HOW TO FILL A VACANCY IN COUNTY OFFICES, JUDICIAL OFFICES, SCHOOL DISTRICT GOVERNING BOARDS, PARTY CENTRAL COMMITTEES, AND COUNTY COUNCILS

Provided by:

Cathy Darling Allen
Shasta County Clerk / Registrar of Voters

Shasta County Election Department
1643 Market Street, Redding, CA 96001
P.O. Box 990880, Redding, CA 96099-0880
Phone: 530-225-5730
Fax: 530-225-5454

Website: elections.co.shasta.ca.us
California Relay Service: 711 or 800-735-2922
Office Hours: M-F, 8-5, excluding County holidays

03/02/2012

This guidebook was developed in an effort to provide general information regarding filling vacancies in various elected offices. It is for general information only and does not have the force and effect of law, regulation or rule. In the case of conflict, the law, regulation or rule will apply.

It is distributed with the understanding that the County Clerk /Registrar of Voters is not rendering legal advice and, therefore, this guide is not to be a substitute for legal counsel for the individual, organization or committee using it.

Persons using this guide must bear full responsibility to make their own determinations as to all legal standards and duties

Unless otherwise noted, the following abbreviations apply to the corresponding code name:

EdC: Education Code
EC: Elections Code
GC: Government Code

TABLE OF CONTENTS

	Page
Vacancies Definition	**04**
Vacancies in Elected County Offices	**05-06**
Member, County Board of Supervisors	
Elected County Offices	
Terms of County Offices	
County Superintendent of Schools	
Superior Court Judges	
Vacancies on School District Governing Boards	**07-11**
What Causes a Vacancy	
Action Required by the Governing Board	
Election Ordered	
Provisional Appointment	
Public Notices	
Contents of Public Notice	
Petition Calling for a Special Election	
Signature Requirements	
Who Can Sign Petitions	
Petition Circulator	
Filing the Petition	
Conditions for No Election or Appointment	
Terms of Office – School District Governing Boards	
Vacancies on Special District Boards	**12-14**
Action Required by the Governing Board	
Appointments to Fill Vacancies	
Elections to Fill Vacancies	
If the District Board Fails to Act	
If the District Board Lacks a Quorum to Act within 60 Days	
If the City Council or Board of Supervisors Fail to Act	
Terms of Office – Special District Boards	
Districts Not Covered by Government Code §1780	**15-17**
Municipal Utility Districts	
Irrigation Districts	
Member of Party Central Committees, County Councils, Democratic, Republican, etc.	
Peace and Freedom/Libertarian	
Green Party	
Vacancies in Federal, State Constitutional, and Legislative Offices	**18-21**
Federal Offices	
State Constitutional and Legislative Offices	
Judicial Offices	
ATTACHMENT A – SAMPLE PUBLIC NOTICE OF VACANCY	**22**
ATTACHMENT B – PETITION FOR SPECIAL ELECTION TO FILL VACANCY	**23**
ATTACHMENT C – SAMPLE NOTICE OF VACANCY	**24**
ATTACHMENT D – SAMPLE APPLICATION FOR APPOINTMENT	**25**

VACANCIES DEFINITIONS

An office becomes vacant when any of the following events take place before the expiration of the term:

- The death of the incumbent.
- 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 or her office for the remainder of his or her term. This subdivision shall not apply to offices created by the California Constitution nor to federal or state legislators.
- His or her resignation.
- His or her removal from office.
- His or her ceasing to be an inhabitant of the state, or if the office is 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 or her office are required to be discharged.
- His or her absence from the state without the permission required by law beyond the period allowed by law.
- His or her ceasing to discharge the duties of his or 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.
- 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.
- His or her refusal or neglect to file his or her required oath or bond within the time prescribed.
- The decision of a competent tribunal declaring void his or her election or appointment.
- The making of an order vacating his or her office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond.
- His or her 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 deemed vacant until the order of commitment has become final.

Government Code (GC) §1770

VACANCIES IN ELECTED COUNTY OFFICES

MEMBER, BOARD OF SUPERVISORS (GENERAL LAW)

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.

GC §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 1, succeeding the election.

GC §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 fill the vacancy, he shall hold office for the unexpired term.

GC §25062

ELECTED COUNTY OFFICES

- Assessor / Recorder
- Auditor - Controller
- County Clerk / Registrar of Voters
- District Attorney
- Sheriff - Coroner
- Treasurer / Tax Collector

In the offices listed above, the board of supervisors shall fill a vacancy by appointment. The appointee shall hold office for the unexpired term or until the first Monday after January 1, succeeding the next general election.

GC §25304

If, on the first Monday after January 1, 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 any 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 which began on the first Monday after January 1 immediately preceding the election.

GC §25304.5

Terms of County Offices

County offices are up for election every four years at the Gubernatorial Primary and General Elections. While the law for filling vacancies in county offices does not specifically call for a primary and run-off election, should no candidate receive more than 50 percent of the vote, the vacancy election would be conducted as would a regular election with a primary and general run-off election if needed as indicated by Elections Code (EC) §8000 and §8140. A regularly scheduled election for the county is held in June (Primary) and November (General) of even-numbered years.

COUNTY SUPERINTENDENT OF SCHOOLS

Notwithstanding GC §25304, the county board of education may fill by appointment any vacancy that occurs during the term of office of the county superintendent of schools. In any county in which the superintendent is elected, the appointee shall hold office until the office is filled by election at the next Gubernatorial Election.

The authority described in this subdivision shall be vested in a county board of education only upon its adoption by the board at a public meeting held pursuant to the Education Code, commencing with section 1000.

SUPERIOR COURT JUDGES WITHIN THE COUNTY

Terms of superior court judges 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., Article VI, §16(c)

The following opinions provide additional information on filling Superior Court vacancies:

- Department of Justice informal opinion re: Judicial Vacancies (Sept. 23, 1999)
- Legislative Counsel opinion Superior Court Vacancies (July 26, 1999)
- Judicial Council opinion Effect of Court Unification on Judicial Elections (June 28, 1999, Updated October 6, 2009, Page 17 of 24)

VACANCIES ON SCHOOL DISTRICT GOVERNING BOARDS

WHAT CAUSES A VACANCY

Vacancies on school district governing boards or community college district boards are caused by any of the events specified on page 4 of this guide, or by 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. A deferred effective date not to exceed 60 days may be specified by the incumbent, in which case, the resignation becomes effective on that date. Upon being filed with the County Superintendent of Schools, the written resignation is irrevocable.

Education Code (EdC) §5090

ACTION REQUIRED BY THE GOVERNING BOARD

Whenever a vacancy occurs, the school district or community college district governing board has one of two options available to fill the vacancy. One of the two following options must be exercised within 60 days of the date a vacancy occurs or the date of 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 pursuant to EdC §5091.

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.

EdC §5091(a)

A copy of the resignation and copies of any notices, appointments, resolutions calling an election, etc., should be sent to the Shasta County Elections Office immediately.

ELECTION ORDERED

When an election is ordered, it shall be held on the next regular election date not less than 130 days after the occurrence of the vacancy or after the written resignation is filed with the County Superintendent of Schools.

EdC §5091(b)

A regular election as defined by Elections Code (EC) §1000 is:

1. The second Tuesday of April in each even-numbered year.
2. The first Tuesday after the first Monday in March of each odd-numbered year.
3. The first Tuesday after the first Monday in June in each year.
4. The first Tuesday after the first Monday in November of each year.
5. The first Tuesday in February of each year evenly divisible by the number four.

Vacancy elections shall be conducted in as nearly the same manner as practicable as other governing board member elections.

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.

EdC §5091(d)

PUBLIC NOTICES

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

1) Post a notice in at least three public places in the district (also see Attachment A for sample notice);

   and

2) Publish the notice at least once in a newspaper of general circulation published within the district (GC §6060, 6061). If there is no newspaper of general circulation published in the district, notice need not be published.

EdC §5092

A copy of the notice should also be sent to the Shasta County Elections 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 filing of, and the effective date of, the resignation;

2) The full name of the provisional appointee to the board and the date of his/her 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.

EdC §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 B for sample petition.

SIGNATURE REQUIREMENTS

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

- 1.5 percent (.015) 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 districts with registered voters of the 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 governing board member election.

EdC §5091(c)

PETITION REQUIREMENTS

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

1) The petition shall contain the elections official's estimate of the cost to conduct the special election.

2) 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.

3) None of the text or other language of the petition shall appear in less than six-point type.

4) The petition shall be prepared and circulated in conformity with EC §§100, 104.

EdC §5091(f)

WHO CAN SIGN PETITION

Only a person who is an eligible registered voter at the time of signing the petition or paper is entitled to sign it. Each signer shall at the time of signing the petition or paper personally affix his or her signature, printed name, and place of residence (street name and number, and if no street or number exists, then a designation of the place of residence which will enable the location to be readily ascertained).

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 voters' signatures, printed names, and residence addresses and for the blank spaces for verification purposes shall be numbered consecutively commencing with the number one and continuing through the number of signatures spaces allotted to each section. See Attachment B for sample petition.

Elections Code (EC) §100

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 no street or number exists, adequate designation of residence so that the location may be readily ascertained.

3) The dates between which all the 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 it purports to be.

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 his or her 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 his or her signature.

EC §104

FILING THE PETITION

The petition must be filed with the County Superintendent of Schools within the 30-day period following the making of the provisional appointment. The County Superintendent of Schools then has 30 days to verify the signatures. Since there is no mention of excluding weekend days or holidays, the 30-day reference is 30 calendar days.

As a matter of practice, the Superintendent forwards the petition to the Shasta County Elections Office for verification of signatures. The Superintendent may decide if the petition is to be checked using a random sampling in accordance with EC §9115 or to check 100 percent of the signatures.

A certificate of the results of the petition verification 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 call a special election to be conducted no later than the 130th day after the determination.

However, if a regular election date, as defined in EC §1000, occurs between the 130th day and the 150th day following the determination, the County Superintendent of Schools may call the special election to be conducted on the regular election date.

If any of the legal requirements 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 the qualification of the petition for the purpose of holding an election pursuant to this section.

The petition filed with the County Superintendent of Schools is not a public record and may not be open to public inspection. The proponents, however, may have access to the petition if it is found to be insufficient.

GC §6253.5 EdC §5091(c), 5091(f)

CONDITIONS FOR NO ELECTION OR APPOINTMENT

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.

EdC §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. A person elected to fill a position under this subdivision shall take office at the next regularly scheduled meeting of the governing board following the certification of the election and shall serve only until the end of the term of the position which he or she was elected to fill.

If a special election pursuant to EdC §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.

EdC §5093

TERMS OF OFFICE - SCHOOL DISTRICT GOVERNING BOARDS

A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, 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.

EdC §5091(e)

A person elected at a regular biennial governing board member election shall hold office for a term of four years commencing on the first Friday in December following his or her election in November.

EdC §5017

VACANCIES ON SPECIAL DISTRICT BOARDS

ACTION REQUIRED BY THE GOVERNING BOARD

The district shall notify the county elections official 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.

GC §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 fill the vacancy either

1) By appointment; or

2) By calling a special election.

GC §§1780(c), 1780(d)

APPOINTMENTS TO FILL VACANCIES

If the remaining district board members decide 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. See Attachment C and Attachment D for sample notice and application for appointment.

The district board must notify the County Elections Official of the appointment no later than 15 days after the appointment is made.

The person appointed 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 elected at that election to fill the vacancy has been qualified. The person elected to fill the vacancy shall serve the balance of the unexpired term.

If the term of office is due to expire following the next general district election and that election is scheduled 130 days or more after the date the County Elections Official is notified of the vacancy, the person appointed to the fill the vacancy shall serve the balance of the unexpired term of his or her predecessor.

GC §1780(d)

ELECTIONS TO FILL VACANCIES

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.

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.

GC §1780(e)

A regular election as defined by EC §1000 is:

1. The second Tuesday of April in each even-numbered year.
2. The first Tuesday after the first Monday in March of each odd-numbered year.
3. The first Tuesday after the first Monday in June in each year.
4. The first Tuesday after the first Monday in November of each year.
5. The first Tuesday in February of each year evenly divisible by the number four.

IF THE DISTRICT BOARD FAILS TO ACT

If the vacancy is not filled by the district board by either making an appointment or calling a special 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, the following events shall occur:

Within 90 days, the city council of the city in which the district is wholly located, or if the district is not wholly located within 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 or may order the district to call an election to fill the vacancy.

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 calls the election.

GC §1780(f)

IF THE DISTRICT BOARD LACKS A QUORUM TO ACT WITHIN 60 DAYS

If the number of remaining members of the district board falls below a quorum, then at the request of the district secretary or a remaining member of the district board, the appropriate board of supervisors or the city council shall promptly appoint a person to fill the vacancy, or may call an election to fill the vacancy.

The board of supervisors or the city council shall only fill enough vacancies by appointment or by election to provide the district board with a quorum.

GC §1780(h)

IF THE CITY COUNCIL OR BOARD OF SUPERVISORS FAIL TO ACT

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, no action has been taken by any governing body to fill the vacancy by appointment or by calling for a special election, the district board must call an election to fill the vacancy.

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

GC §1780(g)

TERMS OF OFFICE – SPECIAL DISTRICT BOARDS

A person appointed to fill a vacancy shall hold office only until the next general district election that is held 130 or more days after the date the district board is notified of the vacancy and thereafter until the person elected at that election to fill the vacancy has been qualified 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 unexpired term.

A person elected at a regular board member election or appointed in-lieu of an election takes office at noon on the first Friday in December following his or her election in November and shall serve for a term of four years.

GC §1780(d); EC §§10507, 10554

DISTRICTS NOT COVERED BY GOVERNMENT CODE §1780

GC §1781 specifically exempts certain districts from its provisions to fill vacancies in §1780. The EdC governs school districts. Other districts not covered by GC §1780 are detailed below.

MUNICIPAL UTILITY DISTRICTS organized pursuant to Public Utilities Code (PUC), Division 6, commencing with PUC§11501, follow PUC §11865 to fill vacancies on their board. The remaining board members may fill the vacancy by appointment until the next district general election that is scheduled 90 or more days after the effective date of the vacancy.

The appointment shall be made within a period of 60 days immediately subsequent to the effective date of such vacancy. A notice of such vacancy shall be posted in three or more conspicuous places in the district at least 15 days before the appointment is to be made.

In lieu of making an appointment, the remaining members of the board may within 60 days of the vacancy call a special election to fill the vacancy. The person elected at such special election shall hold office for the remainder of the term in which the vacancy occurred.

If the vacancy is not filled by appointment as provided in Public Utility Code §11865(a), or if the board has not called for an election within 60 days of the vacancy, 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 fill the vacancy by appointment within 90 days of the effective date of the vacancy or may order the district to call a special election the fill the vacancy.

If within 90 days of the effective date of the vacancy, the remaining members of the board or the appropriate board of supervisors have not filled the vacancy by appointment and no election has been called for, the district shall call a special election to fill the vacancy.

A person elected at an election to fill a position to which an appointment was made pursuant to this section shall take office immediately upon issuance of the certificate of election by the secretary of the district, after qualifying according to law, and shall hold office for the remainder of the term in which the vacancy occurs.

IRRIGATION DISTRICTS WITH 500,000 OR MORE ACRES subject to the provisions of the Water Code, Chapter 5, commencing with §22825, Division 11, follow WC §22849 to fill vacancies on their board.

The board of supervisors of the office county shall fill by appointment vacancies in the offices of directors, provided that any such appointed directors shall be required to run for election in the next succeeding general district election.

If within 60 days after a vacancy on the board of directors occurs, the board of supervisors has failed to fill such vacancy, a special election may be called by the board of directors and held in the division affected, for the purpose of filling such vacancy. In the event there are more than two candidates at such special election, only a plurality will be required for election. The candidate elected at such special election shall fill the unexpired term of the vacating director.

MEMBER, PARTY CENTRAL COMMITTEES/COUNTY COUNCILS
DEMOCRATIC PARTY / REPUBLICAN PARTY / AMERICAN INDEPENDENT PARTY

In the event of the appointment or election to a committee of an ineligible person, or whenever any member of the committee dies, resigns or becomes incapacitated to act, or removes from the jurisdiction of the committee, or ceases to be a member of this party, a vacancy exists which shall be filled by appointment by the committee in which the ineligibility or vacancy occurs.

A committee may remove any member, other than an ex officio member if:

1) The member misses more than three consecutive regularly called meetings, unless his or her absence is caused by illness or temporary absence from the county on the date of the meeting; or

2) The member, during his or her term of membership affiliates with, or registers as a member of another party, who publicly advocates that the voters should not vote for the nominee of this party for any office, or who gives support or avows a preference for a candidate of another party or candidate who is opposed to a candidate nominated by this party.

The removal of residence by an elected or appointed member of a committee from the Assembly district or supervisor district from which he or she has been elected or appointed a member of that committee shall constitute his or her automatic resignation from the committee.

Whenever any person is appointed to fill a vacancy on a committee, the chairperson of the committee shall file notices of the appointment with the elections official and the chairperson of the state central committee within 30 days after it is made. The notices shall contain the name and address of the person appointed and the name of the person replaced, and shall indicate the date of the appointment.

EC §§7212-7216, 7410-7414, 7657-7661

PEACE AND FREEDOM / LIBERTARIAN

For election purposes, the Libertarian party opted to utilize the provisions in the EC pertaining to the Peace and Freedom Party (the party was disqualified in 1998 and re-qualified in 2003). Therefore, the Peace and Freedom County Central Committee and the Libertarian Party County Central Committee in its sole discretion, may appoint any additional members to the county central committee as it may desire.

A committee may remove any member if:

1) The member misses more than three consecutive regularly scheduled meetings, unless his or her absence is caused by illness or temporary absence from the county on the date of the meeting; or

2) The member, during his or her term of membership, affiliates with or registers as a member of another political party, who publicly advocates that the voters should not vote for the nominee of the party for any office, or who publicly gives support to or avows a preference for a candidate of another party or candidate who is opposed to a candidate nominated by this party, or has violated the bylaws and constitution of the committee.

The removal of residence by an elected or appointed member of a county central committee from the county from which he or she has been elected or appointed a member of that committee shall constitute his or her automatic resignation from the committee.

Whenever any person is appointed to a committee, the chairperson of the committee shall file notices of the appointment with the County Elections Official and the chairperson of the state central committee within 30 days after it is made. The notices shall contain the name and address of the person appointed and shall indicate the date of the appointment.

EC §§7850, 7853-7856

GREEN PARTY

In 1992, the Green Party became a qualified political party in California and was authorized to participate in the primary elections. The party, at that time, agreed to adopt Peace and Freedom Party Code §§7700 – 7884 pending drafting of new code sections governing the Green Party. Therefore, vacancies would be filled by appointment by the remaining members.

VACANCIES IN FEDERAL, STATE CONSTITUTIONAL, AND LEGISLATIVE OFFICES

FEDERAL 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.

See the U.S. Constitution, Amendment XXV for more provisions.

UNITED STATES SENATOR

If a vacancy occurs in the representation of this state in the Senate of the United States, the Governor may appoint and commission an elector of this state who possesses the qualifications for the office to fill the vacancy until his or her successor is elected and qualifies and is admitted to his or her seat by the United States Senate. However, whenever a vacancy occurs within a term fixed by law to expire on the third day of January following the next general election, the person so appointed shall hold office for the remainder of the unexpired term unless the vacancy is filled at a special election held prior to the general election, in which case, the person elected at the special election shall hold office for the remainder of the unexpired term. An election to fill a vacancy in the term of a United States Senator shall be held at the general election next succeeding the occurrence of the vacancy or at any special election.

Elections Code §10720

STATE CONSTITUTIONAL AND LEGISLATIVE OFFICES

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-elect who fails to take office.

OTHER STATE CONSTITUTIONAL OFFICES

Whenever there is a vacancy in the office of the Superintendent of Public Instruction, the Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, or State Insurance Commissioner, 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 unexpired 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 he or 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., Article V, §1016

VACANCY ELECTION PROCESS

Governor's Proclamation

The Governor shall call all statewide special elections by issuing a proclamation pursuant the 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. A copy of the proclamation shall be sent to the board of supervisors of every affected county.

Elections Code §10700

Time to Call Election

A special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of the Assembly shall be conducted on a Tuesday at least 112 days, but not more than 126 days, following the issuance of an election proclamation by the Governor pursuant to §1773 of the Government Code, except that any special election may be conducted within 180 days following the proclamation in order that the election or the primary election may be consolidated with the next regularly scheduled statewide election or local election occurring wholly or partially within the same territory in which the vacancy exists, provided that the voters eligible to vote in the local election comprise at least 50 percent of all the voters eligible to vote on the vacancy.

Elections Code §10703(a)

A special election or a primary election may not be conducted on the day after a state holiday except as provided in §10730.

Elections Code §10703(b)

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

Elections Code §10704(a)

Nominations

Candidates at the primary election shall be nominated in the same manner as a regular election (Elections Code §8000, et. al), except that nomination papers shall not be circulated more than 63 days before the primary election, shall be left with the county elections official for examination no less than 43 days before the primary election, and shall be filed with the Secretary of State not less than 39 days before the primary election.

Elections Code §10704(a)

Vacancies Occurring After the Close of Nomination Period

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

Order of Contest on Ballot

Whenever a special general election, or a special primary election, to fill a vacancy in Congress or the State Legislature is consolidated with a statewide election, the candidates to fill the vacancy shall appear on the consolidated ballot immediately preceding the candidates for that same seat in Congress or the seat in the Legislature that most nearly encompasses the same geographical area at the statewide election, or the elections official at his or her option may print a separate and distinct ballot.

Elections Code §10707

Ballot Layout

All candidates shall be listed on one ballot. If any candidate receives a majority of all votes cast, he or she shall be declared elected, and no special general election shall be held. Or, if only one candidate qualifies to have his or her name printed on the special general election ballot, that candidate shall be declared elected, and no special general election shall be held, even if that candidate received less than a majority of the votes cast.

Elections Code §10705

General/Runoff Ballot

If no candidate receives a majority of votes cast, the name of that candidate of each qualified political party who receives the most votes cast for all candidates of that party shall be placed on the special general election ballot as the candidate of that party. The name of a write-in candidate shall not be placed on the ballot unless he or she receives votes in the primary election equal in number to 1 percent of all votes cast for the office at the last preceding general election at which the office was filled. In the case of an office that has not appeared on the ballot since its creation, the requisite number of votes shall equal 1 percent of the number of all votes cast for the office that had the least number of votes in the most recent general election in the jurisdiction in which the write-in candidate is seeking office.

In addition to the candidates referred to above, each candidate who has qualified for the ballot by reason of the independent nomination procedure in Elections Code §8300 et. seq. shall be placed on the special general election ballot as an independent candidate. However, if two or more of these candidates are recorded on their affidavits of registration as being affiliated with the same political body, only the candidate with the greatest number of votes shall be placed on the special general election ballot.

Elections Code §§8605, 10706

JUDICIAL OFFICES

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., Article VI, §16(d)

ATTACHMENT A

SAMPLE
PUBLIC NOTICE OF VACANCY AND PROVISIONAL APPOINTMENT

Education Code §5092

A vacancy in the membership of the Governing Board of the <*name of the district*> has occurred by reason of the <*resignation or other reason*> of <*name of trustee, if resignation*> effective <*date*>.

The resignation was filed in the office of the Shasta County Superintendent of Schools on <*date*>. <*name of appointee*> was appointed by the Governing Board on <*date*> to fill the above named vacancy.

To challenge the appointment and order a special election, the following must be filed in the office of the Shasta County Superintendent of Schools within 30 days from the date of the provisional appointment:

File a petition calling for a special election containing the valid signatures of at least 1.5 (.015) 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 the district*>, or 25 registered voters of the district, whichever is greater; or

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 for governing board members.

Governing Board of the <*name of district*>

_____

Governing Board Secretary/Clerk

_____

Date

ATTACHMENT B

PETITION FOR SPECIAL ELECTION TO FILL VACANCY ON THE GOVERNING BOARD OF THE < *NAME OF THE DISTRICT HERE* >

The proponents of this petition as named herewith are registered voters of the aforementioned school district.

s/ Voter 1, residence address
s/ Voter 2, residence address
s/ Voter 3, residence address ← *Name and address of at least one and not more than five proponents*.
s/ Voter 4, residence address *Education Code §5091(f)*
s/ Voter 5, residence address

Pursuant to Education Code, we the undersigned, who are registered voters of the <*name of the school district*>, in Shasta 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 Shasta County Registrar of Voters has estimated the cost of conducting the special election called pursuant to this petition to be approximately <$ *insert estimated cost here*.>

One Inch

			Official Use Only
1	Print Name	Residence Address ONLY	
	Signature	City, State ZIP	
2	Print Name	Residence Address ONLY	
	Signature	City, State ZIP	
3	Print Name	Residence Address ONLY	
	Signature	City, State ZIP	

One Inch

DECLARATION OF PERSON CIRCULATING SECTION OF PETITION FOR A SPECIAL ELECTION

I, _____ , declare:

1. My residence address is _____ in Shasta County, California, and I am a registered voter in Shasta County;
2. I personally circulated the attached petition for signing;
3. I witnessed each of the appended signatures being written on the petition and to my best information and belief, each signature is the genuine signature of the person whose name it purports to be; and
4. The appended signatures were obtained between the dates of _____ 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 _____.
Date Place of Signing

_____
Complete Signature of Petition Circulator

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

ATTACHMENT C

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 term of the position to be filled will

end December _____ , 20___.

Applications are available at the District Office located at:

_____

Phone: _____ Website: _____

Applications are 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. (Government Code §1780)

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

ATTACHMENT D

SAMPLE APPLICATION FOR APPOINTMENT TO A SPECIAL DISTRICT VACANCY

If you are interested in serving on a special district Board of Directors, please complete this application and return it to: _____. Due Date: _____

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

District Name: _____ Date of Application: _____

Your Name: _____ Age (optional): _____

Residence Address: _____

Business Mailing Address: _____

Phone (day) _____ Phone (evening) _____

Email: _____

EDUCATION			
Institution	**Major**	**Degree**	**Year**

WORK / VOLUNTEER EXPERIENCE				
Organization	**City**	**Position**	**From**	**To**

STATEMENT OF QUALIFICATIONS
Briefly describe your qualifications and why you are interested in serving on the Board of Directors. Attach an additional page if necessary.

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**