

HOW TO FILL VACANCIES



For Superior Court Judge

**Prepared by the
Election Information and Preparation Division**

This reference guide has been prepared in an effort to provide answers to questions frequently asked to the Election Officials concerning filling vacancies in local offices. It is for general information only and does not have the force and effect of law. Persons using this guide must bear full responsibility to make their own determinations as to all legal standards and duties.



HOW TO FILL A VACANCY

Pursuant to Government Code Section § 1770 an office becomes vacant on the happening of any of the following events before the expiration of the term:

The death of the incumbent.

Incumbent is physically or mentally incapacitated due to disease, illness, or accident.

His or her resignation.

His or her removal from office.

His or her ceasing to be an inhabitant of the state, or if the office be local and one for which local residence is required by law, of the district, county or city for which the officer was chosen or appointed, or within which the duties of his or her office are required to be discharged.

His or her absence from the state without the permission required by law beyond the period allowed by law.

His or her ceasing to discharge the duties of his or 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.

His or her conviction of a felony or of any offense involving a violation of his or her official duties. An officer shall be deemed to have been convicted under this subdivision when trial court judgment is entered.

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

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

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

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

VACANCY FOR SUPERIOR COURT JUDGE

VACANCY

A vacancy shall be filled by election to a full term at the next general election after the second January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins. **CA. Const., Art. VI, Sec 16(c)**

If the vacancy occurs in 2021, prior to November 2021, the next election will be held in the year 2024. This will be true whether or not the vacancy is filled by the Governor.

If the vacancy occurs after the close of the filing period for the 2022 Primary Election and the incumbent is unopposed, the election to fill the vacancy will be held in 2024. (This occurs because the election process cannot be properly completed.)

An exception to this general rule is if the vacancy occurs in 2021 but occurs after a candidate has qualified for a particular office (i.e. an election is scheduled to be held at its normal time and the incumbent office holder is still in office when another candidate qualifies), the election will be held in 2022.

The preceding refers to vacancies occurring in 2021. For offices that become vacant in 2019 or 2020, the election will occur in 2022.

TERMS OF OFFICE

The term of office for judge of the superior court is 6 years. The six-year term begins on the first Monday after the January 1 following the election. **CA. Const., VI, Sec. 16 (c)**