

GUIDE TO FILLING A VACANCY IN ELECTIVE OFFICE

COUNTY OFFICES

SPECIAL DISTRICT BOARDS

SCHOOL DISTRICT GOVERNING BOARDS

FEDERAL, STATE & JUDICIAL OFFICES



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VACANCIES - DEFINITION

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 their office for the remainder of their term. This subdivision shall not apply to offices created by the California Constitution nor to federal or state legislators.
- (c) (1) Their resignation, except as provided in paragraph (2). (2) In the case of the office of city council member, upon the delivery of a letter of resignation by the resigning council member to the city clerk. The letter of resignation may specify a date on which the resignation will become effective.
- (d) Removal from office.
- (e) Their 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 their office are required to be discharged.
- (f) Absence from the state without the permission required by law beyond the period allowed by law.
- (g) Their ceasing to discharge the duties of the office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with permission required by law.
- (h) Their conviction of a felony or of any offense involving a violation of the official duties.
- (i) Their refusal or neglect to file the required oath or bond within the time prescribed.
- (j) The decision of a competent tribunal declaring void the election or appointment.
- (k) Making of an order vacating the office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond.
- (l) Their commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate, or stimulant addict; but in that event the office shall not be vacant until the order of commitment has become final.

Government Code § 1770

VACANCIES IN COUNTY OFFICES

Member, Board of Supervisors

Whenever a vacancy occurs in any Board of Supervisors, the Governor shall fill the vacancy. The appointee shall hold office until the election and qualification of his successor.

Government Code § 25060

The election of a supervisor to fill the vacancy for the unexpired term shall be held at the next general election unless the term expires on the first Monday after January 1st succeeding the election.

Government Code § 25061

When a vacancy occurs from the failure of the person elected to file his oath or bond as provided by law, and the person elected is appointed to fill the vacancy, he or she shall hold office for the unexpired term.

Government Code § 25062

County Offices

- Assessor
- Auditor-Controller-Treasurer-Tax Collector-Public Administrator
- County Clerk-Recorder
- County Superintendent of Public Instruction
- District Attorney
- Sheriff-Coroner

The Board of Supervisors shall fill by appointment all vacancies that occur in any office filled by the appointment of the board and elective county officers, except judge of the superior court and supervisors. The appointee shall hold office for the unexpired term or until the first Monday after January 1st succeeding the next general election.

Government Code § 25304

If on the first Monday after January 1st following a general election the person elected to an elective county office has resigned or died, the Board of Supervisors shall provide that the office which was made vacant shall be filled at the next regularly scheduled election. The Board of Supervisors may appoint a person to temporarily carry out the duties of the office to be filled by such an election and that person shall serve until the results of the election are declared.

The person elected shall serve for the remainder of the term that began on the first Monday after January 1st immediately preceding the election.

Government Code § 25304.5

Terms of County Offices

District Attorney and Sheriff-Coroner are elected with the presidential primary election. If not elected pursuant to Sections 8140 and 8141, that election is deemed a primary election and a county general election is held with the statewide presidential general election. (A district attorney or sheriff elected in 2022 serves a six-year term; the next election for those offices is at the 2028 presidential primary.)

All other county officers — Assessor, Auditor-Controller-Treasurer-Tax Collector-Public Administrator, County Clerk-Recorder, and County Superintendent of Public Instruction — continue to be elected every four years at the Gubernatorial Primary Election. If not elected pursuant to Sections 8140 and 8141, this election is deemed a primary election and a county general election is held with the statewide general election. A county board of supervisors may by ordinance move these offices to the presidential primary cycle as well, except County Superintendent of Public Instruction.

Elections Code § 1300, as amended by Stats. 2022, ch. 743 (AB 759), eff. Jan. 1, 2023

SPECIAL DISTRICT BOARDS VACANCIES

Action Required by the Special District Board of Directors

The district shall notify the San Luis Obispo County Registrar of Voters' office of the vacancy no later than 15 days following either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later.

Government Code § 1780(b)

The remaining district board members have 60 days immediately subsequent to either the date on which the district board is notified of the vacancy or the effective date of the vacancy whichever is later, to either fill the vacancy by appointment or by calling a special election.

Government Code § 1780(d)(1)

Appointment to Fill Vacancies

The remaining members of the district board shall make the appointment pursuant to this subdivision within 60 days after either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later. If the board decides to appoint someone to fill the vacancy, the Board first must post a notice of the vacancy in three or more conspicuous places in the district at least 15 days before the appointment is made.

Government Code §§ 1780(c)-(e)

It is recommended that the board contact the Elections office to verify if the candidates are registered to vote within the district boundaries before appointing them to fill the vacancy.

The Board must notify the San Luis Obispo County Registrar of Voters' office of the appointment no later than 15 days after the appointment is made.

Government Code § 1780(d)(1)

If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general district election, the person appointed to fill the vacancy shall hold office until the next general district election that is scheduled 130 or more days after the date the district board is notified of the vacancy, and thereafter until the person is elected at the election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

Government Code § 1780(d)(2)

If the vacancy occurs in the first half of a term of office but less than 130 days before the next general district election, or if the vacancy occurs in the second half of the term, the person appointed to fill the vacancy shall hold office for the balance of the unexpired term.

Government Code § 1780(d)(3)

Election to Fill the Vacancy

In lieu of making an appointment, the remaining members of the board may within 60 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, call an election to fill the vacancy.

Government Code § 1780(e)(1)

The election shall be held on the next established election date that is 130 or more days after the date the district board calls the election.

Elections Code § 1000, Government Code § 1780(e)(2)

Nomination Period

Consolidated Special District Election:

Notwithstanding any other provision of law, whenever other elections are consolidated with a regularly scheduled election, the period for the filing of nomination documents by candidates in elections consolidated with the regularly scheduled election shall commence on the 113th day before the election. The nomination documents shall be filed not later than the close of business on the 88th day before the regularly scheduled election in the office of the appropriate officer, during regular office hours.

Notwithstanding subdivision (a), if nomination documents for an incumbent officer of a political subdivision are not filed by the close of business on the 88th day before the election, or are filed but then are withdrawn before the close of normal business hours on the 88th day before the election, any person other than the person who was the incumbent on the 88th day shall have until the close of business on the 83rd day before the election to file nomination documents for the elective office. This section is not applicable where there is no incumbent eligible to be elected.

Elections Code § 10407(a)(b)

Non-Consolidated Special District Election:

Forms for declarations of candidacy for all district offices shall be obtained from the office of the county elections official. The county elections official, may for convenience or necessity, authorize the district secretary to issue declarations of candidacy. The forms shall first be available on the 113th day prior to the general district election and shall be filed not later than 5:00 p.m. on the 88th day prior to the general district election in the office of the county elections official during regular office hours or may be filed by certified mail so that the forms reach the office of the county election official no later than the deadline for filing in that office.

Elections Code § 10510

If The District Board Fails to Act

If the vacancy is not filled by the district board by appointment, or if the district board has not called for an election within 60 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, then the city council of the city in which the district is wholly located, or if the district is not wholly located with a city, the board of supervisors of the county representing the larger portion of the district area in which the election to fill the vacancy will be held, may appoint a person to fill the vacancy within 90 days of the date of the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, or the city council or board of supervisors may order the district to call an election to fill the vacancy.

Government Code § 1780(f)(1)

The election shall be held on the next established election date that is 130 or more days after the date the city council or board of supervisors call the election.

Government Code § 1780(f)(2)

If within 90 days of the date the district board is notified of the vacancy or the effective date of the vacancy, whichever is later, the remaining members of the district board or the appropriate board of supervisors or city council have not filled the vacancy and no election has been called for, then the district board shall call an election to fill the vacancy.

Government Code § 1780(g)(1)

Election Ordered

The election called pursuant to this subdivision shall be held on the next established election date provided in Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the date the district board calls the election.

Government Code § 1780(g)(2)

Vacancies Resulting in Lack of a Quorum

If vacancies cause the remaining members of the district board to be less than a quorum, the appropriate board of supervisors or city council shall promptly appoint a person or persons to fill the vacancy or vacancies, or may call an election to fill the vacancy or vacancies. Only enough vacancies shall be filled by appointment or election to provide the district board with a quorum.

Government Code § 1780(h)

The established election dates are as follows:

- (a) The first Tuesday after the first Monday in March of each even-numbered year that is evenly divisible by four.
- (b) The first Tuesday after the first Monday in March of each odd-numbered year.
- (c) The second Tuesday of April in each even-numbered year.
- (d) The first Tuesday after the first Monday in June in each even-numbered year that is not evenly divisible by four.
- (e) The first Tuesday after the first Monday in November of each year.

Elections Code § 1000

SCHOOL DISTRICT VACANCIES

What causes a Vacancy

Vacancies on school district governing boards or community college district boards are caused by any of the events specified in Government Code § 1770, or by a failure to elect. A vacancy resulting from resignation occurs when the written resignation is filed with the county superintendent of schools having jurisdiction over the district, except where a deferred effective date is specified in the resignation so filed, in which case the resignation shall become effective on that date. A written resignation, whether specifying a deferred effective date or otherwise, shall, upon being filed with the county superintendent of schools be irrevocable.

Education Code § 5090

Action Required by School District or Community College District Governing Board

Whenever a vacancy occurs or whenever a resignation has been filed with the County Superintendent of Schools containing a deferred effective date, the school district or community college district governing board has one of two options available. Either of these options must be exercised within 60 days of the date a vacancy occurs or the date a deferred resignation is filed with the County Superintendent of Schools:

- (1) Immediately call an election to fill the vacancy; or
- (2) Make a provisional appointment.

Education Code § 5091(a)(1)

A governing board member may not defer the effective date of their resignation for more than 60 days after the resignation is filed with the County Superintendent of Schools.

In the event that the governing board fails to make a provisional appointment or order an election within the prescribed 60-day period as required by this section, the County Superintendent of Schools shall call an election to fill the vacancy.

Education Code § 5091(a)(2)

A copy of the resignation and copies of any notices, appointments, resolutions calling elections, etc. should be sent to the San Luis Obispo County Registrar of Voters' office as soon as possible.

Election Ordered

When an Election is ordered, it shall be held on the next established election date, not less than 130 days after the order of the election.

Education Code § 5091(b)

The established election dates are as follows:

- (a) The first Tuesday after the first Monday in March of each even-numbered year that is evenly divisible by four.
- (b) The first Tuesday after the first Monday in March of each odd-numbered year.
- (c) The second Tuesday of April in each even-numbered year.

- (d) The first Tuesday after the first Monday in June in each even-numbered year that is not evenly divisible by four.
- (e) The first Tuesday after the first Monday in November of each year.

Elections Code § 1000

Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

Education Code § 5091(g)

Nomination Period

In any school district or community college district governing board election the name of any person shall be placed on the ballot, subject to Sections 35107 and 72103 of the Education Code, if there is filed with the county elections official having jurisdiction, not more than 113 days nor less than 88 days prior to the elections, a declaration of candidacy containing the appropriate information in the blank spaces and signed by the person whose name is thereby to be placed on the ballot.

Elections Code § 10603(a)

Notwithstanding any other provision of law, whenever other elections are consolidated with a regularly scheduled election, the period for the filing of nomination documents by candidates in elections consolidated with the regularly scheduled election shall commence on the 113th day before the election. The nomination documents shall be filed not later than the close of business on the 88th day before the regularly scheduled election in the office of the San Luis Obispo County Registrar of Voters, during regular office hours.

Elections Code § 10407(a)

Provisional Appointment

If the governing board makes a provisional appointment, the appointee is immediately conferred with all powers and duties of a governing board member.

Education Code § 5091(d)

The district will prepare and administer the oath of office and provide a copy to the County Clerk-Recorder's office.

NOTE: 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.

Education Code § 5093(a)

Education Code section 5091 shall not apply to a vacancy on a governing board if the vacancy occurs, or a resignation specifying a deferred effective date is filed with the County Superintendent of Schools, during the period between six months and 130 days prior to a regularly scheduled governing board election and the position is not scheduled to be filled at such election.

In such a case, the position shall be filled at a special election for that position to be consolidated with the regular election.

Education Code § 5093(b)

If the special election pursuant to Education Code Section 5091 could be consolidated with the next regular election for governing board members, and the vacant position is scheduled to be filled at such regular election, there shall be no special election.

Education Code § 5093(c)

Public Notice

Within 10 days of making the provisional appointment to fill a vacancy the school district governing board must:

1. Post a notice described below (see attachment for sample notice) in at least three public places in the district; and
2. Publish the notice pursuant to Section 6061 of the Government Code. If there is no newspaper of general circulation published in the district, notice need not be published.
3. Post the notice on the school district's internet website.

Education Code § 5092

A copy of the notice should be sent to the San Luis Obispo County Registrar of Voters office.

Contents of Public Notice

The notice to be posted and published must state the following:

1. The fact of the vacancy or resignation and the date of the occurrence of the vacancy or the date of the filling and effective date of the resignation; and
2. The full name of the provisional appointee to the board and the date of their appointment; and
3. 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 30 days of the date of the provisional appointment, it shall become an effective appointment.

Education Code § 5092

Petition Calling for a Special Election

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. *(See Attachment for sample petition)*

Education Code § 5091(c)(1)

Signature Requirements

A petition shall be deemed to bear a sufficient number of signatures if signed by whichever means below result in the greater number of registered voters:

- 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; or
- 25 registered voters.

However, in district with registered voters of less than 2,000 persons, a petition shall be deemed to bear a sufficient number of signatures if signed by at least 5 percent of the number of registered voters of the district at the time of the last regular election for governing board members.

Education Code § 5091(c)(1)

Petition Requirements

Whenever a petition calling for a special election is circulated, the petition shall meet all of the following requirements:

- A) The petition shall contain the elections official's estimate of the cost of conducting the special election and those estimated costs expressed on a per-pupil or per-student basis.
- B) The name and residence address of at least one, but not more than five, of the proponents of the petition shall appear on the petition, each of which proponents shall be a registered voter of the school district or community college district, as applicable.
- C) None of the text or other language of the petition shall appear in less than six-point type.
- D) The petition shall be prepared and circulated in conformity with Sections 100 and 104 of the Elections Code.

Education Code § 5091(f)(1)

Who Can Sign the Petition

Only a person who is an eligible registered voter at the time of signing the petition or paper is entitled to sign the petition or paper. A person who submits their affidavit of registration pursuant to subdivision (d) of Section 2102 is not eligible to sign a petition or paper unless at the time of the signing of the petition or paper that person is 18 years of age.

Each signer shall at the time of signing the petition or paper personally affix their signature, printed name, and place of residence, including the street and number for the place of residence, and if no street or number exists, then a designation of the place of residence which will enable the location to be readily ascertained.

An incomplete or inaccurate apartment or unit number in the signer's residence address shall not invalidate their signature pursuant to Section 105. A space at least one inch wide shall be left blank after each name for the use of the elections official in verifying the petition or paper.

The part of a petition for the signatures, printed names, and residence addresses of the voters and for the blank spaces for verification purposes shall be numbered consecutively commencing with the number one and continuing through the number of signature spaces allotted to each section. The petition format shall be substantially in the following form: See sample petition.

A county elections official who verifies signatures on an initiative, referendum, recall, nominating petition or paper, or any other petition or paper that is required to be signed by voters of a county, city, school district, or special district subject to petitioning may establish and require the use of a standardized petition form for distribution within and submission to the county.

Elections Code § 100

Petition Proponents, Signers, and Circulators

It is important to distinguish between the proponents of the petition, the persons signing the petition, and the person circulating the petition.

Petition Proponents: A petition must identify at least one, but not more than five, proponents. Each proponent must be a registered voter of the school district or community college district in which the vacancy occurred. The name and residence address of each proponent must appear on the petition.

Petition Signers: Persons signing the petition must be eligible registered voters of the district and must provide the information required by Elections Code §100.

Petition Circulator: The person who circulates a section of the petition is not required to be a registered voter of the district. The circulator must be at least 18 years of age and must complete the circulator's declaration required by Elections Code §104.

Education Code §5091(f)(1); Elections Code §§100 and 104

Petition Circulator

Each Section of the petition or paper shall have attached to it a declaration signed by the circulator of the petition or paper setting forth, in the circulator's own hand, the following:

1. The printed name of the circulator.
2. The residence address of the circulator, giving street and number, or if not street or number exists, adequate designation of residence so that the location may be readily ascertained.
3. The dates between which all signatures to the petition or paper were obtained.

Each declaration submitted pursuant to this section shall also set forth the following:

1. That the circulator circulated that section and witnessed the appended signatures being written.
2. That according to the best information and belief of the circulator, each signature is the genuine signature of the person whose name is purports to be.
3. That the circulator is 18 years of age or older.
4. If the petition does not include the disclosure statement described by subdivision (b) of Section 107, that the circulator showed each signer a valid and unfalsified "Official Top Funders" sheet, as required by Section 107.

The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury under the laws of the State of California, with the signature of their name at length, including given name, middle name or initial, or initial and middle name. The circulator shall state the date and the place of execution on the declaration immediately preceding their signature.

Elections Code § 104

Filing the Petition

The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures.

As a matter of practice, the superintendent forwards the petitions to the San Luis Obispo County Registrar of Voters office for signature checking. The superintendent may decide if the petition is to be checked using a random sampling in accordance with Elections Code § 9115 or to check 100 percent of the signatures. A certificate of the results or the petition checking will be forwarded to the County Superintendent of Schools.

If the petition is determined to be legally sufficient by the county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall order a special election to be conducted not less than 88, nor more than 125, days following the order of the election. Notwithstanding, the election may be conducted within 180 days after the issuance of the order so that the election may be consolidated with a regularly scheduled election.

If any of the requirements of this subdivision are not met as to any petition calling for a special election, the county superintendent of schools shall not verify the signatures, nor shall any further action be taken with respect to the petition.

No person shall permit the list of names on petitions prescribed by this section to be used for any purpose other than qualification of the petition for the purpose of holding an election pursuant to this section.

The petition filed with the county superintendent of schools shall be subject to the restrictions in Article 2 (commencing with Section 7924.100) of Chapter 2 of Part 5 of Division 10 of Title 1 of the Government Code.

Education Code § 5091

Term of Office

A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members that is scheduled 130 or more days after the effective date of the vacancy, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

Education Code § 5091(e)

Each person elected at a regular biennial governing board member election shall hold office for a term of four years commencing on the second Friday in December next succeeding their election. Any member of the governing board of a school district or community college district whose term has expired shall continue to discharge the duties of the office until their successor has qualified. The term of the successor shall begin upon the expiration of the term of their predecessor.

Education Code § 5017

FEDERAL, STATE & JUDICIAL OFFICES

President of the United States

In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

U.S. Const. Amend XXV

United States Senator

If a vacancy occurs in the representation of this state in the Senate of the United States, the Governor may appoint a qualified elector of this state to temporarily fill the vacancy until a person is elected at a statewide general election to hold office for the remainder of the unexpired term.

The Governor shall issue a writ of election according to the following schedule: (1) if the vacancy occurs 148 or more days before the next regularly scheduled statewide primary election, the special primary and special general elections to fill the vacancy shall be consolidated with the next regularly scheduled primary and general elections; or (2) if the vacancy occurs less than 148 days before the next regularly scheduled statewide primary election, the special elections shall instead be consolidated with the second next regularly scheduled primary and general elections.

If the election dates required above would occur after the expiration of the term, the Governor, in consultation with the Secretary of State, may instead issue writs of election for standalone special statewide primary and general elections.

When a vacancy election is consolidated with a regularly scheduled election, candidates for the vacancy are listed immediately after candidates for the succeeding full term, and the sample ballot, voter information guide, and ballot must carry a prominent notice, in bold, legible type in the form prescribed by the Secretary of State, explaining that there are two separate elections for the office.

Elections Code § 10720, as amended by Stats. 2021, ch. 316 (AB 1495), eff. Jan. 1, 2022

Congressional and Legislative Offices

Governor's Proclamation:

The Governor shall call all statewide special elections by issuing a proclamation pursuant to Elections Code § 12000. In the case of a vacancy in a congressional or legislative office the Governor shall issue a proclamation, within 14 calendar days of the occurrence of the vacancy, calling a special election to fill the vacancy in accordance with Elections Code § 10703. A copy of the proclamation shall be sent to the board of supervisors of every affected county.

Elections Code §10700

Vacancies Occurring after the Close of Nomination:

When a vacancy occurs in a congressional office after the close of the nomination period in the final year of the term of office, the Governor may decline to issue an election proclamation at his discretion.

When a vacancy occurs in a legislative office after the close of the nomination period in the final year of the term of office, no special election shall be held.

Elections Code § 10701

Time to Call Election:

A special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of Assembly shall be conducted on a Tuesday at least 126 days, but not more than 140 days, following the issuance of an election proclamation by the Governor pursuant to Government Code § 1773.

A special election to fill a vacancy in an office listed above may be conducted within 200 days following the proclamation to consolidate the election or the primary election with an election occurring wholly or partially within the same territory in which the vacancy exists.

A special election or a primary election shall not be conducted on the day after a state holiday.

Elections Code § 10703

Date of Election:

A special primary election shall be held in the district in which the vacancy occurred on the 9th Tuesday or, if the 9th Tuesday is the day of or the day following a state holiday, the 10th Tuesday preceding the day of the special general election at which the vacancy is to be filled.

Candidates at the primary election shall be nominated in the manner set forth in Elections Code, except that nomination papers shall not be circulated more than 73 days before the primary election, shall be left with the county elections official for examination not less than 53 days before the primary election, and shall be filed with the Secretary of State not less than 53 days before the primary election.

Elections Code § 10704

Special General Election Ballot:

If no candidate receives a majority of votes cast, the names of the two candidates who receive the highest and second highest number of votes cast at the special primary election shall be placed on the special general election ballot.

Elections Code §10706

Governor

The Lieutenant Governor shall become Governor when a vacancy occurs in the office of Governor.

The Lieutenant Governor shall act as Governor during the impeachment, absence from the State, or other temporary disability of the Governor or of a Governor-election who fails to take office.

CA Const. Art. V § 10

Other State Constitutional Offices

Whenever there is a vacancy in the office of Superintendent of Public Instruction, the Lieutenant Governor, Secretary of State, Controller, Treasurer, or Attorney General, or on the State Board of Equalization, the Governor shall nominate a person to fill the vacancy who shall take office upon confirmation by a majority of the membership of the Senate and a majority of the membership of the Assembly and who shall hold office for the balance of the un-expired term.

In the event the nominee is neither confirmed nor refused confirmation by both the Senate and the Assembly within 90 days of the submission of the nomination, the nominee shall take office as if she had been confirmed by a majority of the Senate and Assembly; provided, that if such 90 day period ends during a recess of the Legislature, the period shall be extended until the sixth day following the day on which the Legislature reconvenes.

CA Const. Art. V § 5(b)

If a vacancy should occur during the term of office for Insurance Commissioner, legislative confirmation shall be required for the position in the same manner and procedure as that required by CA Const. Art. V § 5.

Insurance Code § 12900(b)

Supreme and Appellate Court Justices

Within 30 days before August 16 preceding the expiration of the Judge's term, a judge of the Supreme Court or a court of appeal may file a declaration of candidacy to succeed to the office presently held by the judge. If the declaration is not filed, the Governor before September 16 shall nominate a candidate. At the next general election, only the candidate so declared or nominated may appear on the ballot, which shall present the question whether the candidate shall be elected. The candidate shall be elected upon receiving a majority of the votes on the question. A candidate not elected may not be appointed to that court but later may be nominated and elected.

The Governor shall fill vacancies in the Supreme and Appellate Courts by appointment. An appointee holds office until the Monday after January 1 following the first general election at which the appointee had the right to become a candidate or until an elected judge qualifies. A nomination or appointment by the Governor is effective when confirmed by the Commission on Judicial Appointments.

Electors of a county, by majority of those voting and in a manner the Legislature shall provide, may make this system of selection applicable to judges of Superior Courts.

CA Const. Art. VI § 16(d)

Superior Court Judge

Terms of judges of Superior Courts are 6 years beginning the Monday after January 1 following their election. A vacancy shall be filled by election to a full term at the next general election after the second January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins.

CA Const. Art. VI § 16(c)

Non-Consolidated Special District Election:

Forms for declarations of candidacy for all district offices shall be obtained from the office of the county elections official. The county elections official, may for convenience or necessity, authorize the district secretary to issue declarations of candidacy. The forms shall first be available on the 113th day prior to the general district election and shall be filed not later than 5:00 p.m. on the 88th day prior to the general district election in the office of the county elections official during regular office hours or may be filed by certified mail so that the forms reach the office of the county election official no later than the deadline for filing in that office. The county elections official shall record the date of filing upon the first page of each declaration of candidacy filed pursuant to this section. No candidate shall withdraw their declaration of candidacy after 5 p.m. on the 88th day prior to the general district election.

Elections Code § 10510

SAMPLE - NOTICE OF VACANCY

Interested persons are hereby notified that pursuant to Government Code §1780 there is a vacancy on the

Board of Directors

The Position to be filled is for a term expiring _____.

Eliminate this next sentence if the seat is up for a full term in the next election.

The seat will go to election in November 20 ____ for the final two years of the term.

Applications are available at the _____ District Office, located at

_____, _____
Street address City

Phone: _____

Website: _____

Applications Due by: _____

This District Board has 60 days from the date the Board is notified of the vacancy or the effective date of the vacancy, whichever is later, to fill the vacancy by appointment or call a special election.

Gov. Code §1780

Pursuant to Government Code §1780, this notice will be posted for 15 days in 3 or more conspicuous places in the district from _____ to _____.

SAMPLE - APPLICATION FOR APPOINTMENT TO A SPECIAL DISTRICT VACANCY

(Sample Application to be used at District's option)

If you are interested in serving on a special district Board of Directors, please complete

This application and return it to: _____

Date Due: _____

You will be advised by the district board if your appointment is confirmed. Thank you for your interest.

DISTRICT: _____ DATE: _____

NAME: _____ AGE (optional): _____

RESIDENCE ADDRESS: _____

MAILING ADDRESS: _____

PHONE (Daytime): _____ (Evening): _____

E-MAIL: _____

Statement of Qualifications:

(Briefly describe your qualifications and why you are interested in serving on the Board of Directors.)

Certification:

I certify that the information contained in this application is true and correct. I authorize the verification of the information in this application.

Signature: _____ Date: _____

SAMPLE - PUBLIC NOTICE OF VACANCY AND PROVISIONAL APPOINTMENT

(Sample Notice for Posting & Publishing)

1. A vacancy in on the Governing Board of the __ (name of district) _____ District has occurred by reason of: (resignation or other reason) of (name of trustee) effective __ (date) _____.
2. The resignation was filed in the office of the San Luis Obispo County Superintendent of Schools on (date) _____.
3. (Name of appointee) _____ was appointed by the Governing Board on (date) to fill the above named vacancy.
4. To challenge the appointment and order a special election, the following must be filed in the office of the San Luis Obispo County Superintendent of Schools within 30 days from the date of the provisional appointment:
 - A) File a petition calling for a special election containing the valid signatures of at least 1 ½ percent of the number of registered voters of the district at the time of the last regular election for governing board members held within the (name of district), or 25 registered voters of the district, whichever is greater, or
 - B) In districts with less than 2,000 registered voters, a petition shall be deemed to bear a sufficient number of signatures if signed by at least 5 percent of the number of registered voters of the district at the time of the last regular election of governing board members.

If a petition is not filed within the 30 day time frame, the provisional appointment shall become an effective appointment.

Governing Board of the (name of district)

Governing Board Secretary/Clerk

Date: _____

SAMPLE - PETITION FOR SPECIAL ELECTION TO FILL THE VACANCY ON THE GOVERNING BOARD OF THE _____ SCHOOL DISTRICT IN SAN LUIS OBISPO COUNTY

The **PETITION PROPONENTS** of this petition as named herewith are registered voters of the aforementioned school district.

s/ Voter 1, 123 Main St, Arroyo Grande, CA 93420

s/ Voter 2, 456 Elm St, San Luis Obispo CA 93401

s/ Voter 3, 789 West St., Paso Robles, CA 93446

s/ Voter 4, 234 Coast St., Pismo Beach CA 93449

s/ Voter 5, 567 Oak St, Atascadero CA 93422

Name and residence of at least one but not more than five proponents. ED Code §5091(f)(1)(b)

Pursuant to Education Code §5091, we the undersigned, who are registered voters of the _____ School District of San Luis Obispo County, California, hereby petition the County Superintendent of Schools to call a special election for the purpose of filling the vacancy on the governing board of said school district.

If an election is called pursuant to this petition, the provisional appointment heretofore made by the governing board of said school district to fill the vacancy shall be terminated.

The Registrar of Voters Office in and for the County of San Luis Obispo has estimated the cost of conducting the special election called pursuant to this petition to be approximately \$____(insert estimated cost here)____ or approximately \$____(insert estimated per-pupil or per-student cost here)____ per pupil/student.

1	Print Your Name	Residence Address Only	
	Your Signature as Registered to Vote	City, State	Zip
2	Print Your Name	Residence Address Only	
	Your Signature as Registered to Vote	City, State	Zip
3	Print Your Name	Residence Address Only	
	Your Signature as Registered to Vote	City, State	Zip

SAMPLE - DECLARATION OF PERSON CIRCULATING SECTION OF PETITION FOR A SPECIAL ELECTION

I, _____ (print name), declare:

1. My residence address is _____.
2. I am 18 years old or older.
3. I personally circulated this section of the petition and witnessed the appended signatures being written.
4. To the best of my information and belief, each signature is the genuine signature of the person whose name it purports to be.
5. The appended signatures were obtained between _____ and _____, inclusive.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ at _____, California.

Signature of Circulator

It is recommended that you leave a 1" margin at the top and ½" margin on the left, right and bottom.

NOTICE OF VACANCY TO THE CLERK-RECORDER

When a vacancy occurs, please complete this form and email to the clerk-recorder's office at elections@co.slo.ca.us.

The district shall notify the San Luis Obispo County Registrar of Voters' office of the vacancy no later than 15 days following either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later.

Government Code § 1780(b)

The remaining members of the district board shall make the appointment pursuant to this subdivision within 60 days after either the date on which the district board is notified of the vacancy or the effective date of the vacancy, whichever is later. The district shall post a notice of the vacancy in three or more conspicuous places in the district at least 15 days before the district board makes the appointment. The district shall notify the county elections official of the appointment no later than 15 days after the appointment.

Government Code § 1780(d)(1)

If the vacancy occurs in the first half of a term of office and at least 130 days prior to the next general district election, the person appointed to fill the vacancy shall hold office until the next general district election that is scheduled 130 or more days after the date the district board is notified of the vacancy, and thereafter until the person is elected at the election to fill the vacancy has been qualified. The person elected to fill the vacancy shall hold office for the unexpired balance of the term of office.

Government Code § 1780(d)(2)

The district will prepare and administer the oath of office and provide a copy to the County Clerk-Recorder's office once the vacancy is filled.

Name of District _____

Name of Director or Governing Board Member creating the vacancy:

Term Expires: _____

Effective date of Vacancy: _____

District Representative & Title: _____