
ARTICLE XVI

Elective Officers

(Added by vote on 11-08-2016; effective 12-19-2016.)

Section 300: Vacancy in Elective Office

For purposes of this section, elective office includes the offices of Mayor, Councilmember, City Attorney, and members of the Board of Education of the San Diego Unified School District. A vacancy in elective office occurs when any of the following events occur during the term:

- (a) The death of the elective officer.
- (b) For the Mayor or City Attorney, the elective official ceases to be a resident and elector of the City.
- (c) For a Councilmember, the Councilmember moves from the district that the Councilmember was elected to represent. Redistricting shall not cause a vacancy in the office of a Councilmember.
- (d) For a member of the Board of Education of the San Diego Unified School District, the Board member ceases to be a resident and elector of the sub-district within the school district that the member was elected to represent. Redistricting shall not cause a vacancy in the office of a member of the Board of Education.
- (e) An adjudication by a court of competent jurisdiction declaring that the elective officer is physically or mentally incapacitated due to disease, illness, or accident, and that there is reasonable cause to believe that the elective officer will not be able to perform the duties of his or her office for the remainder of his or her term.
- (f) The resignation of an elective officer, effective on the date specified in the written letter of resignation or, if there is no date specified in the letter, upon the date of receipt of the letter by the City Clerk, in the case of the Mayor, City Attorney, or a Councilmember, or, upon the date of receipt of the letter by the Board Action Officer of the San Diego Unified School District, in the case of a member of the Board of Education.
- (g) For a Councilmember only, unexcused absences from eight consecutive meetings or fifty percent of any scheduled meetings as provided by section 12 of this Charter.
- (h) An elective officer's conduct requiring forfeiture of office, upon conviction or finding of civil liability by a court of competent jurisdiction, as provided by this Charter. An elective officer shall be deemed to have been convicted or found liable when trial court judgment is entered. For purposes of this section, "trial court judgment" means a judgment by the trial court either

sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.

(i) An elective officer's conviction of a felony. An elective officer shall be deemed to have been convicted when trial court judgment is entered. For purposes of this section, "trial court judgment" means a judgment by the trial court either sentencing the officer or otherwise upholding and implementing the plea, verdict, or finding.

(j) The elective officer's removal from office. An elective officer may be removed only by recall or removal proceedings as provided by this Charter.

(Added by vote on 11-08-2016; effective 12-19-2016.)

(Amendment voted 11-03-2020; effective 12-18-2020.)

[Prior Language](#)

Section 301: Removal for Cause

- (a) The Mayor, City Attorney, Councilmembers, and members of the Board of Education of the San Diego Unified School District are subject to removal for cause for dereliction of duty or malfeasance in office as provided in this section.
- (1) Dereliction of duty means an adjudication that the elective officer has failed, refused, or neglected to perform the duties of the office, except when prevented by illness, injury, or other reasonable cause.
- (2) Malfeasance in office means a conviction for crimes of moral turpitude or crimes involving a violation of official duties.
- (b) Upon an elective officer's criminal conviction or a court's adjudication of dereliction of duty, the City Clerk shall provide notice of the conviction or adjudication to the Council and the subject elective officer, if the elective officer at issue is the Mayor, City Attorney, or a Councilmember. If the elective officer at issue is a member of the Board of Education, the Board Action Officer of the San Diego Unified School District shall provide notice of the conviction or adjudication to the Board of Education and the subject member.
- (1) An elective officer shall be deemed to have been convicted when trial court judgment is entered. For purposes of this section, "trial court judgment" means a judgment by the trial court either sentencing the elective officer or otherwise upholding and implementing the plea, verdict, or finding.
- (2) A court of competent jurisdiction's order of enforcement for failure to obey a writ of mandamus constitutes an adjudication of dereliction of duty.
- (c) Upon notification from the City Clerk of a criminal conviction of, or adjudication of dereliction of duty by, the Mayor, City Attorney, or member of the Council, the Council may proceed to vote on calling a special municipal election as provided by subsection (d). Upon notification from the Board Action Officer of the

- San Diego Unified School District of a criminal conviction of, or adjudication of dereliction of duty by, a member of the Board of Education, the San Diego Unified School District shall follow the procedures in subsection (e).
- (d) Upon an affirmative vote of no less than three-fourths of the Council (currently seven of nine Councilmembers) that cause exists for removal of the Mayor, City Attorney, or a Councilmember, the Council shall call a special election in compliance with the City's election laws for the purpose of submitting to the voters a measure to remove and replace the elective officer. By ordinance, the Council shall provide a complete procedure for special elections to remove and replace elective officers by a majority of voters, which may include reasonable limitations on calling special elections within 180 days of a scheduled municipal or statewide election where the subject elective officer is a candidate for his or her current elective office. If there is a municipal or statewide election scheduled to be held within 180 days, the Council may consolidate the special election with that election.
 - (e) Upon an affirmative vote of no less than three-fourths of the members of the Board of Education of the San Diego Unified School District that cause exists for removal of a Board member, the Board shall cause a special election to be held to submit to voters a measure to remove and replace the Board member by a majority vote, using the procedures set for Board member elections in Charter section 66. The election shall be held within 180 days of the vacancy. If the Board member's removal occurs within 180 days of a scheduled municipal or statewide election, the Board may consolidate the special election with that election.
 - (f) Nothing in this section shall be construed to interfere with the power of the people to initiate a recall of an elective officer, as provided in this Charter and the California Constitution. Removal proceedings under this section shall be suspended any time a recall petition is found to be sufficient as defined by the City's election laws.

(Added by vote on 11-08-2016; effective 12-19-2016.)

(Amendment voted 11-03-2020; effective 12-18-2020.)

[Prior Language](#)

Section 302: Succession to Elective Office

- (a) If a vacancy in the office of Mayor, City Attorney, or a Councilmember occurs by reason of a successful recall or removal election, the Council shall adopt procedures to fill the vacancy. A vacancy in the office of member of the Board of Education of the San Diego Unified School District shall be filled as provided in Charter section 66. The School Board may adopt additional procedures for the conduct of the election that are consistent with this Charter, as may be necessary.

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- (b) If a vacancy occurs in the office of Mayor, City Attorney, or a Councilmember for any reason other than a successful recall or removal election, the following procedures shall apply:
- (1) If the vacancy occurs with one year or less remaining in the term, the Council shall appoint a person to fill the vacant office within 30 days of the office being vacated. Any person appointed by the Council to fill a vacant office shall not be eligible to run for that office for the next succeeding term; or,
 - (2) If the vacancy occurs with more than one year remaining in the term, the Council shall call a special election to be held within ninety days of the vacancy, unless there is a municipal or statewide election scheduled to be held within 180 days of the vacancy. If there is a municipal or statewide election scheduled to be held within 180 days of the vacancy, the Council may consolidate the special election with that election.
 - (3) If one candidate receives the majority of votes cast for all candidates in the special election, the candidate receiving the majority of votes cast shall be deemed to be and declared by the Council to be elected to the vacant office.
 - (4) If no candidate receives a majority of votes cast in the special election, a special run-off election shall be held within 90 days of the first special election, unless there is a municipal or statewide election scheduled to be held within 120 days of the proposed special run-off election date, in which case the Council may consolidate the special run-off election with that election. The two candidates receiving the highest number of votes cast for the vacant office in the first special election shall be the only candidates for the vacant office and the names of only those two candidates shall be printed on the ballot for that office.
 - (5) The person appointed or elected to fill a vacancy in elective office shall serve in that elective office for the remainder of the unexpired term.

(Added by vote on 11-08-2016; effective 12-19-2016.)

(Amendment voted 11-03-2020; effective 12-18-2020.)

[Prior Language](#)

Section 303: Restrictions on Compensation and Benefits for Elective Officers

All elective officers for the City, defined in this section as the City Councilmembers, Mayor, and City Attorney, must adhere to the restrictions on compensation and benefits set forth in this section. This section is not intended to conflict with any provisions in federal or state law, except, however, where the restrictions on compensation are

greater in this section than what is authorized under federal or state law, the greater restriction controls the compensation received by an elective officer.

- (a) Elective officers are prohibited from accepting honoraria, as that term is defined by State law.
- (b) Effective December 10, 2020, elective officers are prohibited from receiving a regularly paid car allowance as a form of additional compensation, except they may be reimbursed for actual miles driven in a personal vehicle while on City business, in accordance with reimbursement policies that comply with federal tax laws and regulations in effect at the time of the request for reimbursement.
- (c) Elective officers are prohibited from attending any sports or entertainment event in a venue owned, partially or in whole, by the City unless the officer has paid fair market value for admission, seats, or other accommodations. Elective officers are prohibited from giving away any City-held ticket, unless the recipient pays the face value of the ticket to the City. Any seats or similar amenities or services owned or controlled by the City, in part or in whole, within any sports or entertainment venue, must be marketed to the public at fair market value with all revenues received to be directed to the City Treasurer.

(Added by vote on 11-06-2018; effective 12-24-2018.)

Section 304: Restrictions on Lobbying and Campaigning for Elective Officers

- (a) Elective officers are prohibited from lobbying the City for a two-year period after leaving office.
- (b) Elective officers are prohibited from using taxpayer-funded mass form constituent paper mailings during the 75 days before an election in which that officer is running, for reelection or for a different City elective position. Elective officers are also prohibited from using mass form constituent paper mailings to publish information about any City employee who works for the elective officer and who is seeking City elective office during the 75 days before the election in which the employee is seeking office.

(Added by vote on 11-06-2018; effective 12-24-2018.)