

BOARD MEMBERS
VACANCIES AND REMOVAL FROM OFFICE

BBC
(LOCAL)

Accreditation Principles

Institutional integrity is essential to the purpose of higher education. Integrity functions as the basic covenant defining the relationship between the College District and the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC), The College District's accreditation body requires that the governing board of the institution adopt appropriate and fair processes for the dismissal of a Board member. Therefore, Board members may be removed from office or sanctioned as provided in this policy. [See Southern Association of Colleges and Schools Commission on Colleges, Principle 4.2.e]

Resignation by Board Member or Member-Elect

A Board member may resign by providing written notice to the Chair or to the Secretary of the Board of Trustees.

A Board member-elect may submit a declination of office by submitting written notice to the Chair or to the Secretary of the Board of Trustees.

The Board may not refuse to accept a resignation or declination submitted under this policy.

Effective Date

If a Board member or member-elect submits a resignation or declination, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation or declination is accepted by the Board, or on the eighth calendar day after the date of its receipt by the Board Chair or Secretary, whichever date is earlier.

Holdover Doctrine

All public officers will continue to perform the duties of their offices until their successors will be duly qualified and sworn in. Until the vacancy created by a public officer's resignation is filled by a successor, the public officer continues to serve and have the duties and powers of office and continues to be subject to the nepotism rules and all Board policies. A holdover public officer may not vote on the appointment of the officer's successor. [See DBE]

Immediate Removal for Lack of Residency

A Board member is required to remain a resident of the College District throughout the term of elected office. A Board member who ceases to reside in the College District vacates his or her office immediately.

Immediate Removal for Conviction

A Board member who is convicted of official misconduct, including a purchasing offense under Education Code 44.032 [see CF(LEGAL), Impermissible Practices], is subject to immediate removal from office. *Local Gov't Code 87.031.*

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**Involuntary Removal
from Office under
Quo Warranto**

A Board member who usurps, intrudes into, or unlawfully holds or executes a public office may be involuntarily removed by a quo warranto action as described in BBC(LEGAL). *Civ. Prac. and Rem. Code 66.001–.002.*

A Board member who engages in an act, or allows an action, that by law causes forfeiture of office may also be involuntarily removed by a quo warranto action as described in BBC(LEGAL). *Civ. Prac. and Rem. Code 66.001–.002.*

**Involuntary Removal
from Office by
Petition and Trial**

A Board member may be removed from office by a petition filed by any resident of this state who has lived for at least six months in the county in which the petition is to be filed and who is not currently under indictment in the county, under Local Government Code 87.015. [See BBC(LEGAL)]

Reasons for
Removal from
Office

A Board member may be removed by a quo warranto action or by petition and trial for:

1. Incompetency. “Incompetency” 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 the officer’s election.
2. Official misconduct. “Official misconduct” means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law.
3. Intoxication on or off duty caused by drinking an alcoholic beverage. Intoxication is not grounds for removal if it appears at the trial that the intoxication was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician practicing in this state.
4. The conviction of a Board member by a jury for any felony or for misdemeanor official misconduct, including a purchasing offense under Education Code 44.032.
5. Nonattendance of Board meetings if the member is absent from more than half of the regularly scheduled and posted

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Board meetings, including committee 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.

A report of Trustee meeting attendance will be included as an information item each February for the prior calendar year.

Tex. Const. Art. V, Sec. 24; Local Gov't Code 87.011(2)–(3), .013, .031; Education Code 44.032, 130.0845

Other Sanctions

The Board has an interest in directly addressing ethical and other misconduct by a Board member. Board members will not engage in misconduct as defined in this policy.

Misconduct Defined

Under this policy, “misconduct” means:

1. Violating the Code of Ethics in ~~BBC~~BBF(LOCAL);
2. Failing to uphold Board member responsibilities as listed in ~~BBC~~BBF(LOCAL);
3. Violating applicable Board policies, including, but not limited to, conduct constituting criminal offenses and nepotism [see BBFB(LEGAL)] and conflicts of interest [see BBFA(LEGAL)];
4. Failing to file required conflict of interest disclosures [see BBFA(EXHIBIT)]; and/or
5. Engaging in other unethical or dishonest conduct, in fraud, or in making false or misleading representations during a term of office.

Each Board member has a duty to report misconduct. The Board may investigate misconduct reports and issue sanctions in accordance with this policy and applicable law.

Reporting
Misconduct

Any community member or any Board member may file a written misconduct report with the Board Chair or with the Board Secretary if the report regards the Board Chair.

The report recipient must advise the Board in writing that a misconduct report was received. The recipient may request an investigation of the misconduct report. Upon a majority vote of the Board, an investigation of the misconduct report may be initiated.

Investigating
Misconduct

An independent third party will conduct the investigation. Under this policy, “independent third party” means any person appointed by a majority vote of the Board to conduct this investigation.

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During the investigation, the respondent Board member will be provided by the independent third party a list of the allegations lodged in the misconduct report. The respondent Board member has the opportunity to respond to the specific allegations, either in writing or by meeting with the independent third party.

The independent third party will prepare investigative findings or an investigative report for the Board's review.

Sanctions Upon a
Finding of
Misconduct

The Board will have the authority to sanction a Board member for misconduct. The Board may find that misconduct has occurred by a majority vote of the Board.

Upon such finding, the Board may sanction the Board member found to have engaged in misconduct. Sanctions may include, but are not limited to:

1. Removing the Board member from serving on any Board committee;
2. Limiting travel and fee reimbursement for the Board member;
3. Requiring the Board member to attend additional training at the Board member's expense to be completed within a specified period of time;
4. Censuring the Board member; and/or
5. Any other sanction or action allowed by applicable law.

For purposes of this policy, "censure" means a public reprimand by the Board of a person through means of a written order or resolution for specified conduct. Sanctions imposed are to be read at the next scheduled Board meeting.

Filling a Vacancy

Any vacancy occurring on the Board through death, resignation, or otherwise, will be filled by a special election ordered by the Board or by appointment by resolution or order of the Board.

By Special Election

A special election to fill a Board vacancy is conducted in the same manner as the College District's general election except as provided by the applicable provisions of the Election Code. [See BBB]

If a vacancy in an office is to be filled by special election, the election will be ordered as soon as practicable after the vacancy occurs. A special election to fill a vacancy will be held on the first authorized uniform election date occurring on or after the 46th day after the date the election is ordered. For a vacancy to be filled by a special election to be held on the date of the general election for state and county officers (November of even-numbered years), the

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election will be ordered not later than the 78th day before the election day.

In all elections to fill vacancies of office in this state, it will be to fill the unexpired term only.

By Appointment

An appointment to the governing body of a local government will be made as required by the law applicable to that local government and may be made with the intent to ensure that the governing body is representative of the constituency served by the governing body. A local government that chooses to implement this provision will adopt procedures for the implementation. *Local Gov't Code 180.005(b)–(c)*

A vacancy on the Board may be filled by appointment through a resolution adopted by a majority of the remaining Board members. The Board may adopt procedures on a case-by-case basis, which may include an application process, or the Board may appoint a person who has expressed an interest in serving with or without an application process. Any person appointed must meet the qualifications set forth at Election Code 141.001(a) and Education Code 130.082(d).

The person appointed to fill the unexpired term will serve until the next regular election of members to the Board, at which time the position will 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. *Tex. Const. Art. XVI, Sec. 27; Education Code 130.082(d)*

**Temporary
Replacement of
Board Member on
Military Active Duty**

An elected or appointed 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. In that case, the Board may, but is not required to, appoint a replacement to serve as a temporary active Board member as provided by Texas Constitution Article XVI, Section 72 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 will appoint the temporary acting 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 acting Board member under this policy has all the powers, privileges, and duties of the office. A temporary acting

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Board member will perform the duties of office for the shorter period of either:

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 U.S. Army, the U.S. Navy, the U.S. Air Force, the U.S. Marine Corps, the U.S. Coast Guard, any reserve or auxiliary component of any of those services, or the National Guard.