SAN DIEGO COUNTY OFFICE OF EDUCATION **BYLAW NO. 9223**

CLASSIFICATION: Bylaws of the Board

ADOPTED: 3/8/95
REVISED: (DATE)
REVIEWED: (DATE)

SUBJECT: Board Vacancies

A vacancy on the County Board of Education (County Board) is filled from the Educational District in which it occurs within forty-five days by appointment of a majority of the remaining members of the County Board or thereafter by appointment by the Board of Supervisors in accordance with the San Diego County Charter.

Any registered voter is eligible to be a member of the County Board except the County Superintendent of Schools, his/her employees, or any employee of a school district that is within the jurisdiction of the County Board.

The appointee holds office until the election and qualification of a successor.

The successor is elected at the next general election, either to complete the term, if it does not expire the following January, or to begin a new four-year term of office.

Events Causing a Vacancy

Events causing a vacancy before expiration of term on the County Board are specified in the Government Code as follows and are incorporated in this bylaw:

1. Government Code section 1770. Events causing vacancy before expiration of term. 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. The 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/her office for the remainder of his/her term

    c. His/her resignation

    d. His/her removal from office

e. His/her ceasing to be an inhabitant of the district for which the officer was chosen or appointed or within which the duties of his/her office are required to be discharged

f. His/her absence from the state without the permission required by law beyond the period of 30 days allowed by law

g. His/her ceasing to discharge the duties of his/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

h. His/her conviction of a felony or any offense involving a violation of his/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.

i. His/her refusal or neglect to file his/her required oath or bond within the time prescribed

j. The decision of a competent tribunal declaring void his/her election or appointment

k. The making of an order vacating his/her office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond

l. His/her commitment to a hospital or sanitarium by a court of competent jurisdiction as a drug addict, dipsomaniac, inebriate or stimulant addict; in this event, the office shall not be deemed vacant until the order of commitment has become final

2. Government Code section 1063. Absence from state, officer of a county or judicial district; conditions; consent. No officer of a county or judicial district shall absent himself from the state for more than 30 days unless either:

   a. Upon business for the state, county, or judicial district

   b. With the consent of the board of supervisors of the county

   In no case shall such officer absent himself from the state for more than two months without the consent of the board of supervisors, with the written approval of the Governor, nor shall such absence continue for a period exceeding six months in any one year.

Derivation:

Former Board Bylaw No. 9222, Adopted 3/8/95, Amended 8/13/97. Amended, Renamed, and Renumbered 9223 (DATE).

Legal Reference:

San Diego County Charter
Article IV, section 401.1
Article IV, section 603.2
Education Code
1000
Government Code
1063-1064, 1770, 3000-3003, 3060-3075, 6061, 54950-54963
Penal Code
88
United States Code, Title 18
704
Attorney General Opinions
58 Ops.Cal.Atty.Gen. 888 (1975)
81 Ops.Cal.Atty.Gen. 98 (1998)

Management Resources:

***Filling a Board Vacancy,* California School Boards Association, May 2012: www.csba.org**
***Quo Warranto Applications*, California State Attorney General's Office: ag.ca.gov/opinions/quo_warranto.php**