



COUNTY ADMINISTRATOR

REVISED

AGENDA # _____ December 10, 2024

SUSAN S. MURANISHI
COUNTY ADMINISTRATOR

December 9, 2024

Honorable Board of Supervisors
County Administration Building
1221 Oak St., Suite 536
Oakland, CA 94612

Dear Board Members:

SUBJECT: PROPOSED PROCESS AND SCHEDULE TO SELECT AN APPOINTEE TO FILL THE VACANT DISTRICT ATTORNEY POSITION

RECOMMENDATION:

This item is before you to approve the proposed appointment process and schedule to select an appointee to fill the Alameda County District Attorney vacancy by February 4, 2025.

BACKGROUND:

The District Attorney vacancy was created by the recall of the incumbent, approved by the voters during the November 5, 2024, General Election. Pursuant to the County Charter, Section 20, whenever a vacancy occurs in an elective County office, other than a member of the Board of Supervisors or Board of Education, or the office of Superintendent of Schools, the Board of Supervisors shall fill such vacancy, and the appointee shall hold office until the election and qualification of his successor. In such case there shall be elected at the next general election an officer to fill such vacancy for the unexpired term, unless such term expires on the first Monday after the first day of January succeeding said election. The next general election at which a candidate may be placed on the ballot is currently scheduled for June 2, 2026.

APPOINTMENT PROCESS:

Pursuant to the Board President and Vice-President's request, staff revised the selection process used by your Board of Supervisors to fill the mid-term District 2 Supervisorial vacancy in 2023. Those procedures have been revised for your consideration in making an appointment to fill the current District Attorney vacancy. The attached documents outline a proposed appointment process, establish a suggested timetable for completing the required steps, and provide an application form for completion by interested applicants. The proposed process is designed to achieve an appointment by your Board with full public involvement and transparency in the selection process.

There is no statutory deadline to make an appointment to the position of District Attorney. However, appointing a District Attorney as soon as possible will ensure a dedicated legal professional is responsible for prosecuting criminal cases in the County of Alameda. Therefore, staff recommends that your Board consider and adopt the proposed process and timeline outlined in the attachments to this letter.

Very truly yours,

Susan S. Muranishi
County Administrator

SSM:acb

Attachments

cc: Auditor-Controller
County Counsel
Registrar of Voters



Attachment A

Alameda County Board of Supervisors Procedures for the Selection of the District Attorney

1. Initiation of Selection Process

- 1.1. The adoption of these procedures by the Board of Supervisors shall constitute:
 - a. An announcement of the vacancy and an invitation for applications for District Attorney.
 - b. The procedures and a time schedule for submission and consideration of applications.
 - c. The form of application to be used by persons wishing to be considered for the position.
- 1.2. Within three (3) days after adoption of these procedures, the procedures shall be posted at the Office of the Clerk of the Board and on the County of Alameda website online (www.acgov.org).

2. Filing of Application

- 2.1. Beginning on the day following the adoption of selection procedures by the Board of Supervisors, any person who is legally qualified to serve as District Attorney may submit an application for consideration. Only applicants who certify that they meet the legal qualifications will be considered.
- 2.2. Application shall be made using the form that is set forth as Attachment I hereto.
- 2.3. Each application shall be obtained from the Office of the Clerk of the Board of Supervisors at the following location.

Office of the Clerk of the Board
Main Reception Desk, Fifth Floor
County Administration Building
1221 Oak Street
Oakland, California 94612

2.4. The Clerk of the Board shall issue an application to any person who wishes to apply. The Clerk shall not endeavor to determine whether an applicant possesses the legal qualifications for the office when an application is issued. The minimum qualifications for appointment to the position of District Attorney are admission to practice in the Supreme Court of California (Government Code §24002; Alameda County Admin. Code §2.26.020), registered voter of the county at the time of appointment (Government Code §24001), and not convicted of certain felony crimes listed in Election Code §20 or having received a pardon for that crime. Questions in the application involving minimum qualifications are denoted by an asterisk (*). The Clerk shall obtain a receipt bearing the signature of the applicant at the time an application is issued.

3. Close of Applications

3.1. Each application must be filed not later than 5:00 p.m. on Monday, January 6, 2025, with the Clerk of the Board. Each application must be filed personally by the applicant or a representative of the applicant. Application by mail, email, express mail, facsimile, or other substitute form of delivery shall not be accepted.

3.2. The Clerk of the Board shall issue a receipt for the filing of each application. It shall be the responsibility of the applicant to ensure that a receipt is issued by the Clerk upon the filing of an application.

3.3. The Clerk's issuance of a receipt shall not be evidence that the application is complete. The Board of Supervisors shall determine an application's completeness, provided that the Board shall not disqualify an applicant unless there is a clear failure to meet the application requirements.

3.4. Within forty-eight (48) hours after the close of the application period, the Clerk of the Board shall make all timely applications publicly available in the following manner.

a. Online at the County of Alameda website (www.acgov.org).

b. At the Clerk of the Board's office, assembled in alphabetical order in a binder or other display, during regular office hours.

c. To any member of the public who makes a request, provided that the Clerk may impose a charge for duplication of the materials pursuant to the California Public Records Act.

3.5. Within forty-eight (48) hours after the close of the application period, the Clerk of the Board shall provide each member of the Board of Supervisors with all applications that were timely filed.

4. Designation of Applicants

- 4.1. At a Special public meeting after the close of the application period, the Board of Supervisors shall review the applications for District Attorney to determine the applicants who: (a) meet the legal requirements for appointment; and (b) have submitted complete applications. The Board shall then select the candidates to be interviewed by the Board following the process set forth in Attachment 2 hereto.
- 4.2. Only applicants who submitted complete applications and meet the legal requirements will be eligible to be selected for an interview.
- 4.3. Following the selection of candidates to be interviewed, the Clerk of the Board shall schedule a Special public meeting at which the Board of Supervisors will interview the selected candidates as set forth in Attachment 2.

5. Selection of District Attorney

- 5.1. Prior to the appointment of the District Attorney, the Board of Supervisors shall interview each candidate at a Special public meeting of the Board of Supervisors. The format of the interviews shall be determined by the Board.
- 5.2. The Board of Supervisors shall make an appointment by majority vote at a Special public meeting, and as set forth more fully in Attachment 2.
- 5.3. The person selected by the Board of Supervisors shall take office as soon as possible after selection and upon being sworn-in.
- 5.4. The proposed schedule for completion of the appointment process as outlined below is set forth in Attachment 3.
 - Adopt Procedures for the Selection of the District Attorney
 - Application Period Begins
 - Deadline for Submission of Applications
 - Special meetings of the Board of Supervisors
 - Selection of applicants to be interviewed
 - Public interviews of selected applicants
 - Deliberations regarding appointment
 - Formal appointment of candidate
 - Swearing in of the new District Attorney



Attachment 2

Interview and Final Selection Process for District Attorney

A. Nomination of Candidates

1. In public session the Board of Supervisors will select the candidates whom the Board will interview for District Attorney. It is the intention of the Board to interview at least three candidates.

2. The following is the method of nomination:

Round 1: The Board will be presented with a list of all persons who have applied for the position of District Attorney. Each Supervisor will vote orally by roll call vote for as many as five applicants. The Clerk shall tally the votes and announce the results aloud. The three applicants who receive the greatest number of votes will be selected for interview.

(If there is a tie for the third position in Round 1, the two candidates receiving the greatest number of votes will be selected for interview and three candidates will be selected in Round 2).

Round 2: The Board will be presented with the names of all applicants, except those candidates who have been selected for interview in Round 1. Each Supervisor will then vote orally by roll call vote for as many as three applicants. The Clerk shall tally the votes and announce the results aloud. The two applicants (three applicants, if only two candidates were selected in Round 1) who receive the greatest number of votes will be selected for interview in Round 2.

Round 3: If there is a tie for the last of the five interview positions in Round 2, the Board will be presented with a list of all applicants who received at least one vote in Round 2. Each Supervisor will then vote for one applicant. The applicant receiving the greatest number of votes will be selected for interview.

3. If Round 3 results in a tie for the last of the five interview positions, the Board may decide (a) to conduct an additional round of voting to select the final interviewees, (b) to interview all of the applicants who tied, or (c) to interview less than five candidates.

B. Interview of Candidates

1. The Board of Supervisors will interview candidates for District Attorney at one or more Special Meetings of the Board.

2. The sequence of interviews shall be determined by the Clerk of the Board by the drawing of lots or by another suitable method of random selection.
3. Each candidate will be allowed to make a presentation for no more than ten minutes. The content of the presentations will be determined by the candidate. The remainder of the interview will be devoted to questions by members of the Board.
4. The Board will not select from the candidates at this meeting.

C. Final Selection

1. The Board of Supervisors will make its final selection of the District Attorney at a Special Meeting following the interviews of candidates.
2. The following is the method of final selection:

Round 1: The Board will be presented with the names of all candidates who were interviewed for the position. Each Supervisor will then vote orally by roll call vote for as many as two candidates. The Clerk shall tally the votes and announce the results aloud. The three candidates who receive the greatest number of votes will be retained for consideration in the next round. (If there is a tie for the third position, then the four candidates receiving the greatest number of votes will be retained for consideration in Round 2).

Round 2: The Board will be presented with the names of all remaining candidates. Each Supervisor will then vote orally by roll call vote for as many as two candidates and the Clerk shall tally the votes and announce the results aloud. The two candidates receiving the greatest number of votes will be retained for consideration in the third round.

(If there is a tie for the second position in Round 2, three candidates may be considered in Round 3).

Round 3: The Board will be presented with a list of the two candidates (three candidates if there is a tie in Round 2) who received the greatest number of votes in Round 2. Each Supervisor will then vote for one candidate. If no candidate receives three votes, then a second vote will be taken. If no candidate then receives three votes, the selection process will proceed to Round 4.

Round 4: The Board will be presented with the names of all candidates who were interviewed. Any member of the Board may make a nomination from those named and, if the nomination receives a second, then the full Board will vote on the nomination. This process will continue until a nominee receives three votes.



Special Meeting Schedule for Selection of the District Attorney

Tuesday, December 10, 2024	Board of Supervisors Adopted Procedures for the Selection of the District Attorney
Wednesday, December 11, 2024	Application Period Opens
Monday, January 6, 2025, at 5:00 p.m.	Deadline for Submission of Applications
Thursday, January 16, 2025, at 2:00 p.m.	Selection of Finalists to be Interviewed
Tuesday, January 21, 2025, at 1:30 p.m.	Public Interviews of Finalists
Tuesday, January 28, 2025, at 3:00 p.m.	Board Deliberations and Selection of Candidate
Tuesday, February 4, 2025	Formal Appointment and Swearing-in of the New District Attorney

* Proposed Dates for Special Meetings of the Board of Supervisors (Subject to Change)

Updated January 2, 2025