

## **TIMELINE AND PROCESS TO FILL THE VACANCY ON THE BUSD BOARD OF DIRECTORS**

**March 29, 2013:** The application form will be posted online at <http://www.berkeleyschools.net> by 10:00 a.m., and available on paper at BUSD Administration Building (2020 Bonar Street) in room 321.

**April 15, 2013:** Applications are due by 4:00 p.m. All applications must be submitted to Deborah Turner, Secretary to the Superintendent:

- by email ([deborahturner@berkeley.net](mailto:deborahturner@berkeley.net)), or
- in person (2020 Bonar Street, Room 321).

All applications must be received *by 4:00pm on April 15, 2013*. The time of receipt will be determined by the time stamp on the email, or by Ms. Turner if submitted in person. Late applications will not be accepted. There will be no exceptions or appeals if it is determined that an application was submitted late. Ms. Turner shall provide applicants with a receipt.

**April 17, 2013:** Co-superintendents Cleveland and Smith will provide the Board with an alphabetical list of the applicants and all applications in alphabetical order.

**April 19, 2013:** Starting at noon, all applications will be available to view in the Superintendent's Office at 2020 Bonar Street, Room 321 during normal business hours from 8:00am-12:00pm and 12:30pm-4:00pm. Photocopies of applications may be made upon request in person at the office. Applications will not be posted online.

**April 22, 2013**: Each Director, but not the Student Director, will email Deborah Turner a list of those applicants that the Director wants to propose to be “finalists” – i.e., to advance to the final step in the process.

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*At least two Directors must indicate their intent to advance an applicant in order for an applicant to become a finalist.*

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**April 24, 2013**: At least 15 minutes before the start of the regularly scheduled Board meeting, a list of the applicants who were proposed by at least two Directors to advance to the next step in the process will be posted at the location of the Board meeting. There will be an action item on the meeting agenda during which staff will present the Board with the list of applicants who were proposed by at least two Directors to advance to the next step in the process. The Board may add names to or remove names from consideration. The Board will then vote on the list and those applicants on the approved list will be considered finalists and will be advanced to the final step in the process. There will be no opportunity for an appeal by an applicant who was not advanced.

**May 1, 2013**: A special Board meeting shall be called at which the first item on the meeting agenda will be a presentation item during which each finalist will give a 3-minute speech to the Board. The order of the speeches will be random.

**May 1, 2013**: At the special Board meeting, the second item on the meeting agenda will be a conference item during which the Board will

discuss the applicants who were approved for consideration on April 24. The Board, if it chooses, may vote to appoint an applicant to the Board at the meeting.

**May 8, 2013**: If no applicant was selected to fill the vacancy on May 1, there will be an action item on the regularly scheduled Board meeting agenda during which the Board may continue to discuss the applicants who have made it to the final step in the process. The Board may vote to appoint an applicant to fill the vacancy at this meeting.

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*The Board is to follow Robert's Rules of Order in considering and voting to appoint an applicant to the Board to fill the vacancy. Specifically, for an applicant to be appointed, a Director must make a motion to appoint the applicant to fill the vacancy. The motion must be seconded by another Director. The motion must then be passed with a majority (i.e., three (3) Directors) of the Board. Discussion of the applicant may then take place. At any time during the discussion, a Director may make a motion to end discussion. A second is required to second the motion to end discussion and vote on the applicant. The motion must then be passed with a majority (i.e., three (3) Directors) of the Board. The Board shall then vote on the applicant. A majority (i.e., three (3) Directors) is required for appointment.*

**APPENDIX**  
RELEVANT CITY CHARTER PROVISIONS AND  
EDUCATION CODE SECTIONS

**Berkeley City Charter**

Chapter V, Section 13

If a vacancy shall occur in the office of School Director, the Board of Education shall appoint a person to fill such vacancy. If at any municipal election a School Director be not elected by reason of a tie vote among any of the candidates therefor, then the Board of Education, after the qualification of the persons, (if any, elected thereto at such election, shall appoint one of the persons) receiving such tie vote, to fill such office as in case of a vacancy therein. In each case the person so appointed shall hold office, subject to the provisions of the Recall, to and including the April 30th following the next general municipal election.

Chapter V, Section 16

The School Directors shall hold office for a term of four (4) years from and after the first day of December after their election and until their successors are elected in the November, 1982 general municipal election, and the terms of the School Directors elected in April, 1981 general municipal election shall expire on the first day of December, 1984 after their successors are elected in the November, 1984 general municipal election.

At the general municipal election of November, 1982, and at each second general municipal election thereafter, three School Directors shall be elected; and at the general municipal election of November, 1984, and at each second general municipal election thereafter, two School Directors shall be elected.

## **Education Code**

### Section 5090

Vacancies on school district governing boards or community college district boards are caused by any of the events specified in Section 1770 of the Government Code, 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.

### Section 5091

(a) 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 shall, within 60 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for more than 60 days after he or she files the resignation with the county superintendent of schools.

In the event that a 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 order an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next established election date provided pursuant to Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code not less than 130 days after the order of the election.

(c) (1) 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. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the number of registered voters of the district equal to 1 ½ 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, whichever is greater. However, in districts 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.

(2) The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. 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 no later than the 130th day after the determination. However, if an established election date, as defined in Section 1000 of the Elections Code, occurs between the 130th day and the 150th day following the order of the election, the county superintendent of schools may order the special election to be conducted on the regular election date.

(d) A provisional appointment made pursuant to subdivision (a) confers all powers and duties of a governing board member upon the appointee immediately following his or her appointment.

(e) 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 in which the vacancy occurs or will occur.

(f) (1) 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 estimate of the elections official of the cost of conducting the special election.

(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.

(2) 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.

- (3) 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.
- (4) The petition filed with the county superintendent of schools shall be subject to the restrictions in Section 6253.5 of the Government Code.
- (g) 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.

Section 5092

Whenever a provisional appointment is made to the governing board of a school district pursuant to Section 5091, the board shall, within 10 days of the provisional appointment of a person to fill a vacancy which occurs or will occur, post notices of both the actual vacancy or the filing of a deferred resignation and also the provisional appointment in three public places in the district and shall publish a 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.

The notice shall state 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. The notice shall also contain the full name of the provisional appointee to the board and the date of his appointment, and a statement that unless a petition calling for a special election, containing a sufficient number of signatures, is filed in the office

of county superintendent of schools within 30 days of the date of the provisional appointment, it shall become an effective appointment.

Section 5093

(a) 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.

(b) 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. 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.

(c) If a special election pursuant to 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.

Section 5094

If for any reason vacancies should occur in a majority of the offices on any school district or community college district governing board, the president of the county board of education having jurisdiction may

appoint members of the county board of education to the district governing board until new members of the governing board are elected or appointed.

#### Section 5095

Whenever any of the offices on any school district governing board or community college district governing board is vacant, the remaining governing board member or members, if any, and any governing board member or members elected or appointed to fill the vacancies, who have qualified, shall have all the powers and perform all the duties of the governing board.

#### Section 5200

Any unified school district that is coterminous with or includes within its boundaries a chartered city or city and county shall be governed by the board of education provided for in the charter of the city or city and county. Sections 5000, 5017, 5090, 5091, 35013, 35101, and 35105 shall not apply to such unified school districts, except as follows:

- (a) As provided in the charter of the city or city and county.
- (b) If the charter of the city or city and county fails to provide for a board of education or for any or all of the matters specified in Sections 5000, 5017, 5090, 5091, 5222, 35013, 35101, and 35105, those sections shall apply as to the matter not provided for in the charter.