

If the superior court has removed a director in an involuntary proceeding for winding up [see —By Superior Court, *below*], the court may order an election to fill the vacancy so caused, and may enjoin, for such time as it considers proper, the reelection of the director so removed; or the court may, in lieu of ordering an election, appoint a director to fill the vacancy [Corp. Code § 1806(g)].

In an involuntary winding up proceeding, the court's jurisdiction includes the filling of any vacancies on the board which the directors or shareholders are unable to fill [Corp. Code § 1806(f)].

Removal of Directors—By Shareholders

Any director or directors, or the entire board, may be removed by the vote of the shareholders, subject to two limitations for the protection of cumulative voting rights and, where they exist, of rights to elect directors according to classes or series of shares [Corp. Code § 303].

Removal by the shareholders may be without cause [Corp. Code § 303(a)]. However, if a director is removed in violation of either of the two limitations for the protection of voting rights, the election of a successor may be contested on that ground and the wrongfully removed director may sue for a writ of mandate to get his or her position restored [see Form 138 and Comments].

—By Other Directors

The board (i.e., a majority of the directors, unless the articles or bylaws provide otherwise [Corp. Code § 307(a)(7)]) may declare vacant the office of a director who has been declared of unsound mind by a court or convicted of a felony [Corp. Code § 302].

—By Superior Court

Any director who has committed fraudulent or dishonest acts or a gross abuse of authority or discretion with reference to the corporation may be removed by the superior court on the complaint of a shareholder or shareholders holding at least 10 percent of the shares in the corporation or, if the shares are divided into classes, at least 10 percent of any class [Corp. Code § 304; see the discussion in the Introduction to Subpart A under Action for Removal of Director, *below*].

When an involuntary proceeding for winding up the corporation has begun, the jurisdiction of the court includes the removal of any director if it appears that the director has been guilty of dishonesty, misconduct, neglect, or abuse of trust in conducting the winding up or if the director is unable to act [Corp. Code § 1806(g); see Part X, *Dissolution and Winding Up*]. The court may fill any vacancy created by the court's removal of a director in those circumstances [see —Appointment by Superior Court, *above*].