

Chapter 13

Vacancies

This chapter provides information about determining if a vacancy exists and how governing bodies must fill vacancies when they do exist.

Also refer to the other chapters of this handbook for information that applies to all elections and specific elections.

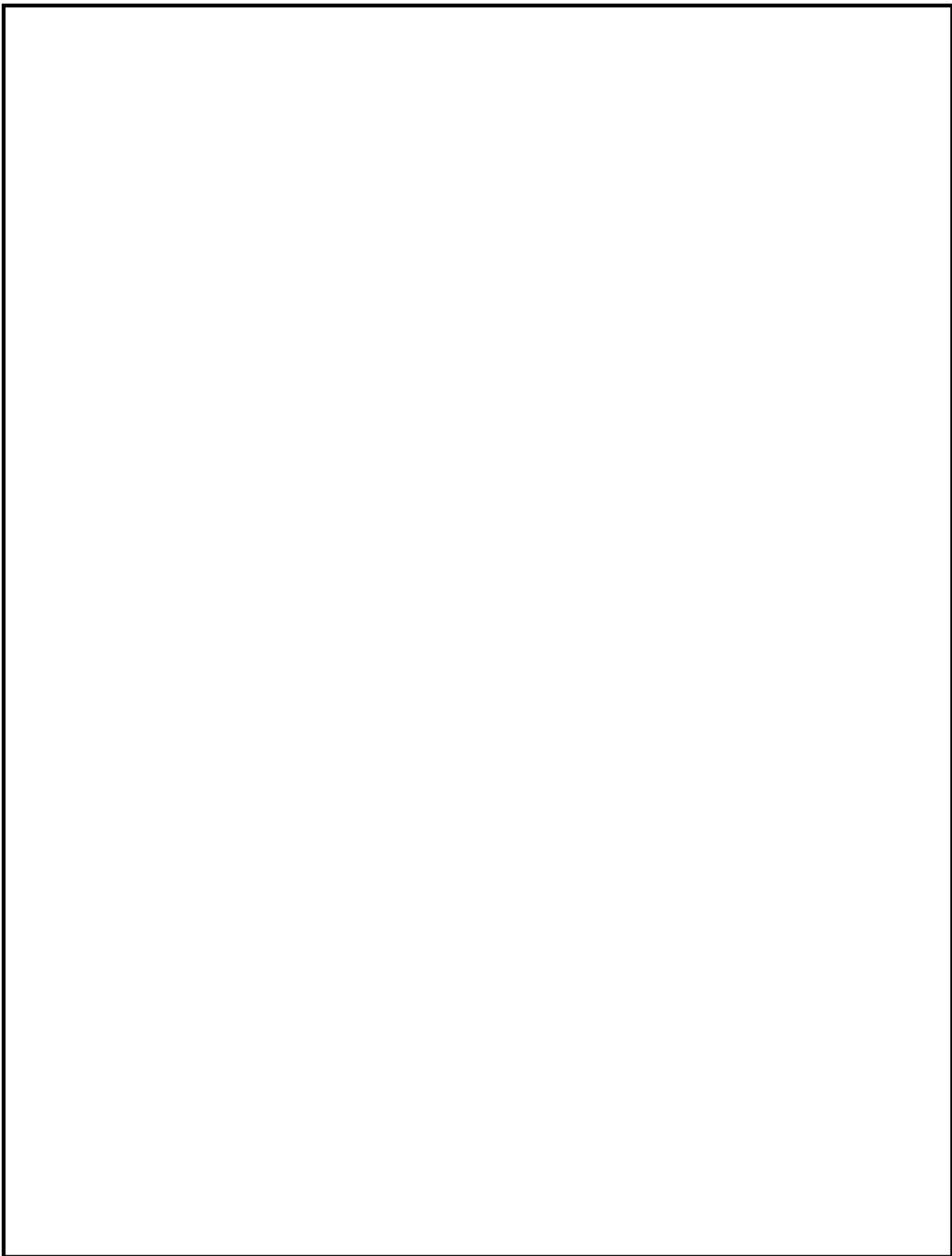


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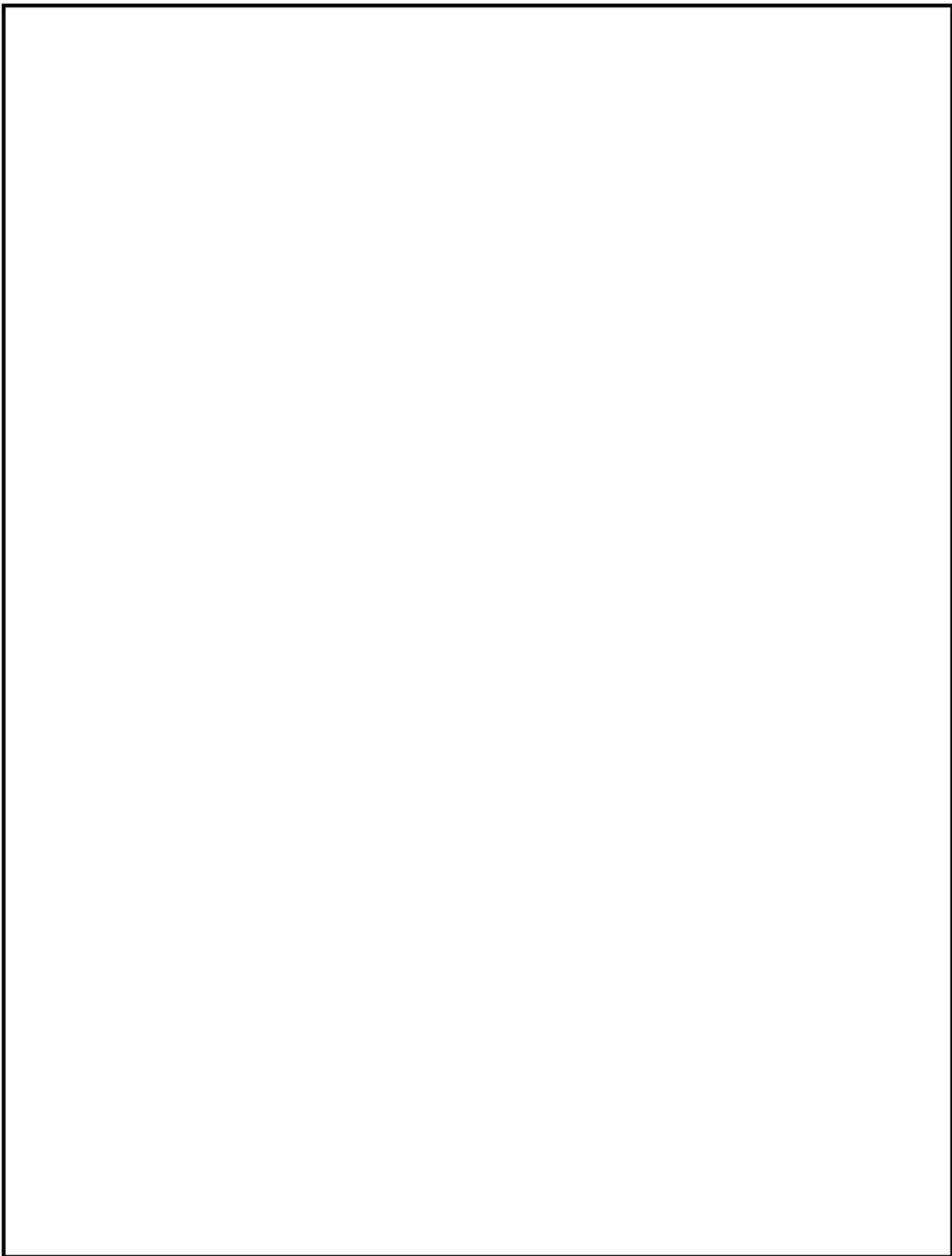
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Overview

Does a Vacancy Exist?

Generally, a vacancy in an elective office occurs when an elected or appointed officeholder dies, resigns, or is removed from office before the end of the term to which the officeholder was elected to serve.

Sometimes, whether a vacancy exists is less clear. In those situations, the governing body can independently initiate or the eligible electors of the jurisdiction can request a hearing by filing a petition to determine whether a vacancy does exist in a public office. For additional details about this procedure, please see §69.2, subsections 2 and 3.

When Vacancies Occur

A vacancy occurs:

- On the date of the officeholder's death
- On the date the officeholder submits a resignation if the resignation is effective immediately
- On the date specified by the officeholder in the resignation if the resignation will become effective at a future date
- On the date the officeholder is removed from office

Mid-Term Vacancy

A mid-term vacancy is a vacancy that occurs in the middle of a term when there is another pending election scheduled before the term will normally expire.

Example:

Ben, the county recorder, was elected in 2014. Ben resigned on January 1, 2015, to spend more time with his family. Ben's resignation created a mid-term vacancy because his term would normally expire at the end of 2018 and there is another pending election scheduled before the end of 2018 which is the 2016 general election. The office of recorder must appear on the ballot at the November 2016 general election even though it is not scheduled to appear on the ballot again until November 2018.

When Vacancies can be Filled

A vacancy can only be filled after it actually occurs. A governing body may publish notice of its intention to appoint or its intention to call a special election before the vacancy actually occurs, but appointments cannot be made and special election dates cannot be set until after the vacancy occurs.

Exception: If a school board member announces a resignation to take effect at the beginning of the next term for school officials in that district and the announcement is made at least 45 days before the upcoming school election, that school board member's seat may appear on the ballot at the regular school election as "To Fill Vacancy." There are no other elective offices with similar statutory provisions.

[§279.6, unnumbered paragraph 2]

How Vacancies are Filled

The statutes are different for each type of office. In some situations, the governing body must appoint a replacement and constituents have no ability to request a special election. In other situations, a special election must be called and there is no ability for a governing body to appoint a replacement. Finally, there are also situations where the governing body must choose whether to fill a vacancy by appointment or hold a special election. The rules applicable to all elective offices will be covered in this chapter.

"Next Pending Election"

The "next pending election" is the next election at which either a public measure will be voted on by the constituents in the political subdivision or at which officials will be elected to represent the political subdivision.

[§69.12, first unnumbered paragraph]

Ballot Language

The office title must include the words "To Fill Vacancy."

Example: For County Recorder, To Fill Vacancy

[§49.57(7)]

How to Know if Candidates are Running to Fill Vacancies

Candidates running to fill vacancies must check the "Yes" box next to the question: "Is the candidate running to fill a vacancy due to the death, resignation removal or temporary appointment of the previous officeholder?" on the affidavit of candidacy and the nomination petitions or convention certificate.

Length of Appointments

Generally, an individual appointed to fill a vacancy only serves until the next pending election. If the political subdivision has a special election or a regularly scheduled election after an individual is appointed and the term the appointee is serving is not scheduled to end after the next pending election, the office in which the appointee is currently serving must appear on the ballot as “To Fill Vacancy.”

Term Start Date for Certificate of Election

When individuals are elected to fill vacancies, their terms begin as soon as a certificate of election is issued and they qualify for the office. There is no term start date. Instead, the certificate of election should state that the individual is elected for the “residue of the term ending [at the end of the original term].”

[§50.29]

When individuals are not elected to fill vacancies but there is an appointee currently serving in the seat to which they were elected for the succeeding term, the term start date is the first day of the term to which they were elected. However, the individual must qualify for the office before the term start date due to an operation of law.

[§50.29, 69.12]

“Qualify” for Office

“Qualification” for public office means taking the oath of office and giving bond when required.

[§63.1]

Required Oath of Office Language

It depends on the office. Generally, the text of the required oath of office can be found in §63.10. If the statutes governing the election do not contain a different oath of office, use this one.

Exceptions:

- School Officials:

The oath of office for school officials is located in §277.28. The text of this oath differs, depending on whether the oath is taken in front of the board of directors or not.

- Governor/ Lt. Governor:

The oath of office for the governor and Lt. governor is located in §63.5.

- Judges:

The oath of office for judges is located in §63.6.

When Oath of Office Must be Taken

Vacancy Filled by Appointment

The appointee must take the oath of office no later than 10 days after the date the appointment was made.

[§63.8]

Vacancy Filled by Special Election

If the previous officeholder was appointed to the office or there is no previous officeholder, the individual declared elected must take the oath of office within 10 days after the canvass of votes declaring the individual elected. If the seat is on a multimember board to which more than one person is to be elected, the non-incumbent who receives the most votes must qualify within 10 days of the canvass.

The requirement to be sworn in within 10 days of the canvass applies even when the individual declared elected was running to fill vacancy or not. The appointee never serves the rest of the term.

[§63.8, 69.12(2)]

Exception: If it is a special school election to fill a vacancy, the newly elected officer must qualify within 10 days after the election.

[§63.8, 279.7]

Example 1:

Betty Busybody resigned from the office of county sheriff on January 1, 2014. Her term was not set to expire until December 31, 2016. The county supervisors filled the vacancy by appointing Dan Doorknob until the November 2014 General Election. Bill Bustem ran and was elected to fill the vacancy on November 2, 2014. Bill must take the oath of office within 10 days of the county canvass of votes and Dan's appointment is over as soon as Bill takes the oath of office.

Example 2:

Connie Crabtree resigned from the office of county supervisor on January 1, 2016. Her term was set to expire on December 31, 2016. The county committee filled the vacancy by appointing Fiona Firedup until the November 2016 General Election. There were three supervisor seats up for election in November 2016. Sally Sympathetic, a non-incumbent, ran for supervisor and received the most votes. Sally Sympathetic must qualify by taking the oath of office within 10 days after the county canvass of votes. Fiona's appointment is over and Sally will serve the remainder of Connie Crabtree's term, even though Sally did not run to fill a vacancy.

Example 3:

Mike Moveover retired from the office of county auditor on July 1, 2013. His term was set to expire on December 31, 2016. The county supervisors called for a special election on September 10, 2013, to fill the vacancy. Eddie Eager ran and was elected to fill the vacancy. Eddie must take the oath of office within 10 days of the county canvass of votes.

Who Gives Oath of Office

Oaths of office may be given by persons empowered to administer oaths as set forth in *Iowa Code* chapter 63A.

[Chapter 63A]

Oath of Office not Taken on Time

If an oath of office is not taken on time, the elected official fails to qualify for the office which creates another vacancy.

[§69.2(1)(b)]

Unavoidable Reasons

In the event the failure to timely qualify was unavoidable because the officer was sick, there was bad weather, or there was some other unavoidable absence or casualty, the officer can qualify within 10 days of the original deadline to qualify (i.e. 10 days after the term start date or 20 days after the canvass).

[§63.3]

When An Officer Holds Over

When there is no new officer elected to take over at the expiration of the previous officer's term, the previous officer must hold over until a successor is elected and qualified. This may occur when an election contest is occurring and the successor has not been determined yet by the contest court.

[§63.7, 69.1A]

Unexpired Term Ends within 70 Days After Next Pending Election

When the unexpired term of a vacancy expires within 70 days after the next pending election or after the date of an election in which the office was on the ballot, the person elected to the office must also serve the remainder of the unexpired term.

[§69.12(2)]

Vacancies on School Boards

Iowa Code sections 69.12, 277.29, 279.6 and 279.7

Filling Vacancies

The vacancy must be filled by appointment of the remaining directors until the next pending election unless one of the following happens:

- When the school board fails to appoint a replacement within 30 days [§279.7(1)]

- When the vacancy reduces the number of school directors below a quorum

If there is no quorum, the school secretary is required to call a special election to fill the vacancy. If there is no school secretary, the area education agency administrator is required to call a special election to fill the vacancy.

[§279.7(1)]

- If within fourteen days after publication of a notice of intent to appoint, a petition is filed requiring a special election.

An appointment by the board to fill a vacancy on or after the day that notice has been given for a special election to fill such vacancy shall be null and void.

[§279.7(2)]

When Vacancies can be Filled

The board may make an appointment to fill the vacancy after the notice is published or after vacancy occurs, **whichever is later**.

[§279.6(1)(a)]

Publication Requirements

There are special publication requirements before the school board can appoint a replacement. The board shall publish notice of its intention to appoint before the appointment is scheduled to be filled. The publication must also notify school district residents of the right to request a special election by filling a petition. The publication must occur once in the manner prescribed by section 279.36.

Note: §279.36 is specific to school publications and does not set a timeframe that the publication must occur within.

[§279.6, 279.7, 279.36]

Appointing Replacements

Deadline

A replacement must be appointed within 30 days of the date the vacancy becomes known by the secretary of the board.

[§279.7]

Exception: The school board can decide that vacancies occurring between 70 and 45 days before the next regular school election will be filled at the upcoming school election. They do not need to be filled by appointment.

[§69.12(1)(a)(3), 279.6 unnumbered paragraph 2, 279.7]

Tenure of Vacancy Appointee

A person appointed to fill a vacancy in an elective office shall hold office until a successor is elected and qualified pursuant to section 69.12.

[§279.6]

Note: Using 69.12 to define the tenure of a vacancy appointee presents an unworkable situation if the next pending election is not a school election. *Bettendorf v Scott County* ignored the requirement in 69.12 that a vacancy election be held with an election for the same political subdivision and ruled that the next pending election is the next scheduled election regardless if boundary conflicts exist.

Watch for the potential of 2016 legislative correction.

Appointment not Made Before Deadline

If the school board fails to appoint a replacement within 30 days after the vacancy becomes known by the secretary of the board, the school board secretary is required to call a special election.

[§279.7]

School Secretary does not Call Special Election

If there is no secretary or if the school secretary does not call a special election after the board's failure to appoint, the area education agency administrator is required to call the special election.

[§279.7(1)]

Petitioning for a Special Election

If a petition is filed requesting a special election to fill a vacancy within fourteen days after publication of a notice of intent to appoint for a vacancy that occurs more than one hundred eighty days before the next regular school election an appointment to fill the vacancy is temporary until a successor is elected and qualified.

[§279.6]

Petitioning for a Special Election cont.

If a petition is filed requesting a special election to fill a vacancy that occurs between 180 days and 45 before the regular school election, the board's appointment is temporary until a successor is elected and qualified at the next regular school election for the remainder of the unexpired term. The special, if there is a petition will be on the regular school election date.

[§279.6]

If a petition is filed requesting a special election to fill a vacancy that occurs during the 44 days when filing for a regular school election is closed, the next regular school election would be the school election in two years. Because the filing period is closed, a vacancy occurring in the 44 day window would be more than 180 days before the next regular school election and a special election would be called.

Signature Requirements

For a petition to be valid, the petition must be signed by eligible electors equal in number to **not less than** one hundred or thirty percent of the number of voters at the last preceding regular school election, **whichever is greater**.

[§279.6]

Dates of Special Elections to fill Vacancies

If a special election must be held to fill a vacancy on a school board, the election may be held on any Tuesday that is not during a blackout period before or after a primary or general election. In addition, the election cannot be held on a day where there is another election being held for a different political subdivision that involves the same voters.

See the Special Elections chapter for additional information.

Deadline for Holding Special Election

- A special election shall be held between 60 and 70 days of when the vacancy becomes known by the secretary or the board.

[§279.7(1)]

- If a petition is filed requesting to fill the vacancy by election for a vacancy that occurs more than 180 days and 45 before the regular school election, the board's appointment is temporary until a successor is elected and qualified at the next regular school election for the remainder of the unexpired term.

[§279.6]

- A petition filed requesting to fill the vacancy by election for a vacancy that occurs more than 180 days before the next regular school election, the board's appointment is temporary until a successor is elected and qualified at a special election called by the board pursuant to §279.6 for the remainder of the unexpired term.

Vacancies that occur 44 days or less before a regular school election (when candidate filing is closed) are subject to petition and special election.

[§279.7(1)]

Special Elections to Fill Vacancies

Dates of Special Elections

If a special election must be held to fill a vacancy on a school board, the election may be held on any Tuesday that is not during a blackout period before or after a primary or general election. In addition, the election cannot be held on a day where there is another election being held for a different political subdivision that involves the same voters.

See the Special Elections chapter for additional information.

Deadline for Holding Special Election

If a special election must be held, it must occur between 60 and 70 days after the vacancy becomes known by the school secretary.

[§279.7(1)]

Signature Requirements

The number of signatures required to get on the ballot is equal to one percent of the registered voters in the school district (or director district if directors are elected by district); however, the number of signatures can never be fewer than 10 or more than 50. The number of registered voters is based on the number of voters registered as of the date the auditor receives notice of the special election.

[§277.4(2), IAC 721—21.500]]

Filing Officer

The school secretary is the filing officer for special elections to fill vacancies on school boards.

[§277.4, 279.7]

Candidate Filing Deadlines

If the special election is held at the same time as a regularly scheduled election, the filing deadlines are the same as the deadlines for the regularly scheduled election. See the election-specific chapters for more information.

If the special election is not held at the same time as a regularly scheduled election, the filing deadlines are:

First Day: As soon as the auditor receives notice of the special election

Last Day: No later than 5 p.m. on the 25th day before the special election

Nomination papers are filed with the school board secretary. The school secretary's office is required to remain open until 5 p.m. on the final date for filing.

[§279.7(4)]

Withdrawal and Objection Deadlines

Withdrawal: No later than the 25th day before the election

The written notice is filed with the school secretary.

[§44.9(5)]

Objection: No later than 35 days before the election.

Written objections must be filed with the school secretary.

The school secretary should consult with the school district attorney for information on how to proceed in these cases before acting on an objection for this type of election after the 35 day deadline. If the school secretary has proceeded on an objection filed after the 35 day deadline, the auditor should consult with the county attorney before proceeding.

[§277.5]

Public Measures

Public measures may also be placed on the ballot, if the auditor's office is provided with at least 32 days notice of the intent to place a public measure on the ballot with the vacant office and assuming any other legal requirements to place the public measure on the special election ballot are met.

[§47.6(1)(a)(1)(b)]

Filling Vacancy at Special Community College Public Measure Election

The vacancy must be filled at an upcoming special community college election for a public measure if the election was scheduled before the vacancy occurred unless:

- There has already been a special election to fill the vacancy

OR

- The vacancy occurs fewer than 60 days before the next pending election

[§69.12(1)(a)(4)]

Filling Vacancy at Next Regular School Election

The vacancy must be filled at the next regular school election unless:

- The term of the office in which the vacancy occurred is set to expire after the regular school election

OR

- There has already been a special election to fill the vacancy

OR

- The vacancy occurs fewer than 45 days before the regular school election

[§69.12(1)(a)(3), 279.7, 279.6]

If the seat would have been up for election at the next regular school election, then the office must appear on the ballot at the regular school election for the full term, not as “To Fill Vacancy.”

If the vacancy occurs fewer than 45 days before the regular school election the vacancy must be filled by appointment until the next pending election.

Advance Resignations

If a school board member announces a resignation to take effect at the beginning of the next term for school officials in that district and the announcement is made at least 45 days before the upcoming school election, that school board member’s seat may appear on the ballot at the regular school election as “To Fill Vacancy.”

[§279.6, unnumbered paragraph 2]

Vacancies on Community College Trustee Boards

Laws Related to Community College Trustee Board Vacancies

Iowa Code sections 69.12, 277.29 and 260C.11 apply to vacancies on community college boards.

Filling Vacancies

The vacancy must be filled by appointment of the remaining trustees until the next pending election. There is no provision allowing residents of the district to petition for a special election to fill the vacancy.

[§260C.11]

Extra or Special Publication Requirements

There are no specific publication requirements related to filling vacancies on community college boards of trustees.

Appointing Replacements

Deadline

A replacement must be appointed at the next regular meeting of the board of trustees.

[§260C.11]

Trustees Do Not Make Appointment by Deadline

No penalty is set forth in the *Iowa Code* for failure to appoint a replacement trustee at the next regular meeting of the board.

Special Elections to Fill Vacancies

Dates of Special Elections

No special elections can be held specifically to fill vacancies on a board of community college trustees. If the community college is holding a special election on a public measure as authorized by §39.2(4) and there is a vacancy on the community college board of trustees which occurred more than 60 days before the date of the upcoming special election that is currently filled by an appointee, that seat must go on the ballot as “To Fill Vacancy” at the time the special election is held for the public measure.

[§69.12(1)(a)(4), 260C.11]

Deadline for Holding Special Election

There is no deadline because a special election to fill the vacancy cannot be held unless there is going to be a public measure on the ballot. To be filled at a special election on a public measure, the vacancy must have occurred at least 60 days before the date of the upcoming special election.

[§69.12(1)(a)(4), 260C.11]

Signature Requirements

The number of signatures required to get on the ballot is not less than 50 signatures of eligible electors in the director district.

[§260C.15(2)]

Filing Officer

The community college board secretary is the filing officer.

[§260C.15(3)]

Candidate Filing Deadlines

If the special election is held at the same time as a regularly scheduled election, the filing deadlines are the same as the deadlines for the regularly scheduled election. See the election-specific chapters for more information.

If the special election is not held at the same time as a regularly scheduled election, the filing deadlines are:

First Day: As soon as notice is given to the control county auditor.

Last Day: No later than 5 p.m. on the 25th day before the special election.

Papers are filed with the community college board secretary. The secretary's office is required to be open until 5 p.m. on the final date for filing.

[§69.12(1)(b)(4)]

Public Measures

There must be a public measure election scheduled on the ballot before a vacancy can be filled at a special election.

[§69.12(1)(a)(4)]

Filling Vacancy at Special Community College Public Measure Election

The vacancy must be filled at an upcoming special community college election for a public measure if the election was scheduled before the vacancy occurred unless:

- There has already been a special election to fill the vacancy

OR

- The vacancy occurs fewer than 60 days before the next pending election

[§69.12(1)(a)(4)]

Filling Vacancy at Next Regular School Election

The vacancy must be filled at the next regular school election unless:

- The term of the office in which the vacancy occurred is set to expire after the regular school election

OR

- There has already been a special election for a public measure at which the vacancy was filled

OR

- The vacancy occurs fewer than 45 days before the regular school election

If the seat would have been up for election at the next regular school election, then the office must appear on the ballot at the regular school election for the full term, not as “To Fill Vacancy.”

If the vacancy occurs fewer than 45 days before the regular school election the vacancy must be filled by appointment until the next pending election.

Vacancies on City Councils

Laws Related to City Council Vacancies

Iowa Code section 372.13 applies to vacancies in city offices.

Filling Vacancies

The city council must decide whether to fill a vacancy in an elective city office by appointment or by calling for a special election.

[§372.13(2)]

Extra or Special Publication Requirements

There are extra or special publication requirements if the council decides to appoint a replacement. The council must publish notice of its intention to appoint at least four but no more than 20 days before the appointment is scheduled to occur. The publication must also notify city residents of the right to request a special election by filing a petition. The publication must occur once and must be published in a newspaper of general circulation in the city, unless the city has a population of fewer than 200 and has an ordinance designating three public places for posting of such notices.

[§372.13(2)(a), 362.3]

There are no extra or special publication requirements if the council decides to call for a special election.

[§372.13(2)(b)]

Appointing Replacements

Deadline

The appointment must be made within 60 days after the vacancy occurs.

[§372.13(2)(a)]

Appointment not Made Before Deadline

If the city council fails to appoint a replacement within 60 days, the city clerk must give notice of the vacancy to the county auditor. The county auditor must call for a special election at the earliest practicable date but no sooner than 32 days after the notice from the city clerk was received. If the city has a primary election provision, the county auditor must call for a special election at the earliest practicable date but no sooner than 60 days after notice from the city clerk was received.

[§372.13(2)(a)(1)]

Petitioning for a Special Election

Signature Requirements

The number of eligible elector signatures required on a petition requesting a special election varies depending on the population of the city.

<u>Population of City</u>	<u>Signatures*</u>
10,000 or less	15%* or 200, whichever is less
10,001 – 50,000	15%* or 1000, whichever is less
50,001 or more	10%* or 2000, whichever is less

*Signatures of eligible electors of the city equal to the required percentage (10 or 15) of the votes cast for all candidates for that office at the last regular election in which the office was on the ballot.

[§372.13(2)]

If there was more than one position filled for the office in which the vacancy exists on the ballot at the last election, the number of voters who voted for candidates for the office is calculated by dividing the total number of votes cast for the office by the number of seats to be filled.

Example: At the 2009 regular city election, in a city with a population of 12,002 there were 3 at-large city council seats on the ballot. There were 394 votes cast for Candidate A, 483 votes cast for Candidate B, 942 votes cast for Candidate C and 34 write-in votes.

Total Votes Cast (TVC) = $394+483+942+34 = 1853$

$1853 / 3$ (# seats to be filled) = 617.33

$0.15 \times 617.33 = 92.6 \rightarrow$ Round 92.6 up to 93.

93 is fewer than 1,000 and it is greater than 10 so 93 signatures would be required to force the city council to hold a special election in this example.

Filing Deadline

The petition must be filed with the city clerk within 14 days after publication of the notice of intent to appoint or within 14 days after the appointment is made, whichever is later.

[§372.13(2)(a)(2)]

Reviewing Validity of Petition

Section 372.13 does not contain any standards the city clerk is supposed to follow to assess the validity of the petition; however, §362.4 indicates the petition must be accepted on its face. For more information about accepting a petition on its face, see the Filing Officer's Guide.

If a petition is accepted by the city clerk, it is valid unless an objection is filed with the city clerk within five working days after it is received. If an objection is received, the process in §44.4 must be followed.

[§362.4]

Special Elections to Fill Vacancies

Dates of Special Elections

If a special election must be held to fill a vacancy in a city office, the election may not be held on the following dates:

- A Tuesday during a blackout period before or after a primary or general election
- A day where there is another election being held for a different political subdivision that involves the same voters (e.g. a school election)
- A city with a primary election provision cannot have a special election to fill a vacancy at the time of the general election

Deadline for Holding Special Election

The special election must be held at the earliest practicable date but no later than 90 days after the vacancy occurs.

[§372.13(2)(b)(1)]

Notice to Auditor

If the city has a primary election provision, notice to the auditor must be given at least 60 days before the special election date.

For all other cities, notice to the auditor must be given at least 32 days before the special election date.

[§372.13(2)(b)]

Signature Requirements

Primary and Runoff Cities:

In primary and runoff cities, candidates must file petitions containing signatures of eligible electors equal in number to at least two percent of those who voted to fill the same office at the last regular city election but no less than 10.

[§376.4(1)(a)]

Chapter 45 Cities:

Population 3,500 or greater: No fewer than 25 eligible electors who are residents of the city or ward

Population 100 to 3,499: No fewer than 10 eligible electors who are residents of the city or ward

Population less than 100: No fewer than five eligible electors who are residents of the city or ward

[§45.1(8)]

Filing Officer

The control county auditor is the filing officer for candidate nomination papers for special elections to fill vacancies on city councils.

[§376.4]

Candidate Filing Deadlines

If the special election is held at the same time as a regularly scheduled election, the filing deadlines are the same as the deadlines for the regularly scheduled election. See the election-specific chapters for more information.

If the special election is not held at the same time as a regularly scheduled election, the filing deadlines are:

Cities with Primary Election Provisions

First Day: As soon as notice is given to the auditor

Last Day: No later than 5 p.m. on the 53rd day before the special election

All Other Cities

First Day: As soon as notice is given to the auditor

Last Day: No later than 5 p.m. on the 25th day before the special election

Nomination papers are filed with the control county auditor.

[§372.13(2)(b), IAC 721—21.403(2), 721-21.404(3)]

Withdrawal and Objection Deadlines

Withdrawal Deadline

Primary Cities: No later than 5 p.m. on the 50th day before the election

All Other Cities: No later than 5 p.m. on the 22nd day before the election
[IAC 721—21.403(2), 721—21.404(3)]

Objection Deadline

Primary Cities: No later than noon on the 50th day before the election

All Other Cities: No later than noon on the 22nd day before the election
[IAC 721—21.403(2), 721—21.404(3)]

Public Measures

Public measures may also be placed on the special election ballot.

If the city has a primary election provision, the deadline for the city to provide the full text of the public measure to the auditor's office is 5 p.m. on the 53rd day before the special election.

[§47.6(1)(a)(1)(b), IAC 721-21.403(2)(a)]

For all other cities, the deadline for the city to provide the full text of the public measure to the auditor's office is 5 p.m. on the 32nd day before the special election.

[§47.6(1)(a)(1)(b)]

City Primary and Runoff Elections

The city also needs to hold a city primary election or a city runoff election if the city has primary elections or runoff elections adopted as the city's method of nomination. If necessary, a special city primary election must be held four weeks before the date of the special city election. If necessary, a special city runoff must be held four weeks after the date of the special city election.

If the city has nominations under chapter 44 or chapter 45, a special city primary is never required. If the city has nominations under chapter 44 or chapter 45, a special city runoff election is never required.

See the City Elections chapter for more information.

Filling Vacancy at Special City Public Measure Election

A vacant seat filled by appointment must be filled at an intervening special city election for a public measure.

Important Note: The general election is only an intervening special election for that city if the city places a public measure on the general election ballot.

Exception: Cities with primary provisions cannot fill vacancies at the general election even if a public measure for the city will be on the general election ballot.

Filling Vacancy at Next Regular City Election

The vacancy must be filled at the next regular city election unless

- The term of the office in which the vacancy occurred is set to expire in January immediately following the regular city election

OR

- There has already been a special election to fill the vacancy.

If the term of the office in which the vacancy occurred is set to expire in January after the regular city election, then the office will appear on the ballot at the regular city election for the full term, not as “To Fill Vacancy.”

Calendar of Events

Cities with Primary Provisions

Days Before Election	Event
60 days – Friday	Written notice to auditor due
53 days, 5 p.m. – Friday	Candidate filing deadline
50 days, noon – Monday	Objection deadline
50 days, 5 p.m. – Monday	Withdrawal deadline
28 days – Tuesday	Primary election if needed

[IAC 721—21.403(2)]

All Other Nomination Methods (Not Held in Conjunction with General Election)

Days Before Election	Event
32 days – Friday	Written notice to auditor due
25 days, 5 p.m. – Friday	Candidate filing deadline
22 days, noon – Monday	Objection deadline
22 days, 5 p.m. – Monday	Withdrawal deadline
28 days after – Tuesday	Runoff election if needed

[IAC 721—21.404(3)]

All Other Nomination Methods (Held in Conjunction with General Election)

Days Before Election	Event
76 days – Wednesday	Written notice to auditor due
69 days, 5 p.m. – Wednesday	Candidate filing deadline
64 days, 5 p.m. – Monday	Objection deadline
64 days, 5 p.m. – Monday	Withdrawal deadline
28 days after – Tuesday	Runoff election if needed

[IAC 721—21.404(2)]

Vacancies in Partisan County Offices

Laws Related to Partisan County Office Vacancies

Iowa Code section 69.14A applies to vacancies in partisan county offices.

[§69.14A]

Filling Vacancies

The vacancy can be filled either by appointment or by special election to fill the vacancy.

For vacancies on the board of supervisors, a county committee composed of the auditor, treasurer, and recorder decides if the vacancy will be filled by appointment or by special election. If any of those offices has been abolished through consolidation of duties, the attorney serves on this committee. If the committee decides to appoint a replacement, the committee also makes the appointment.

[§69.8(4), 69.14A]

For vacancies in other elected county offices, (i.e. auditor, treasurer, recorder, sheriff and attorney), the board of supervisors decides if the vacancy will be filled by appointment or by special election.

[§69.8(3), 69.14A]

Extra or Special Publication Requirements

There are special or extra publication requirements if the vacancy will be filled by appointment. Notice must be published of the intention to appoint at least four but no more than 20 days before the appointment is scheduled to occur. The publication must also notify county residents of the right to request a special election by filing a petition. The publication must occur once and must be published in a newspaper of general circulation in the county.

[§69.14A, 331.305]

There are no special or extra publication requirements if a special election is called to fill the vacancy.

Appointing Replacements

Deadline

If the vacancy will be filled by appointment, the appointment must be made within 40 days after the vacancy occurs.

[§69.14A(1)(a)(1), 69.14A(2)(a)(1)]

Appointment not Made Before Deadline

There is no penalty set forth in the *Iowa Code*.

Special Requirements for Appointees

There are special requirements that apply to potential appointees. Anyone appointed to a county office other than county attorney must have actually resided in the county for at least 60 days prior to their appointment.

Exception: If no eligible candidate comes forward for appointment to the offices of auditor, recorder, treasurer and sheriff, the board may temporarily hire a nonresident for 60 – 90 days.

[§69.14A(1)(a)(1), 69.14A(2)(a)(1). 69.14A(3)]

Petitioning for Special Election

Signature Requirements

The petition must be signed by eligible electors of the county equal in number to at least 10% of the votes cast in the county for the office of president or governor at the last general election. The petition must include each petitioner's signature, a statement of their place of residence, and the date they signed the petition.

Exception: Petitions to fill vacancies in Plan III supervisor seats by election need to be signed by at least 10% of the votes cast in the county for the office of president or governor at the last general election, divided by the number of supervisor districts in the county.

[§69.14A(1)(a)(2), 331.306]

Filing Deadline

The petition must be filed with the auditor within 14 days after the notice of intention to appoint was published or within 14 days after the appointment was made, whichever is later.

[§69.14A(1)(a)(2), 69.14A(2)(a)(2)]

Reviewing Validity of Petition

Section 69.14A does not contain any standards the auditor is supposed to follow to assess the validity of the petition; however, §331.306 indicates the petition must be accepted if it is valid on its face. For more information about determining if a petition is valid on its face, see the Filing Officer's Guide.

If a petition is accepted by the auditor, it is valid unless an objection is filed with the auditor within 5 working days after it is received. If an objection is received, the process in §44.7 must be followed.

[§331.306]

Special Elections to Fill Vacancies

Dates of Special Elections

If a special election will be held to fill a vacancy in a county office, the election may be held on any Tuesday that is not during a blackout period before or after a primary or general election or a day where there is another election being held for a different political subdivision that involves the same voters (e.g. school election).

Deadline for Holding Special Election

The special election must be held at the earliest practicable date but the auditor must be given at least 32 days' notice of the special election. At this time, there are no Iowa court cases or attorney general opinions defining "earliest practicable date" in this context.

[§69.14A(1)(b)(1), 69.14A(2)(b)(1)]

How Nominations are Made

Political Party Candidates

For special partisan elections, there is no primary election so political parties must nominate candidates by reconvening the county convention. Convention requirements can be found in §43.78(d-e).

[§43.78(4)]

NPPO Candidates

For special partisan elections, NPPOs may nominate candidates either by holding a nominating convention or by circulating nomination petitions. Convention requirements can be found in §44.1 or in the Filing Officer's Guide chapter. Petition requirements can be found in §45.1 or in the Filing Officer's Guide chapter.

"Nominated by Petition" Candidates

For special partisan elections, candidates who want to appear on the ballot followed by the words "Nominated by Petition" must file nomination petitions and affidavits of candidacy.

Signature Requirements for Nomination Petitions

Candidates nominated by NPPO petition and candidates running as “Nominated by Petition” must file signatures of eligible electors residing in the county equal in number to at least one percent of the number of registered voters in the county on July 1 in the year before the year in which the office will appear on the ballot, or by at least 250 eligible electors, whichever is less.

Exception: Plan III board of supervisor candidates must file signatures of eligible electors residing in the supervisor district equal in number to at least one percent of the number of registered voters in the supervisor district on July 1 in the year before the year in which the office will appear on the ballot, or by at least 150 eligible electors, whichever is less.

[§45.1(5-6)]

Filing Officer

The auditor is the filing officer.

[§43.78(4), 44.4(1), 45.4]

Candidate Filing Deadlines

If the special election is held at the same time as a regularly scheduled election, the filing deadlines are the same as the deadlines for the regularly scheduled election. See the election-specific chapters for more information.

If the special election is not held at the same time as a regularly scheduled election, the filing deadlines are:

First Day: As soon as the county auditor receives notice of the special election

Last Day: No later than 5 p.m. on the 25th day before the special election

Nomination papers are filed with the auditor. The auditor’s office must be open until 5 p.m. on the filing deadline.

[§43.88, 44.4]

Withdrawal and Objection Deadlines

Withdrawal Deadline (For additional information see Vacancies in Partisan Co Offices)

Political Party Candidates: The *Iowa Code* does not specify a procedure for withdrawing from a special election. Consult the county attorney.

NPPO and “Nominated by Petition” Candidates: 25 days before the election
[§44.9(2)]

Objection Deadline:

Political Party Candidates: The *Iowa Code* does not have a specific provision applicable to special elections. Consult the county attorney.

NPPO and “Nominated by Petition” Candidates: The *Iowa Code* does not have a specific provision applicable to special elections. Consult the county attorney.
[§43.24(1)(b)(2), 44.4(2)(a)(2)]

Public Measures

A public measure may also be placed on the ballot. The deadline for the county to provide the full text of the public measure to the auditor’s office is 5 p.m. on the 32nd day before the special election.

[§47.6(1)(a)(1)(b)]

Filling Vacancy at Special County Public Measure Election

If a special county election for a public measure was scheduled before the vacancy occurred, the vacancy must be filled at the upcoming special election unless:

- There has already been a special election to fill the vacancy

OR

- The vacancy occurs fewer than 60 days before the next pending election
[§69.12(1)(a)(4), 69.14A(1)(a)(1)]

Filling Vacancy at Next General Election

A mid-term vacancy needs to be placed on the primary election ballot and filled at the next general election if it occurs after the previous general election but more than 73 days before the next primary unless a special election was called to fill the office at least 73 days before the primary. If no special election was called and the office is still vacant or was filled by appointment, the office must be placed on the ballot at the primary election.

[§43.6(2)]

A mid-term vacancy occurring during the period beginning 73 days before the primary election and ending on the date of the primary election must be filled at the general election. The office will appear on the ballot as "To Fill Vacancy." Political parties must make nominations by convention for this office. NPPOs and "Nominated by Petition" candidates follow the usual general election filing process during the general election filing period.

[§43.77(5)(a)]

If a mid-term vacancy occurs after the date of the primary election and more than 73 days before the general election, the vacancy must be filled at the general election. A special election cannot be called. The office will appear on the ballot as "To Fill Vacancy." Political parties must make nominations by convention for this office. NPPOs and "Nominated by Petition" candidates follow the usual general election filing process during the general election filing period.

[§43.77(5)(b)]

Mid-term vacancies occurring fewer than 73 days before the general election cannot be placed on the general election ballot. The county board of supervisors or the county committee must decide if the vacancy will be filled by appointment until the next pending election or if a special election will be held.

Vacancies in Other Non-Partisan Offices

Township Officers

Township Officers are Elected

Vacancies in offices of township trustee or clerk must be filled by appointment. The remaining trustees must appoint a replacement trustee or clerk within 30 days after the vacancy occurs. If the remaining trustees fail to appoint a replacement within 30 days, the board of supervisors may appoint a successor.

Unlike most vacancy appointments, these appointments last until the next general election, not until the next pending election. Township offices never appear on the ballot at special county elections.

If the offices of two trustees are vacant at the same time, the county board of supervisors must appoint the replacement trustees.

If the offices of all three trustees are vacant at the same time, the county board of supervisors may either appoint replacement trustees or the board may assume the responsibilities and powers of the trustees until the vacancies can be filled at the next general election.

[§69.8(5)]

Township Officers are Appointed

If the township officers are appointed by the board of supervisors, the board of supervisors appoints to fill vacancies. The appointment lasts until the expiration of the original term.

[§69.8(5), 69.11]

Soil and Water Conservation Commissioners

Vacancies in the office of soil and water conservation commissioner must be filled by appointment. The state soil conservation committee makes the appointment. There is no deadline in the statute setting forth the deadline for appointing a replacement.

Unlike most vacancy appointments, these appointments last until the next general election, not until the next pending election. Soil and water conservation commissioner offices never appear on the ballot at special county elections.

[§161A.5]

County Agricultural Extension Council Members

Vacancies in the office of county agricultural extension council must be filled by appointment. The extension council of the extension district makes the appointment. There is no deadline in the statute setting forth the deadline for appointing a replacement.

If there are more than 70 days left in the term after the next pending election (i.e. countywide special or general election), and the vacancy occurs more than 74 days before the next pending election, the vacancy must be filled at the next pending election.

[§176A.8(9)]

County Hospital Trustees

Vacancies in the office of county hospital trustee must be filled by appointment. The remaining members of the board of trustees make the appointment. There is no deadline in the statute setting forth the deadline for appointing a replacement.

Unlike most vacancy appointments, these appointments last until the expiration of the original term. County hospital trustee offices never appear on ballot at special county elections.

If there are fewer than four trustees remaining on the board, the board of supervisors appoints replacements until the expiration of the original term.

[§347.10]

City Hospital Trustees

Vacancies in the office of city hospital trustee must be filled by appointment. The remaining members of the board of trustees make the appointment. There is no deadline in the statute setting forth the deadline for appointing a replacement.

These appointments last until the expiration of the original term. City hospital trustee offices never appear on the ballot at special city elections.

[§392.6]