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LEGAL UPDATE

July 27, 2009

To: Superintendents, Member School Districts (K-12)

From: ^{SKR} Susanne K. Reed, Of Counsel

Subject: **Governing Board Elections and Organizational Meetings - 2009**
Memo No. 19-2009

ORGANIZATIONAL MEETINGS (Education Code 35143)

Each school district, community college district, and county office of education is required to hold an annual organizational meeting. In an election year a school district or community college organizational meeting is held on a day within the fifteen (15) day period that commences with the date upon which a governing board member elected at that election takes office (the first Friday in December). In years in which no regular election for governing board members is conducted, the organizational meeting is held during that same fifteen day period. Exceptions to this rule are discussed below. This year the date on which an elected trustee would take office is December 4, 2009. Organizational meetings should be held as follows:

1. Governing Boards of School Districts and Community College Districts.

The organizational meeting must be held within 15 days of the first Friday in December. Unless otherwise provided by a rule of the Governing Board, the date of the organizational meeting must be selected by the board at its regular meeting held immediately prior to December 4th.

2. Governing Boards of School Districts Governed by A City Charter.

These Boards have the option of holding their organizational meetings as described under Paragraph 1, above, or may hold their organizational meeting between December 15th and January 14th, if so provided by the Governing Board rules.

3. **County Boards of Education.**

The organizational meeting is the first meeting after the last Friday in November or the first meeting on or after the first day in July depending on whether the terms of office of the Board members commence on the last Friday in November or July 1.

ELECTION ISSUES

Districts with the governing board elections scheduled for 2009 should be aware of the following information:

1. **Number of Candidates Less Than or Equal to the Number of Board Seats.**

No election is held. The existing Board members continue to serve until the organizational meeting of the Board, at which time the candidates(s) are seated and become Board members.

2. **No Candidates or Insufficient Candidates for Number of Seats Vacant.**

Seats for which there are sufficient candidates are discussed above. For those seat(s) for which there are no candidates, the Board must appoint. It is important to note that, except for seats which have been specifically designated two year seats, an appointment to a governing board seat due to lack of candidate is a four year appointment.

The appointment must be made prior to the election (this year, prior to November 3rd). Prior to making the appointment, "...the governing board shall cause to be published a notice once in a newspaper of general circulation published in the district or, if no such newspaper is published in the district, in a newspaper having general circulation in the district, stating that the board intends to make an appointment and informing persons of the procedure available for applying for the office." (Education Code Section 5328.5).

Please also refer to Legal Update memo 22-2001 for further information on Board election issues.

Please call me if you have any questions.

SKR:ni