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OPINION	:	
	:	No. 26-802
of	:	
	:	September 22, 2026
ROB BONTA Attorney General	:	
	:	
HEATHER THOMAS Deputy Attorney General	:	

Proposed relator TAMARA PELLOW has applied for leave to sue JACLYN LABARBERA in quo warranto to remove her from her public office on the Anderson Union High School District Board of Trustees.

ISSUES OF FACT OR LAW

1. May Jaclyn LaBarbera serve as a member of both the Anderson Union High School District Board of Trustees and the Shasta County Board of Education?

2. Has Jaclyn LaBarbera satisfied the residence requirements to serve on the Anderson Union High School District Board of Trustees?

CONCLUSIONS

1. In Opinion No. 26-401, issued earlier this year, we concluded there is a substantial legal issue regarding whether LaBarbera is simultaneously holding incompatible public offices. Because the relevant circumstances have not changed, we reach the same conclusion here.

2. There is a substantial issue of fact or law regarding whether LaBarbera has satisfied the residence requirements to serve on the Anderson Union High School District Board of Trustees.

Consequently, and because the public interest will be served by allowing the proposed quo warranto action to proceed, the application for leave to sue is GRANTED.

BACKGROUND

This is the second application we have received seeking leave to sue Jaclyn LaBarbera in quo warranto to remove her from the Anderson Union High School District Board of Trustees. As described below, the Attorney General granted the earlier application in Opinion No. 26-401 (Prior Opinion).[1]

As explained in more detail in the Prior Opinion, the Anderson Union High School District (School District) comprises six schools serving approximately 1,500 students in Shasta County.[2] The School District is governed by a five-member board of elected trustees (School District Board).[3] The School District falls within the jurisdiction of the Shasta County Board of Education. The seven-member Board of Education "provides leadership and citizen input for county educational programs and services operated by the Shasta County Office of Education."[4]

LaBarbera is currently serving on both the School District Board and the County Board of Education. LaBarbera was elected to the School District Board as a trustee in November 2022.[5] She holds that seat until December 2026. In November 2024, while she was still serving on the School District Board, LaBarbera was elected to a four-year term on the County Board of Education.[6]

Earlier this year, a different proposed relator filed an application for leave to sue LaBarbera to remove her from office on the School District Board. The application alleged that, by holding offices on both the School District Board and the County Board of Education, LaBarbera was serving in legally incompatible offices under Government Code section 1099 and had therefore forfeited her position on the School District Board. Although the Attorney General granted leave to sue,[7] no suit was filed. Instead,

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[1] 109 Ops.Cal.Atty.Gen. 106 (2026).

[2] *Ibid.*

[3] *Ibid.*

[4] *Ibid.*, internal quotation marks omitted.

[5] *Id.* at p. 107.

[6] *Ibid.*

[7] *Id.* at p. 113.

LaBarbera reports that she entered into a contract with the former relator, under which he agreed not to pursue litigation.[8] In exchange, LaBarbera agreed to leave office on the School District Board in November 2026, near the end of her term.[9]

A new proposed relator, Tamara Pellow, has now applied for leave to sue LaBarbera in quo warranto to remove her from the School District Board. Pellow raises two claims. First, she argues that LaBarbera is serving in legally incompatible offices—the same claim at issue in the Prior Opinion.[10] Second, Pellow asserts that LaBarbera moved out of the Anderson Union High School District in 2025, therefore vacating her seat for failure to satisfy the office's residence requirements.[11] The Prior Opinion did not address this claim. LaBarbera acknowledges that she no longer resides in the district, but she argues the law only requires a school district board trustee to reside in the district when they are elected; it does not require them to live in the district throughout their entire term.[12]

ANALYSIS

Quo warranto is a civil action used, among other purposes, to challenge an incumbent public official's right or eligibility to hold a given public office.[13] This form of action is codified in section 803 of the Code of Civil Procedure, which provides that "[a]n action may be brought by the attorney-general, in the name of the people of this state, upon his own information, or upon a complaint of a private party, against any person who usurps, intrudes into, or unlawfully holds or exercises any public office . . . within this state."[14]

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[8] Defendant Jaclyn LaBarbera's Verified Statement of Facts in Support of Opposition to Plaintiff Tamara Pellow's Application to Sue in Quo Warranto (Defendant's Verified Statement of Facts), ¶ 14.

[9] *Ibid*.

[10] Relator Tamara Pellow Memorandum of Points and Authorities in Support of Application to Sue in Quo Warranto (Relator's Application Memorandum), pp 1-2; see 109 Ops.Cal.Atty.Gen., *supra*, at pp. 108-111.

[11] Relator's Application Memorandum, pp. 5-6.

[12] Defendant's Verified Statement of Facts, ¶ 15; Defendant Jaclyn LaBarbera's Opposition to Plaintiff Tamara Pellow's Application to Sue in Quo Warranto (Defendant's Opposition), pp. 7-9.

[13] Code Civ. Proc., § 803; *Nicolopulos v. City of Lawndale* (2001) 91 Cal.App.4th 1221, 1225; 76 Ops.Cal.Atty.Gen. 157, 162-163 (1993).

[14] Code Civ. Proc., § 803; see *Rando v. Harris* (2014) 228 Cal.App.4th 868, 873; 97 Ops.Cal.Atty.Gen. 12, 14 (2014).

Where a private party seeks to pursue a quo warranto action in superior court, that party (known in this context as a relator, or proposed relator) must first apply for and obtain the Attorney General's consent to do so. In determining whether to grant that consent, we do not attempt to resolve the merits of the controversy. Rather, we consider (1) whether quo warranto is an available and appropriate remedy; (2) whether the proposed relator has raised a substantial issue of law or fact that warrants judicial resolution; and (3) whether authorizing the quo warranto action will serve the public interest.[15]

Here, the answer to all three questions is "yes," for both of Pellow's claims. We therefore grant leave to sue.

1. Incompatibility of Offices

Pellow first argues that LaBarbera is serving in legally incompatible offices on the School District Board and the County Board of Education under Government Code section 1099. We granted leave to sue on this claim in the Prior Opinion, which we incorporate by reference.[16] For the reasons set forth therein, we conclude that quo warranto is an available and appropriate remedy, there continues to be a substantial issue regarding incompatibility, and the public interest favors authorizing suit.

2. Residence in District

Pellow argues that LaBarbera also vacated her seat on the School District Board because she no longer resides in the School District. Pellow reports that LaBarbera stated in a June 2026 public School District meeting that she has not resided within School District boundaries since January 2025.[17] LaBarbera acknowledges that she has moved out of the School District and does not currently reside there.[18] But she argues both that there is no continuous residence requirement for her position, and that her seat is not vacant because the School District board has not declared a vacancy.[19]

Government Code section 1770 sets forth the events that cause a vacancy in a public office before the expiration of a term. As to loss of residency, it states:

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[15] *Rando v. Harris*, *supra*, 228 Cal.App.4th at p. 879; 72 Ops.Cal.Atty.Gen. 15, 20 (1989).

[16] 109 Ops.Cal.Atty.Gen., *supra*, at pp. 108-113.

[17] Relator Tamara Pellow's Verified Statement of Facts, ¶¶ 10-11.

[18] Defendant's Verified Statement of Facts, ¶ 15.

[19] Defendant's Opposition, pp. 7-10.

"An office becomes vacant on the happening of any of the following events before the expiration of the term:

[…]

(e) 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."[20]

The Education Code provides that vacancies on school district governing boards "are caused by any of the events specified in Section 1770 of the Government Code."[21]

Education Code section 35107 sets forth eligibility requirements for members of school district governing boards.[22] It states, in relevant part:

"Any person, regardless of sex, who is 18 years of age or older, a citizen of the state, *a resident of the school district*, a registered voter, and who is not disqualified by the Constitution or laws of the state from holding a civil office, *is eligible to be elected or appointed a member of a governing board of a school district without further qualifications*."[23]

Applying these statutes here, we conclude that all three of our criteria to grant leave to sue are satisfied.

Quo warranto is an available and appropriate remedy.

As described above, section 803 authorizes a quo warranto action to remove a person who unlawfully holds any public office. A member of the governing board of a school district holds a public office for quo warranto purposes.[24] Further, quo warranto is

[20] Gov. Code, § 1770, subd. (e), italics added.

[21] Ed. Code, § 5090.

[22] Section 35107 is also found in the article of the Education Code concerning membership on governing boards of local educational agencies (Education Code, Title 2, Division 3, Part 21, Chapter 2, Article 1: Membership).

[23] Ed. Code, § 35107, subd. (a), italics added.

[24] 101 Ops.Cal.Atty.Gen. 70, 72 (2018); 68 Ops.Cal.Atty.Gen. 240, 241 (1985); see 81 Ops.Cal.Atty.Gen. 94 (1998).

an appropriate remedy to enforce the residence provisions of Government Code section 1770(e).[25] Therefore, quo warranto is an available and appropriate remedy here.

There are substantial issues of law or fact regarding whether LaBarbera has satisfied the residence requirement for office.

Pellow argues that under Education Code section 35107(a), a school district board trustee must reside within the district throughout their entire term. Pointing to Government Code section 1770(e) and Education Code section 5090, she further contends that a trustee's seat is vacated if they move out of the district.[26] Because LaBarbera has moved out of the School District, Pellow argues, she is no longer eligible to maintain her board seat.[27]

For her part, LaBarbera argues that Education Code section 35107(a) does not impose a continuous residence requirement for school district board members. Instead, she contends that section 35107(a) is only a requirement that a school board trustee be a resident of the district when they are *initially* appointed or elected.[28] However, Attorney General opinions have consistently concluded that, absent statutory language to the contrary, a residence requirement for election to office applies throughout the term.[29] Applying that rule to section 35107, we have long concluded that a school district board member must reside within the district throughout their entire term.[30]

LaBarbera further argues that her seat is not vacant because the School District Board has declined to declare a vacancy.[31] But courts have consistently held that where there is a residence requirement for office, a vacancy arises, by operation of law, at the

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[25] 81 Ops.Cal.Atty.Gen., *supra*, at p. 98; 79 Ops.Cal.Atty.Gen. 21, 22-23 (1996); 30 Ops.Cal.Atty.Gen. 6, 6 (1957).

[26] Relator's Application Memorandum, pp. 5-6.

[27] *Ibid*.

[28] Defendant's Opposition, p. 8.

[29] E.g., 101 Ops.Cal.Atty.Gen. 16, 16, fn. 3 (2018); 82 Ops.Cal.Atty.Gen. 78, 79 (1999); 59 Ops.Cal.Atty.Gen. 627, 629 (1976).

[30] E.g., 83 Ops.Cal.Atty.Gen. 181, 184 (2000); 81 Ops.Cal.Atty.Gen. 98, 102-103 (1998); 81 Ops.Cal.Atty.Gen., *supra*, at pp. 96-97; see 58 Ops.Cal.Atty.Gen. 888, 891 (1975) (finding that a school board member elected to a trustee area must remain a resident of that trustee area throughout their term).

[31] Defendant's Opposition, p. 8 ("The AUHSD board was notified of the residency question according to both Pellow and LaBarbera and, after having the opportunity to consider it, expressly declined to declare the seat vacant").

time the public official becomes a nonresident.[32] The body does not need to declare the seat vacant for a vacancy to occur.[33] We therefore conclude there is a substantial issue of law or fact regarding whether LaBarbera has satisfied the residence requirement to continue serving on the School District Board.[34]

The public interest favors authorizing suit.

We generally view the need for judicial resolution of a substantial question of fact or law as a sufficient "public purpose" to warrant granting leave to sue, absent countervailing circumstances such as pending litigation.[35] As explained in our Prior Opinion, we find no such countervailing circumstances here.[36] To the contrary, it would serve the public interest for a court to clarify the residence requirements in these circumstances, and to adjudicate the issue of incompatibility between the Anderson Union High School District Board of Trustees and the Shasta County Board of Education.

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[32] E.g., *The People ex rel. Tracy v. Brite* (1880) 55 Cal. 79, 80 ("When the relator ceased to be an inhabitant of the Third District, he ceased to be Supervisor for that District, and a vacancy occurred") (construing former Political Code section 996, the predecessor to Government Code section 1770); *Klose v. Superior Court* (1950) 96 Cal.App.2d 913, 917 ("There can be no question, and all parties concede, that where an elected official of a city of the sixth class removes his residence from the city, his office becomes vacant"); 73 Ops.Cal.Atty.Gen. 197, 206 (1990).

[33] *The People ex rel. Tracy v. Brite*, *supra*, 55 Cal. at p. 80; see also 73 Ops.Cal.Atty.Gen., *supra*, at p. 206 ("Pursuant to subdivision (e) of section 1770 then, if Mr. Pallan ceased to be a 'resident' of the district, the office he held would have become vacant by operation of law and without any action of the school board").

[34] LaBarbera further argues that the School District Board's bylaws, which were amended on August 19, 2026, no longer require continuous residence within the district. (Defendant's Opposition, pp. 8-9; Defendant's Verified Statement of Facts, Ex. A.) Pellow replies that local school district bylaws cannot supersede state law. (Reply of Proposed Relator Tamara Pellow to Opposition of Proposed Defendant Jaclyn LaBarbera, pp. 2-4.) We need not resolve this issue here, as there is a substantial question whether a vacancy arose the moment LaBarbera moved out of the district in 2025, before the bylaw amendment.

[35] 98 Ops.Cal.Atty.Gen. 94, 101 (2015); 95 Ops.Cal.Atty.Gen. 77, 87 (2012).

[36] LaBarbera argues that the prior relator's decision not to file suit weighs against finding that litigation would serve the public interest. (Defendant's Opposition, pp. 9-10.) But the quo warranto cause of action belongs to the Attorney General, who is responsible for determining where the public interest lies. (Code Civ. Proc, § 803; *People v. Petroleum Rectifying Co.* (1937) 21 Cal.App.2d 289, 291-292.)

Accordingly, the application for leave to sue in quo warranto, on both claims described in this opinion, is GRANTED.