County 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 County 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 County 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.

Appointment and Public Notice of Provisional Appointment

Appointment to a vacant position shall be made by majority vote at an open meeting of the County 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 County Superintendent of Schools 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.
Appointment Due to Failure to Elect

When a vacancy occurs because no candidate or an insufficient number of candidates have been nominated (i.e., a failure to elect) and an election will not be held, the County Board shall appoint a qualified person to the office. This appointment shall be made at a meeting prior to the day fixed for the election and the appointee shall be seated at the organizational meeting as if elected at the election. (Education Code 5328)

When an appointment is being made because of a failure to elect, the County Board shall publish a notice once in a newspaper of general circulation published in the county, or if no such newspaper exists, in a newspaper having general circulation within the county. This notice shall state that the County Board intends to make an appointment and shall inform persons of the procedure available for applying for the appointment. (Education Code 5328.5)

The procedure for selecting and interviewing candidates shall be the same as the procedures specified above in the " Provisional Appointments" section.

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

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