



Community College Board Member Resignations¹

Q: *How does a community college board member resign?*

A: A board member's resignation must be in writing, signed by the board member, and delivered to the board president or the board secretary for action. Tex. Elec. Code §§ 201.001(a)-(b), .002.

Q: *Can the board decline a board member's resignation?*

A: No. A college may not refuse to accept a board member's resignation. Tex. Elec. Code § 201.001(a).

Q: *When does a vacancy occur for purposes of initiating the process to fill the vacancy?*

A: Regardless of the resignation's effective date, a vacancy occurs on the date the board accepts the resignation or on the eighth day after the board receives it, whichever is earlier. Tex. Elec. Code § 201.023.

Q: *May a board member withdraw a resignation?*

A: Yes. A board member may withdraw a resignation before the earlier of the board's acceptance or the eighth day, but not after, even if a replacement has not been named. Tex. Att'y. Gen. Op. No. DM-406 (1996).

Q: *Is a board member required to continue performing their duties after resignation?*

A: Yes. The resigning member is subject to the *holdover doctrine*. The *holdover doctrine* requires a board member to continue to perform their duties until their successor is duly qualified, i.e., sworn in. A board member continues to serve, to have the duties and powers of office, and to be subject to the nepotism provision, until the vacancy created by their resignation is filled. The board member, however, may not vote on the appointment of their successor. Tex. Const. Art. XVI, Sec 17; Tex. Att'y Gen. Op. Nos. JM-636 (1987), DM-2 (1991), O-6259 (1945).

¹ An electronic version of this document is available on TASB College eLaw at tasb.org/Services/Community-College-Services/Resources/TASB-College-eLaw/documents/community-college-board-member-resignations.pdf.

Q: *May a board member submit a resignation to be effective at a later date?*

A: Yes. If a board member who is voluntarily resigning specifies a future effective date for their resignation, the replacement may not begin to serve until after the date indicated in the resignation. In other words, a board member who ends their service by voluntary resignation retains the right to decide when he or she leaves even though the resigning board member cannot withdraw the resignation has been accepted by the board or eight days have passed. *See State ex rel. Angelini v. Hardberger*, 932 S.W.2d 489 (Tex. 1996) (denying a writ of *quo warranto* to remove a judge before his stated date of resignation).

Q: *What are the board's options for filling a vacancy?*

A: Vacancies must be filled by either a special election ordered by the board, or by appointment by a resolution or order by the board. Tex. Educ. Code § 130.082(d).

Q: *If a new board member is appointed, does that board member serve for the remainder of the term?*

A: If the board appoints a person to fill a vacancy, that person will fill the unexpired term only, and must serve until the next regular board member election. Tex. Educ. Code § 130.082(d).

Q: *If a new board member is elected, does that board member serve the remainder of the term?*

A: An election to fill a board member's vacancy must be to fill the unexpired term only. Tex. Const. Art XVI, Sec. 27.

Q: *When may a board hold a special election to fill a vacancy?*

A: If a community college board fills a vacancy by special election, the election must be ordered as soon as practicable after the vacancy occurs, and must be held on the first authorized uniform election date on or after the 46th day after the date the election is ordered. The special election must be held in the same manner as the college's general election, except as provided by the applicable provisions of the Election Code. Tex. Elec. Code §§ 41.002, 201.051-.052; Tex. Educ. Code § 130.082(d).

Q: *What TASB Policies apply to board member resignations?*

A: See TASB Policy BBC(LEGAL).

Q: *Where can I get more information on board member resignations?*

A: If you have questions about these or other legal issues, community college representatives may contact TASB Community College Services at 800.580.1488 or colleges@tasb.org.

For more information on community college law topics,
visit TASB Community College eLaw online at colleges.tasb.org/elaw.

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