

BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

BBC
(LEGAL)

VACANCY AT-LARGE	Any vacancy occurring on the Board through death, resignation, or otherwise, shall be filled by a special election ordered by the Board or by appointment by resolution or order of the Board. If the vacancy occurs on a Board whose members are elected at large/by position, the person appointed to fill the unexpired term shall serve until the next regular election of members to the Board, at which time the position shall be filled by election for a term appropriately shortened to conform with what regularly would have been the length of the term for that position. <i>Education Code 130.082(d)</i>
SINGLE-MEMBER DISTRICTS	Except as provided in Education Code 130.0822(l), in single-member districts, any vacancy on the Board shall be filled by appointment made by the remaining members of the Board. The appointed person shall serve for the unexpired term. <i>Education Code 130.0822(i), (l)</i>
OPTIONAL APPOINTMENT CONSIDERATION	An appointment to the Board shall be made as required by applicable law and may be made with the intent to ensure that the Board is representative of the constituency served by the Board. The Board that chooses this optional appointment consideration shall adopt procedures for its implementation. <i>Local Gov't Code 180.005(b), (c)</i>
SPECIAL ELECTION	A special election shall be conducted in the same manner as the general election on the next uniform election date that will afford enough time to hold the election in the manner required by law. <i>Election Code 41.001(a), 41.004(a)</i> [See BBB]
PRECLEARANCE REQUIRED	A special election is subject to federal preclearance requirements to the extent that the College District makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a special election or scheduling of events leading up to or following a special election is subject to the preclearance requirement. <i>28 CFR 51.17</i> [See BBB]
RESIGNATION	To be effective, a Board member's resignation must be in writing and signed by the officer and must be delivered to the Board for acting on the resignation. The Board may not refuse to accept a resignation. If a Trustee submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the Board or on the eighth day after the date of its receipt by the Board, whichever is earlier. <i>Election Code 201.001(a), 201.023</i>
HOLDOVER DOCTRINE	All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified, i.e., sworn in. Until the vacancy created by a Trustee's resignation is filled by a successor, the Trustee continues to serve and have the duties and powers of office, except that a Trustee may not vote on the ap-

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pointment of the Trustee's successor. *Tex. Const., Art. XVI, Sec. 17; Atty. Gen. Ops. JM-636 (1987), DM-2 (1991), O-6259 (1945)*
[See DBE]

NONRESIDENCE

A person elected to serve as a Board member must remain a resident of the College District throughout the term of office. A Board member who ceases to reside in the College District vacates his or her office. *Tex. Const., Art. XVI, Sec. 14; Education Code 130.082(d); Whitmarsh v. Buckley, 324 S.W.2d 298 (Tex. Civ. App. 1959)*

SINGLE-MEMBER
DISTRICTS

Except for a Trustee allowed to complete the remainder of his or her term after the initial election from single-member districts, a Trustee vacates the office if he ceases to reside in the trustee district he represents. *Education Code 130.0822(h)*

REMOVAL FROM
OFFICE

Board members may be removed from office for:

1. "Incompetency," which means:
 - a. Gross ignorance of official duties;
 - b. Gross carelessness in the discharge of those duties; or
 - c. Unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of election.
2. "Official misconduct," which means intentional, unlawful behavior relating to official duties by a Trustee entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of a Trustee to perform a duty imposed on the Trustee by law and conviction of an offense relating to violation of purchase procedures. [See CH]
3. Intoxication on or off duty caused by drinking an alcoholic beverage, but not if it was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician.
4. Conviction of a Trustee by a jury for any felony or for misdemeanor official misconduct.
5. Nonattendance of Board meetings if the member is absent from more than half of the regularly scheduled Board meetings that the member is eligible to attend during a calendar year, not counting an absence for which the member is excused by a majority vote of the Board.

Actions for removal of Board members must be brought before the judge of the district court holding jurisdiction, except that any court convicting a Trustee of a felony or official misconduct shall order immediate removal.

Tex. Const., Art. V, Sec. 24; Local Gov't Code 87.011, 87.012, 87.013, 87.031; Education Code 44.032(e), 130.0845.

TEMPORARY
REPLACEMENT OF
BOARD MEMBER ON
MILITARY ACTIVE
DUTY

A Board member who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated does not vacate the office held, but the Board may appoint a replacement to serve as a temporary Board member if the elected or appointed Board member will be on active duty for longer than 30 days.

The Board member who is temporarily replaced may recommend to the Board the name of a person to temporarily fill the office. The Board shall appoint the temporary Board member to begin service on the date specified in writing by the Board member being temporarily replaced as the date the Board member will enter active military service.

A temporary Board member has all the powers, privileges, and duties of the office as the Board member who is temporarily replaced. A temporary Board member shall perform the duties of office for the shorter period of:

1. The term of the active military service of the Board member who is temporarily replaced; or
2. The term of office of the Board member who is temporarily replaced.

“Armed Forces of the United States” means the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard, any reserve or auxiliary component of any of those services, or the National Guard.

Tex. Const., Art. XVI, Sec. 72