

**SHASTA COUNTY CLERK / REGISTRAR OF VOTERS
CATHY DARLING ALLEN**

FILLING VACANCIES

**COUNTY AND JUDICIAL OFFICES,
SCHOOL AND SPECIAL DISTRICTS, AND
OTHER GOVERNING BOARDS**

2013



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The purpose of this guide is to provide you with general information. The Shasta County Registrar of Voters (ROV) is not giving you legal advice. This guide does not have the force and effect of law and is not to be a substitute for legal counsel.

It is your responsibility to obtain the most current information available about your topic. We encourage you to talk to us as soon as possible so that you have a clear understanding of the process.

All references contained in this guide are to the [California Elections Code](#) unless otherwise stated.

California Code Abbreviations

EDC: Education Code
EC: Elections Code
GC: Government Code

VACANCIES

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A vacancy happens when one of the following events takes place before the expiration of the term:

- Death, resignation, or removal from office
- [Quo warranto](#) proceeding
- Conviction of a felony or other violation of official duties
- Unauthorized absences from the state
- Failure to meet residency requirements of the office
- Failure to perform duties as required
- Failure to file a bond, oath, or supplemental bond
- Election or appointment to office declared void

See [GC §§ 1770 - 1782](#) for detailed information about vacancies.

OVERVIEW - FILLING VACANCIES

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If you want to learn about filling a vacancy for one of the offices below, click on the page number for basic information. The ROV suggests you seek legal counsel for advice on your issue.

Type and Office	Page(s)
Elected County Offices	
Board of Supervisors Elected County Department Heads Superintendent of Schools Superior Court Judge	Page 05
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VACANCIES IN ELECTED COUNTY OFFICES

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DISTRICT	WHO APPOINTS	CODE SECTIONS
<p>MEMBER, BOARD OF SUPERVISORS (BOS)</p> <p>Term: 4 years</p> <p>Elections held at the gubernatorial primary and general elections.</p>	<p>The governor fills the vacancy by appointment.</p> <p>The governor's appointee holds office until the voters elect a successor at the next general election, depending on when the office's term expires.</p>	<p>GC § 25060-25062</p>
<p>ELECTED COUNTY OFFICES</p> <p>Term: 4 years</p> <p>Elections held at the gubernatorial primary and general elections.</p>	<p>The BOS fills the following vacant offices by appointment.</p> <p>The appointee holds the office for the rest of the term or until the first Monday after January 1, after the next general election.</p> <ul style="list-style-type: none"> • Assessor / Recorder • Auditor / Controller • County Clerk / Registrar of Voters • District Attorney • Sheriff / Coroner • Treasurer / Tax Collector 	<p>GC § 25300-25307</p>
<p>COUNTY SUPERINTENDENT OF SCHOOLS</p> <p>Term: 4 years</p> <p>Elections held at the gubernatorial primary and general elections.</p>	<p>The county board of education fills the vacancy by appointment.</p> <p>The appointee holds office until the voters elect a successor at the next gubernatorial election.</p>	<p>EDC § 1042(e)</p>
<p>SHASTA COUNTY SUPERIOR COURT JUDGES</p> <p>Term: 6 years</p>	<p>The governor fills the vacancy by appointment.</p> <p>The appointee holds office until the voters elect a successor at the next general election.</p>	<p>CA CONST ARTICLE VI § 16(c)</p>

VACANCIES ON SCHOOL DISTRICT OR COMMUNITY COLLEGE GOVERNING BOARDS

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OFFICE - TERMS	ACTION REQUIRED	
<p>SCHOOL DISTRICT OR COMMUNITY COLLEGE GOVERNING BOARD</p> <p>EDC § 5090-5095 GC § 6060-6061</p>	The district board appoints or calls an election within 60 days of the vacancy.	
	APPOINTS	CALLS AN ELECTION
	<p>If the board appoints, the board must notify the ROV and the public of the vacancy and appointment. Within ten days of the appointment, the board must post a public notice and publish it in a newspaper of general circulation.</p> <p>See EDC § 5092 for the public notice contents. See Attachment A for a sample public notice.</p>	<p>If the board fails to make a provisional appointment, then the county superintendent of schools (Superintendent) calls an election.</p>
	<p>If the registered voters disagree with the provisional appointment, they can submit a sufficient petition within 30 days of the appointment to fill the vacancy.</p>	
<p>CONDITIONS FOR NO ELECTION OR NO APPOINTMENT</p> <p>EDC § 5093</p> <p>TERMS OF OFFICE FOR SCHOOL DISTRICT GOVERNING BOARDS</p> <p>EDC § 5017</p>	<p>The Superintendent will not appoint or order a special election if the vacancy occurs within four months of the end of the term.</p> <p>EDC §5091 does not apply to a vacancy if the vacancy happens between six months and 130 days before a regular governing board election and the position is not scheduled to be filled. If a vacancy happens during that time, the board fills it at a special election consolidated with the regular election. That person takes office at the next regularly scheduled meeting following the certification of the election and serves until the end of the term.</p> <p>The appointed person holds office up to the next regularly scheduled election for district governing board members. Then, the ROV holds an election to fill the vacancy for the remainder of the unexpired term.</p> <p>The term for a regular governing board member is four years starting the first Friday in December after the November election. Any member whose term has expired must continue to perform duties until the successor has qualified. The term of the successor begins when the predecessor's term expires.</p>	

**PETITION REQUIREMENTS FOR SCHOOL DISTRICT OR
COMMUNITY COLLEGE GOVERNING BOARDS**

<p>PETITION FORMAT AND REQUIREMENTS</p> <p>EC §§100, 104 EDC § 5091(f) GC §6253.5</p>	<p>You must circulate and prepare the petition using the specific format per EC § 100 and 104. The ROV does not have the authority to review and approve petition formats.</p> <p>See Attachment B for an example of the petition format.</p> <p>The petition must contain:</p> <ul style="list-style-type: none"> • costs of conducting the election from the elections official. • at least one, but no more than five, proponent(s) who are registered voters of the district. • no type less than six point type. <p>NOTE: The superintendent cannot verify the signatures nor take further action on the petition if the petition does not meet the above requirements.</p> <p>Additional Information:</p> <ul style="list-style-type: none"> • The petition is not subject to public review. The proponents, however, may have access to the petition if the Superintendent finds it is insufficient. • You must not use the names for any purpose other than qualification of the petition. • The person soliciting signatures decides the number of signatures attached to each section. • Consecutively number the signature spaces for each petition section, starting with number one. • Leave a blank space of at least one inch wide at the right margin of the page after each name and address for the use of the ROV in verifying the petition.
<p>WHO CAN CIRCULATE?</p> <p>DECLARATION OF CIRCULATOR</p>	<p>A person who is a voter or who is qualified to vote in California may circulate a petition.</p> <p>The circulator must complete and attach a declaration to each petition section.</p> <p>The declaration must be in the circulator's own handwriting, be similar in format to the declaration in Attachment B, and must follow the last signature block.</p> <p>FORMATTING TIPS - The petition can:</p> <ul style="list-style-type: none"> • accompany any amount of signatures. • be printed on letter or legal sized paper, or larger. • be single or double sided. <p>If you staple the petition pages together into a single section during signing, <u>do not remove any of the staples. You must submit the pages to the ROV as the petition signers signed them.</u></p> <p>You may omit the declaration on the front side if the signature spaces are on both sides. You must submit the declaration with each petition section to the ROV.</p>

PETITION REQUIREMENTS FOR SCHOOL DISTRICT OR COMMUNITY COLLEGE GOVERNING BOARDS, <i>CONT'D</i>	
<p>WHO CAN SIGN THE PETITION</p> <p>EC § 100</p>	<p>Only a person who is a registered voter at the time of signing the petition is entitled to sign it.</p> <p>You must ensure that each signer, at the time of signing the petition, personally affixes his or her signature, printed name, and place of residence, giving street and number, or if not available, a designation of the place of residence.</p> <p>If a voter is unable to personally include the required information on the petition, the voter may have another person print the voter's name and address on the appropriate spaces. The voter still must personally write his or her mark, in the signature space, and have someone witness it.</p>
<p>SIGNATURE REQUIREMENTS</p> <p>EDC § 5091(C)(1)</p>	<p>A sufficient number of signatures means that 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 sign the petition, or 25 registered voters, whichever is greater.</p> <p>In districts with registered voters of less than 2,000 persons, a petition is sufficient if signed by at least five percent of the number of registered voters of the district at the last regular election.</p> <p>Call the ROV to find the number of registered voters of the district at the time of the last regular election for governing board members.</p>
<p>TIPS ON SIGNATURE GATHERING</p>	<p>The ROV recommends obtaining an additional 50 percent of signatures above the amount required. This is to compensate for disqualified signers for not being registered or for other reasons.</p> <p>A petition signer can register to vote at the same time they sign the petition, however, the ROV must receive the registration by the time the ROV receives the petition.</p>
<p>FILING THE PETITION</p>	<p>You must file the petition with the Superintendent within 30 days following the provisional appointment. The Superintendent then has 30 calendar days to verify the signatures.</p>
<p>VERIFICATION OF THE PETITION</p> <p>EDC § 5091 GC § 6253.5</p>	<p>The ROV forwards a certificate of results to the Superintendent. If the petition is legally sufficient, the Superintendent terminates the provisional appointment and calls a special election.</p> <p>The ROV holds the special election no later than the 130th day after the determination. However, if a regular election date occurs between the 130th day and the 150th day following the determination, the Superintendent can order the special election held on the regular election date.</p> <p>EDC §5091(c)(2) governs signature checking this petition and its certification. Please consult counsel.</p>

VACANCIES ON SPECIAL DISTRICT BOARDS AND OTHER DISTRICT BOARDS

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OFFICE AND TERM	WHO APPOINTS	ACTION REQUIRED	
<p>MEMBERS, SPECIAL DISTRICT BOARDS</p> <p>4 years</p> <p>Appointees serve balance of unexpired term</p> <p>GC §1780 EC §§10507, 10554</p>	<p>Remaining district board members</p> <p>or</p> <p>City or BOS if board fails to act*</p>	<p>Make an appointment or call a special election within 60 days of the vacancy.</p>	
		IF APPOINTMENT	IF ELECTION
		<p>If the board appoints, the board must, within 15 days, notify the ROV and post a public notice.</p> <p>The board must post the public notice in three or more conspicuous places in the district at least 15 days before the appointment.</p>	<p>The ROV is the election official for this election.</p> <p>The ROV holds on the next established election date that is 130 or more days after the board calls the election.</p>
<p>If the board fails to appoint or call an election then the city or BOS can appoint or call an election. If neither acts within 90 days, then the board MUST call for an election.</p> <p>If the board lacks a quorum to act within 60 days, see GC § 1780(h).</p>			

*Either the city or BOS will act depending on which jurisdiction the special district is in.

OTHER DISTRICTS AND BOARDS	WHO APPOINTS	CALIFORNIA CODE
<i>Note: GC § 1780 exempts certain districts. Districts not covered by §1780 are listed below and include the California Code sections by which those vacancies are filled.</i>		
Irrigation Districts with 500,000 <i>or more</i> acres	BOS fills until next general election.	Water Code §§ 22825 - 22970.35 Irrigation districts <i>with less than</i> 500,000 acres are governed by GC §1780.
Municipal Utility Districts	Remaining board members fill vacancy by appointment until the district's next general election or the district calls a special election. If the board fails to appoint or call an election then the city or BOS can appoint or call an election. If neither acts within 90 days, then the utility district board MUST call for an election.	Public Utility Code § 11865

ATTACHMENT A – SAMPLE NOTICE OF SCHOOL DISTRICT VACANCY
PUBLIC NOTICE OF VACANCY
AND PROVISIONAL APPOINTMENT
California Education Code §5092

A vacancy on the <District> Governing Board has occurred because of the <resignation or other reason> of <Member Name, if resignation> effective <date>. <Member Name> filed the resignation in the Shasta County Superintendent of Schools office on <date>.

The Governing Board appointed <Appointee> on <date> to fill the above named vacancy.

To challenge the appointment and order a special election, proponents must file a petition in the office of the Shasta County Superintendent of Schools within 30 days from the date of the provisional appointment.

The petition must contain:

- 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 <District>, or 25 registered voters of the district, whichever is greater; or
- valid signatures of at least 5 percent of registered voters of the district at the time of the last regular election for governing board members in districts with less than 2,000 registered voters.

Governing Board of the < District >

Governing Board Secretary/Clerk

Date

**ATTACHMENT B – SCHOOL DISTRICT PETITION
 PETITION FOR SPECIAL ELECTION TO FILL VACANCY
 ON THE GOVERNING BOARD OF
 THE < NAME OF THE SCHOOL 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
 s/ Voter 4, residence address
 s/ Voter 5, residence address

← *Name and address of at least one and not more than five proponents.*

Education Code §5091(f)

Pursuant to the Education Code (EDC), we the undersigned, who are registered voters of the <name of the school district>, in Shasta County, California, hereby petition the Shasta 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 →

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	

← One Inch →

**DECLARATION OF PERSON CIRCULATING SECTION OF A PETITION FOR A SPECIAL ELECTION
 (MUST BE IN CIRCULATOR'S OWN HANDWRITING)**

I, _____, declare:
(print name)

- My residence address is _____ in Shasta County, California, and I am a voter or qualified to vote in *(insert electoral jurisdiction)*;
- I personally circulated the attached petition for signing;
- 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
- I obtained the appended signatures 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 _____, California.
(date) (city)

(signature)

We recommend that you leave a 1" margin at the top, and a ½" margin on the left, right, and bottom.