



# Board Member Resignation

## **Resignation Effective Date**

1. Resignation occurs immediately when the written resignation is filed with the County Superintendent of Schools; or
2. If a deferred effective date is specified in the resignation, then the resignation becomes effective on that date. The resignation date may not be deferred for more than 60 calendar days from date of filing the resignation

(Ed. Code, §§ 5090, 5091.)

## **Filling the Vacancy Depends Upon When the Vacancy Occurs**

A Board member may resign at any time during their term, however, when they resign dictates the timing of when and how the vacancy caused by the resignation must be filled.

1. If the vacancy occurs within four (4) months from the end of a Board member's term, the Board shall take no action. (Education Code 5093)
2. If the vacancy occurs more than four (4) months before the end of a Board member's term, the Board shall, within sixty (60) days of the vacancy or the filing of the member's deferred resignation, either call an election or make a provisional appointment to fill the vacancy, unless a special election is required as described in item #3 below. (Board Policy 9223; Ed. Code, §§ 5091, 5093.) In 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.

The existing circumstances place the District under #2 above because the resignation and vacancy will occur more than 4 months before the end of the member's term.

## **Process for filling the vacancy**

While the Board may choose to either call a special election or make a provisional appointment, considering the cost associated with calling a special election, we recommend that the Board use the provisional appointment option.

Per Board Bylaw Procedure 9223 (enclosed):

*Immediately upon gaining the knowledge that a deferred resignation has been filed with the County Superintendent of Schools, or that a vacancy is determined to exist under Government Code Section 1770, the President of the Board may call a special Board*

*Meeting to determine whether a special election shall be called for or whether a provisional appointment shall be made.*

Alternatively, if time permits, the decision whether to call a special election or fill the vacancy using the provisional appointment process could be agendaized for Board action at a regularly scheduled meeting. Perhaps, the Board member could time their resignation submission so that the 60 days starts to run shortly before the deadline for putting the item on regular meeting agenda.

Please keep in mind there are a number of steps that must be followed for the provisional appointment process that must be completed with 60 days. Per Board Bylaw Procedure 9223, the timeline/deadlines for that process are to be established by the Board at this first meeting, including:

1. Dates that the preliminary screening will take place.
2. The deadline date for candidates to submit applications.
3. The date the Board will receive the report of the screening committee.
4. The date the Board will meet and interview the candidates, (This date will be no later than five days prior to the 60 day deadline indicated in Ed. Code 5091(a)).
5. The date of the Board meeting at which the Board will announce its provisional appointment. (A provisional appointment must be affirmed by three members of the Board.)

*Note - provisional appointee term:* The individual who is provisionally appointed to the Board shall hold office until the next regularly scheduled election for District Board members, at which time the person would need to run for reelection for a full four-year term if desired. (Ed. Code, § 5091.)