

# **2011**

# **OHIO CANDIDATE**

# **REQUIREMENT**

# **GUIDE**



**OFFICE OF THE**  
**OHIO SECRETARY OF STATE**

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## **GENERAL REQUIREMENTS FOR 2011 CANDIDATES**

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In 2011, candidates in Ohio will run for municipal and township offices, municipal court judgeships, municipal court clerkships, and boards of education. This guide has been compiled to provide candidates with the basic information necessary to file for office. Please note that this is only a brief summary and should not be regarded as a complete digest of laws affecting candidates. The requirements outlined in this summary are accurate as of December 1, 2010. Subsequent legislative or judicial action may change these requirements.

For further information, contact your county board of elections or call the Secretary of State's Elections Division at (614) 466-2585.

*Note:* As used herein, "R.C." refers to the Revised Code of Ohio and "OH Const." refers to the Ohio Constitution.

### **MUNICIPAL CORPORATIONS: CITIES AND VILLAGES**

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As used in Ohio law, the terms "municipal corporation" or "municipality" refer either to a city or a village. A municipal corporation's classification as a city or village is based on its population as determined by the most recent decennial federal census or, alternatively, the number of registered electors at the most recent general election. Municipal corporations that, at the last federal census, had a population of 5,000 or more, or at the last general election had 5,000 registered electors, are classified as cities. All other municipal corporations are classified as villages (R.C. 703.01, 703.011).

Although many of the elective offices of cities and villages share common names, those offices are governed by different statutes. A candidate should become familiar with the statutes that set forth the duties of, and eligibility requirements for, the specific office the candidate seeks.

Also, note that, for election purposes, the law distinguishes between villages with populations of fewer than 2,000, and those with populations between 2,000 and 4,999.

# MUNICIPAL LIMITED HOME RULE

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Ohio law allows municipal corporations to organize under one of four specific plans of government that provide a limited amount of home rule. These plans – the charter, commission, city manager, and federal plans – are provided for in Article XVIII of the Ohio Constitution and Chapter 705 of the Revised Code of Ohio. A candidate seeking election to a municipal office governed by one of the home rule plans must be familiar with the constitutional and statutory provisions that set forth the duties of, and eligibility requirements for, that office.

## MUNICIPAL OFFICES

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### OTHER THAN JUDGE OR COURT CLERK

*Note:* These provisions may not apply if a municipal corporation has adopted a charter or other form of limited home rule government. For more information about charter municipalities, contact your county board of elections or law director/solicitor of the municipal corporation.

#### **Terms of Office**

(unless a controlling home rule provision provides otherwise)

##### **Mayor:**

Four years, commencing 1/1/2012  
(OH Const. Art. XVIII §7; R.C. 733.02, 733.24)

##### **Member, Legislative Authority:**

- City: Two years, commencing 1/1/2012  
(OH Const. Art. XVIII §7; R.C. 731.03)
- Village: Four years, commencing 1/1/2012  
(OH Const. Art. XVIII §7; R.C. 731.09)

##### **President, Legislative Authority (City):**

Two or four years, commencing 1/1/2012 (R.C. 733.09)

##### **Director of Law (City):**

Four years, commencing 1/1/2012 (R.C. 733.49)

##### **Auditor (City):**

Four years, commencing 1/1/2012 (R.C. 733.10)

##### **Treasurer:**

Four years, commencing 1/1/2012 (R.C. 733.42)

##### **Village Clerk:**

Four years, commencing 4/1/2012 (R.C. 733.26)

##### **Village Clerk-Treasurer:**

Four years, commencing 4/1/2012 (R.C. 733.261)

##### **Village Board of Trustees of Public Affairs:**

Two or four years, as provided in R.C. 735.28, commencing 1/1/2012

## **I. MUNICIPAL CORPORATIONS INCLUDING VILLAGES WITH LESS THAN 2,000 POPULATION**

In a statutory village with a population of less than 2,000, all candidates are nominated by petition, unless the village voters adopted provisions to hold partisan primary elections pursuant to R.C. 3513.01. If the village has not adopted partisan elections, all candidates are designated as nonpartisan candidates.

### **Qualifications**

#### **Residency Requirement:**

- Legislative authority (council): One year in the village immediately before the election (R.C. 731.12)
- Mayor: One year in the village immediately before the election (R.C. 733.24)
- All other offices: Resident of the village (R.C. 3.15, 733.26, 733.261, 3513.05)

#### **Minimum Age:**

- 18 years, as of the date of the general election (OH Const. Art. V §1, Art. XV §4)

#### **Other:**

- Must be a registered elector of the village (OH Const. Art. V §1, Art. XV §4; R.C. 3.15, 731.03, 731.09, 731.12, 733.10, 733.24, 733.26, 733.261, 733.42, 733.29).
- Director of law: Must be an attorney admitted to practice in this state (R.C. 733.50).

#### **Petition Filing Deadlines:**

- By 4 p.m. on August 10, 2011, the 90th day before the general election (R.C. 3513.251)

#### **Petition Form Numbers:**

- #3-M for individual candidates
- #3-MA for a group of candidates

#### **Signature Requirements:**

- 10 valid signatures (R.C. 3513.251)

#### **Filing Fee:**

- \$30 (R.C. 3513.10, 3513.251, 3513.261)

#### **Filed With:**

- Appropriate county board of elections office (R.C. 3513.251)

*Note:* If the village is located in more than one county, the petition is filed with the board of elections in the most populous county.

## **II. Municipal Corporations - including villages with population over 2,000, but less than 5,000; cities with population or registered electors over 5,000**

Candidates for municipal office will be nominated by petition as nonpartisan candidates unless one or more of the following applies: the electors of the municipal corporation have petitioned to have partisan elections, previous municipal elections in that municipality were partisan, or a municipal charter provides otherwise.

Candidates for nonpartisan office who want their names printed on the ballot will file nominating petitions.

Candidates for offices nominated through a partisan primary who want their names printed on the ballot will file either a declaration of candidacy (primary candidates) or nominating petition (independent candidates).

### **Party Candidates**

#### **Qualifications**

##### **Residency Requirement:**

- Mayor, Village with population of 2,000 - 4,999: One year in the village immediately preceding election (R.C. 3.15, 733.24)
- Mayor, City: Resident of the city (R.C. 3.15)
- President, City legislative authority: Resident of the city (R.C. 3.15)
- Legislative authority: One year in the village, city or ward immediately preceding election (R.C. 3.15, 731.02, 731.12)
- All other offices: Resident of the city or village (R.C. 3.15)

##### **Minimum Age:**

- 18 years, as of the date of the general election (OH Const. Art. V §1, XV §4)

##### **Other:**

- Must be a registered elector of the city or village (OH Const. Art. V §1, Art. XV §4, R.C. 3.15, 731.02, 731.12, 733.09, 733.10, 733.24, 733.42, 733.49)
- Director of law: Must be an attorney admitted to practice in this state (R.C. 733.50)

##### **Filing Deadline:**

By 4 p.m. on February 2, 2011, (90 days before the primary election); or 4 p.m. on May 2, 2011, (day before the primary election) for independent candidates (R.C. 3513.05, 3513.257)

Partisan candidates whose petitions are certified will run in the primary election, unless the primary is eliminated under R.C. 3513.02 (see "*Elimination of Primary Election*," page 15; see also R.C. 3513.04, 3513.05).

**Filing Fee:**

- \$30 for village office; \$45 for city office (R.C. 3513.10)

**Petition Form Numbers:**

- #2-I for party candidates
- #3-N for independent candidates

**Signature Requirements:**

All offices except ward council representative:

- Major party candidates: 50 valid signatures (R.C. 3513.05)
- Minor party candidates: 25 valid signatures
- Independent candidates: Based on number of votes cast in the municipal corporation in the last general election for governor (R.C. 3513.257, 3513.261):

<b>Number of votes cast:</b>	<b>Number of valid signatures required:</b>
Less than 5,000	25 signatures or 5 percent of vote (whichever is less)
5,000 or more	1 percent of vote

Ward council representative:

- Major party candidates: 25 valid signatures;
- Minor party candidates: 13 valid signatures
- Independent candidates for ward council representative: Based on number of votes cast in the municipal corporation in the last general election for governor (R.C. 3513.257, 3513.261):

<b>Number of votes cast:</b>	<b>Number of valid signatures required:</b>
Less than 5,000	25 signatures or 5 percent of vote (whichever is less)
5,000 or more	1 percent of vote

**Filed With:**

Appropriate county board of elections office (R.C. 3513.05)

*Note:* If the municipal corporation is located in more than one county, the petition is filed with the board of elections in the most populous county.

## Nonpartisan Candidates

### Qualifications

#### Residency Requirement:

- Legislative authority: One year in the village, city or ward immediately preceding election (R.C. 3.15, 731.02, 731.12)
- Mayor – Village with population of 2,000 - 4,999: One year in the village immediately preceding election (R.C. 3.15, 733.24)
- Mayor – City: Resident of the city (R.C. 3.15)
- All other offices: Resident of the city or village (R.C. 3.15)

#### Minimum Age:

- 18 years, as of the date of the general election (OH Const. Art. V §1, XV §4)

#### Other:

- Must be a registered elector of the city or village (OH Const. Art. V §1, Art. XV §4 , R.C. 3.15, 731.02, 731.12, 733.09, 733.10, 733.24, 733.42, 733.49)
- Director of law: Must be an attorney admitted to practice in this state (R.C. 733.50)

#### Petition Filing Deadline:

- By 4 p.m. on August 10, 2011 (90 days before the general election) (R.C. 3513.251, 3513.261)

#### Filing Fee:

- \$30 for village office; \$45 for city office (R.C. 3513.10, 3513.261)

#### Petition Form Number:

- #3-O

#### Signature Requirements:

- 50 valid signatures (R.C. 3513.251)

#### Filed with:

- Appropriate county board of elections office (R.C. 3513.05)

*Note:* If the municipal corporation is located in more than one county, the petition is filed with the board of elections in the most populous county.

## MUNICIPAL JUDGE

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R.C. 1901.07 prescribes the method of nomination of municipal judges based on the jurisdiction of the court and the applicability of municipal charter provisions. Municipal judge candidates should review closely R.C. 1901.07 and consult with their local board of elections to determine particular filing requirements in their jurisdiction. All candidates for municipal judge are nominated either by nominating petition or by primary election. If two or more judges of the same court are to be elected, each person filing a declaration of candidacy or a nominating petition as a candidate for election to the office of judge of the court shall state when the term of office commences.

### **Term:**

Six years; commencement dates vary (R.C. 1901.07)

### **Qualifications**

#### **Maximum Age:**

- 70 years, as of the date of the general election (OH Const. Art. IV §6)

#### **Residency Requirement:**

- In the territorial jurisdiction of the court (R.C. 3.15, 1901.06)

#### **Experience:**

- Six years admitted to, and engaged in, the practice of law, or prior service as a judge of a court of record in the United States, or both (R.C. 1901.06)

#### **Other:**

- Registered voter in the territorial jurisdiction of the court (1901.06)

#### **Filing Deadline:**

- By 4 p.m. on February 2, 2011 (90 days before the primary election) for party candidates: or
- by 4 p.m. on May 2, 2011 for independent or nonpartisan candidates (day before the primary election) (R.C. 1901.07, 3513.05, 3513.257, 3513.261)

#### **Filing Fee:**

- \$80 (R.C. 3513.10, 3513.261)

#### **Petition Form Numbers:**

- #2-H for party candidates
- #3-I for independent and nonpartisan candidates:

**Signature Requirements: (R.C. 1901.07, 3513.05, 3513.257)**

*Note:* In certain charter municipal corporations, the petition, signature or filing requirements may differ. Contact your local board of elections for specific requirements.

- Major party candidates: 50 valid signatures
- Minor party candidates: 25 valid signatures
- Independent or nonpartisan candidates: 50 valid signatures

By nominating petition only: municipal courts specified in R.C. 1901.07(C)(1)-(6): Akron, Cleveland and Toledo municipal courts, and the Auglaize, Brown, Carroll, Clermont, Crawford, Franklin, Hamilton, Hocking, Jackson, Lawrence, Madison, Miami, Morrow, Portage and Wayne county municipal courts

**Filed With:**

Appropriate county board of elections office (R.C. 3513.05)

*Note:* If the court is located in more than one county, the petition is filed with the board of elections in the most populous county unless otherwise provided for in law

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**MUNICIPAL COURT CLERK**

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Requirements for candidates for municipal court clerk are specified in R.C. 1901.31. Generally, municipal court clerks are elected in municipal court jurisdictions with populations of 100,000 or more and appointed in jurisdictions with populations under 100,000, but there are numerous exceptions (e.g., Akron, Barberton, Toledo, Hamilton County, Portage County and Wayne County municipal courts).

Elected clerks are nominated and elected in the same manner provided for judges of the court. Review R.C. 1901.31 and 1901.07 and consult the appropriate county board of elections for specific information regarding this office.

*Note:* In certain charter municipal corporations, the petition, signature or filing requirements may differ. Contact your local board of elections for specific requirements.

**Term:**

Six years, commencing 1/1/2012 (R.C. 1901.31)

**Qualifications****Residency Requirement:**

- In the territorial jurisdiction of the court (R.C. 3.15, 1901.06)

**Minimum Age:**

- 18 years, as of the date of the general election (OH Const. Art. V §1, Art. XV §4)

**Other:**

- Registered voter in the territorial jurisdiction of the court (R.C. 1901.06, 1901.31)

**Petition Filing Deadlines:**

By 4 p.m. on February 2, 2011 (90 days before the primary election) for party candidates; or by 4 p.m. on May 2, 2011 (day before the primary election) for independent candidates (R.C. 1901.07, 3513.05, 3513.257, 3513.261)

**Filing Fee:**

- \$80 (R.C. 3513.10, 3513.261)

**Petition Form Numbers:**

- #2-H for party candidates
- #3-I for independent candidates

**Signature Requirements:**

- Major party candidates - 50 valid signatures, unless otherwise provided in law (R.C. 1901.31, 3513.05, 3513.257)
- Minor party candidates – 25 valid signatures, unless otherwise provided in law (R.C. 1901.31, 3513.05, 3513.257)

**Filed With:**

- Appropriate county board of elections office (R.C. 3513.05)

*Note:* If the court is located in more than one county, the petition is filed with the board of elections in the most populous county unless otherwise provided for in law.

## TOWNSHIP OFFICES

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In 2011, there will be a fiscal officer and one trustee elected in each township to a full term. Candidates for township office are nominated by nominating petition as nonpartisan candidates, unless a majority of the voters of the township have adopted provisions to hold a primary election (R.C. 3513.01, 3513.253).

**Term:****Fiscal Officer:**

- Four years, commencing 4/1/2012 (R.C. 507.01)

**Trustee:**

- Four years, commencing 1/1/2012 (R.C. 505.01)

**Qualifications****Residency Requirement:**

- In the township (R.C. 3.15)

**Minimum Age:**

- 18 years, as of the date of the general election (OH Const. Art. V §1, Art. XV §4)

**Other:**

- Registered elector of the township (OH Const. Art. V §1, Art. XV §4)

**Filing Deadline:**

- By 4 p.m. on August 2, 2011 (90 days before the general election) (R.C. 3513.253)

**Filing Fee:**

- \$30 (R.C. 3513.10, 3513.261)

**Petitions Form Number:**

- #3-R

**Signature Requirements:**

- 25 valid signatures (R.C. 3513.253)

**Filed With:**

- Appropriate county board of elections office (R.C. 3513.253)

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**BOARD OF EDUCATION**

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The number of members of a board of education to be elected in 2011 differs in each school district. Nomination of candidates for board of education may be made by: nominating petition (R.C. 3513.254, 3513.255), or if approved by the board of education, by a nonpartisan primary election held on the same day as the primary election for nominating all other candidates for public office in that year (R.C. 3513.256).

**Term:**

Four years, commencing 1/1/2012 (R.C. 3313.09)

**Qualifications****Residency Requirement:**

- In the territory comprising the district (R.C. 3.15, 3313.01)

**Minimum Age:**

- 18 years, as of the date of the general election (OH Const. Art. V §1, Art. XV §4)

**Other:**

- Registered voter in the territory comprising the district (R.C. 3313.01)

**Petition Filing Deadlines:**

- Primary: 4 p.m. on February 2, 2011  
(the 90th day before the primary election) (R.C. 3513.256(A))
- No primary: 4 p.m. on August 10, 2011  
(the 90th day before the general election) (R.C. 3513.254, 3513.255)

**Filing Fee:**

- \$30 (R.C. 3513.10, 3513.261)

**Petitions - no primary:**

**City, local or exempted village board:**

- #3-T for individual candidate
- #3-U for group of candidates
- #3-V for newly formed local school board

**Governing board of educational service center (ESC):**

- #3-W for individual candidate (at-large or district)
- #3-X for group of at-large candidates
- #3-Y for newly formed ESC, individual candidate
- #3-YA for newly formed ESC, group of candidates

**Petitions - Nonpartisan Primary:**

- #2-V for city, local, exempted village (individual candidate)
- #2-W for individual ESC candidate
- #2-X for newly formed ESC

**Signature Requirements:**

City: based on the population of the school district (R.C. 3513.254):

<b>Population of city school district:</b>	<b>Number of valid signatures required:</b>
Fewer than 20,000	25
20,000 – 49,999	75
50,000 – 99,999	150
100,000 or more	300

Local school district:

- 25 valid signatures (R.C. 3513.254)

Exempted Village:

- 25 valid signatures (R.C. 3513.254)

ESC:

- 50 valid signatures (R.C. 3513.255)

**Filed With:**

Appropriate county board of elections office (R.C. 3513.254)

*Note:* If the school district is in more than one county, the petition is filed in the most populous county.

Educational service center: petition filed with board of elections of the county in which the central administrative offices are located (R.C. 3513.255).

## WRITE-IN CANDIDATES

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To be a write-in candidate, a person must file a Declaration of Intent to be a Write-In Candidate (Form 13). Only write-in candidates who timely file a properly completed declaration of intent will have votes counted in the primary or general election for which the candidate filed. No person may file to be a write-in candidate for any non-federal office if for the same election that person already filed a declaration of candidacy or nominating petition, or if for the same election that person became a candidate by party nomination at a primary election or by filling vacancy on the ballot and did not timely withdraw the person's candidacy. (R.C. 3513.041)

**Qualifications**

A write-in candidate must meet all of the eligibility requirements of the office (see specific office for qualifications).

**Form number:**

- #13

**Filing deadlines:**

- Primary election: 4 p.m. on February 22, 2011  
(72 days before the primary election) (R.C. 3513.041)

*Note:* If the primary election is eliminated pursuant to R.C. 3513.02 (see page 15), the board of elections cannot accept declarations of intent to be write-in candidates at the primary. (OAG 73-094)

- General election: 4 p.m. on August 29, 2011  
(72 days before the general election) (R.C. 3513.041)

**Filing fee:**

- A write-in candidate must pay the same filing fee as any other candidate for the office (R.C. 3513.10)

**Filed with:**

Appropriate county board of elections. (See "Filed With" under the specific office discussed in this publication)

## **ELIMINATION OF PRIMARY ELECTION**

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Section 3513.02 of the Revised Code of Ohio provides that a municipal partisan primary election shall not be conducted under certain circumstances.

No primary election will be conducted for a particular political party, if in accordance with R.C. 3513.02, the following occurs:

- no valid declaration of candidacy is filed by a candidate of a political party for election to any of the offices to be voted for at the general election in that year, or
- not more than one party declaration of candidacy is filed for each office to be voted upon at the general election.

However, if the only office for which there is a primary contest is that for member of council in a ward, then a primary election will be held for that party only in the ward in which there is a contest, and only the names of the candidates for that ward office will appear on the party's ballot (R.C. 3513.02).

## **POLITICAL PARTY AFFILIATION OF CANDIDATES FOR PARTY NOMINATION**

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R.C. 3513.191(B) provides that, regardless of how the person voted in prior partisan primary elections, either of the following persons may be candidates for nomination of any political party at a party primary:

- A person who does not hold an elective office, or
- A person who holds an elective office other than one for which candidates are nominated at a party primary election.

Additionally, R.C. 3513.191(C) provides that a person who holds an elective office for which candidates are nominated at a party primary may become a candidate for a different political party if the person completes and files the Secretary of State's prescribed Form 10-Y (Declaration of Intent to Change Political Party Affiliation) by 4 p.m. on the 30th day before the filing deadline for declaration of candidacy and petition. However, the person may file a Form 10-Y only once during a 10-year period.

The restriction on candidates in R.C. 3513.191 does not apply to candidates seeking political party nomination at the primary election for a minor political party for four calendar years from the date of party formation under R.C. 3517.013. Thus, any registered elector may seek political party nomination as a candidate of a minor political party in 2011, regardless of the elector's prior political affiliation.

See also R.C. 3513.04 and R.C. 3513.052 for provisions that govern and/or restrict candidacies.

## INDEPENDENT CANDIDATES

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Secretary of State Advisory No. 2007-05 advises of the effect on independent candidates of the decision of the United States Court of Appeals for the Sixth Circuit in the case of *Morrison v. Colley*, 467 F.3d 503 (6th Cir. 2006). An independent candidate must actually be unaffiliated or disaffiliated from any political party, and the required claim of being unaffiliated by an independent candidate must be made in good faith for the candidate to be qualified to run as an "independent" candidate. (For example, if an independent candidate votes in a party primary election during the time of his or her candidacy, the candidate is not actually unaffiliated, and the candidate's claim of independence was either not made in good faith or is no longer current. Similarly, if an independent candidate was on a political party's central or executive committee at the time he or she filed as an independent candidate, or becomes such a committee member at any time during his or her independent candidacy, the candidate is not actually unaffiliated, and the candidate's claim of independence was either not made in good faith or is no longer current.)

At the time a prospective independent candidate, other than a judicial candidate, files his/her nominating petition, the candidate may request to have the designation "nonparty candidate" or "other party candidate" printed underneath the candidate's name on the ballot. However, the designation "independent" may not appear on the ballot. No ballot designation will appear under an independent candidate's name if no request is received. Such request must be given to the office at which the nominating petition was filed. (R.C. 3505.03, 3513.257)

Please see specific office listed in this *Candidate Requirement Guide* for qualifications, signature requirements and filing deadlines.

## RESTRICTIONS ON FILING FOR MULTIPLE OFFICES

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No person shall seek nomination or election to any of the following offices or positions at the same election by filing a declaration of candidacy and petition, declaration of intent to be a write-in candidate, or a nominating petition, or by becoming a candidate through a party nomination in a primary election, or by filling of a vacancy under R.C. 3513.30 or 3513.31:

1. Two or more state offices;
2. Two or more county offices;
3. A state office and a county office;
4. A federal and a state or county office; or
5. Any combination of two or more municipal or township offices, positions as a member of a city, local, or exempted village board of education, or position as a member of a governing board of an educational service center.

The only exception to this prohibition is if a person “timely withdraws” his or her candidacy. A timely withdrawal is “withdrawing as a candidate before the applicable deadline for filing a declaration of candidacy, declaration of intent to be a write-in candidate, or nominating petition for the subsequent office for which the person is seeking to become a candidate at the same election.” (R.C. 3513.052(G))

Therefore, if a prospective candidate withdraws his or her candidacy prior to the relevant filing deadline or before the county board of elections acts to disqualify the person’s candidacy, the person may re-file as a candidate for the same office or any other office.

A candidate may only withdraw his or her candidacy; a candidate may not withdraw the forms used to initiate his or her candidacy.

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## **PETITIONS**

County boards of elections will provide a candidate with a sufficient number of petition forms; although they are not required to do so. Candidates are permitted to make copies of the forms in the manner they were provided.

### **GROUP PETITIONS**

Ohio law provides for a “group petition” to be used by candidates nominated only by nominating petition for the following offices: member of a board of education, township trustee (used in years when two trustees are to be elected), and offices of villages of under 2,000 population. (R.C. 3513.261)

If a group of candidates for one of these offices wants to jointly circulate and file a single petition, they may do so by using the appropriate form:

- #3-S (township office);
- #3-MA (offices in villages with under 2,000 population);
- #3-U (city, local, or exempted village board of education);
- #3-X (at-large members of educational service center); or
- #3-YA (members of newly formed educational service center).

Each of the two or more candidates named in the group petition must sign the “Statement of Candidacy,” and each must pay a separate filing fee. All the signatures affixed to the petition are credited to each candidate named on the petition. (R.C. 3513.10, 3513.261)

### **RULES GOVERNING PETITIONS**

The “Statement of Candidacy” portion of each petition paper must be completely filled out and signed by the candidate(s) before being circulated. (R.C. 3513.07, 3513.261)

Candidates for judge must designate the term of office on the declaration of candidacy or nominating petition if more than one office is to be elected at the election. (R.C. 3513.08, 3513.28)

Only qualified electors may sign a petition. An elector's qualifications are determined as of the date the petition is filed. (R.C. 3501.38 (A))

Each signature must be an original signature of an elector or the elector's duly appointed attorney in fact acting pursuant to R.C. 3501.382, written in ink. "Signature" means that person's written, cursive-style legal mark written in that person's own hand. (R.C. 3501.38 (B), 3501.382, 3501.011)

Each signature must be personally affixed by a registered elector who is qualified to vote on the candidacy or by the elector's duly appointed attorney in fact who is acting pursuant to R.C. 3501.382. The elector's name also may be printed underneath or next to the elector's signature. (R.C. 3501.38)

Each signer's residence address and the date of signing must be placed on the petition after the elector's signature. (R.C. 3501.38 (C))

Petitions for a candidate for party nomination must be signed and circulated by persons who are members of the same political party as the candidate. (R.C. 3513.05)

### **Special Note Regarding Petition Circulators:**

On October 29, 2008, a federal court held that Ohio's requirement that circulators of candidate petitions be registered to vote in Ohio was unconstitutional. However, the court did not rule on the requirement that the circulator of a declaration of candidacy for party nomination be a member of or affiliated with the same political party as the candidate named in the declaration of candidacy. A circulator is considered to be a member of a political party if the elector voted in the primary election of only that party within the preceding two calendar years, or did not vote in any other party's primary election within the preceding two calendar years. ((R.C. 3513.05, seventh paragraph) *Nader v. Blackwell*, 545 F.3d 459 (C.A.6 2008))

A candidate may circulate his or her own petition, but cannot sign his or her own petition as an elector. For the purpose of circulating his or her own petition, a candidate is exempted from the party affiliation requirements described above. (R.C. 3513.191(C)(4))

A circulator may not sign the same petition paper that he or she is circulating. However, an otherwise eligible circulator may sign a petition paper being circulated for the same candidate by a different circulator.

After circulating the petition, the circulator must sign a statement and provide a complete residence address on each petition paper, under penalty of election falsification:

- Indicating the number of signatures contained on the petition;
- That the circulator witnessed the affixing of each signature on the petition;
- That all signers, to the best of the circulator's knowledge and belief, were qualified to sign; and
- That each signature is, to the best of the circulator's knowledge and belief, the signature of the person whose signature it purports to be.

If a circulator knowingly permits an unqualified person to sign a petition paper or permits a person to write a name other than the person's own on a petition paper (except for an attorney in fact under R.C. 3501.382), that petition paper is invalid; otherwise, the signature of a person not qualified to sign shall be rejected, but shall not invalidate the other valid signatures on the paper. (R.C. 3501.38 (E) and (F))

Once a petition has been filed in a public office, it cannot be changed, supplemented or, in the case of a candidate's petition, withdrawn. Certain initiative and referendum petitions may be withdrawn in accordance with law. (R.C. 3501.38 (I))

The original petition with the candidate's original signature must be filed at the same time as all part-petitions are filed. (R.C. 3501.38 (K))

Each petition paper shall be circulated by one person only, and shall contain signatures of qualified electors of one county only. When petitions are circulated in a district that contains more than one county, separate petition papers must be circulated in each county. (R.C. 3501.38, 3513.05, 3513.07, 3513.261)

No petition shall be filed with more than three times the minimum number of required signatures. (R.C. 3513.05, 3513.257)

All petitions must contain the following statement in boldface capital letters: **"WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE."** (R.C. 3501.38(J), 3599.36)

All petitions remain open for public inspection, under reasonable regulations, at the board of elections in which they were filed. (R.C. 3513.05, 3513.262)

# PROTESTS

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## Generally

Protests against the candidacy of any person must be in writing, must set forth with specificity the legal ground(s) for the protest, and must be filed with the board of elections with which the candidate filed his/her declaration of candidacy, nominating petition or declaration of intent to be a write-in candidate. (R.C. 3513.041, 3513.05, 3513.262, 3513.263)

After a valid protest is filed, the board of elections will set a time and place for a public hearing and give notice to both the person whose candidacy is being protested and the protester. (R.C. 3513.05, 3513.262, 3513.263)

Both the protestor and the protested candidate, or their respective legal counsel, will have the opportunity to address the board at the hearing.

## Partisan primary candidacy

Protests against a candidate in a partisan primary may be made by the controlling committee of that party, or by any qualified elector who is a member of the same party as the candidate and who is eligible to vote for the candidate whose petition is the subject of the protest. (R.C. 3513.041, 3513.05, 3517.014, 3517.015)

The deadline to file a protest against any candidate who filed a declaration of candidacy and nominating petition for the May 3 partisan primary is 4 p.m. on February 18, 2011 (74th day before the primary election). (R.C. 3513.05)

The deadline to protest a write-in candidacy for the May 3 primary is 4 p.m. on February 25, 2011 (67th day before the primary election). (R.C. 3513.041)

## Independent candidacy

Protests against an independent candidate may be made by any qualified voter who is eligible to vote for the candidate whose petition is the subject of the protest. The deadline to file a protest against any candidate who filed a nominating petition as an independent candidate is 4 p.m. on August 1, 2011 (the deadline carries over to Monday, August 1, because July 30 falls on a Saturday when boards of elections are closed). (R.C. 3513.262)

## **Nonpartisan candidacy**

Any elector eligible to vote on the candidacy of a candidate for nonpartisan office may protest that candidacy. The protest filing deadline is 4 p.m. on August 26, 2011 (74th day before the general election). (R.C. 3513.263)

## **Write-in candidacy - general election**

Any elector eligible to vote on the candidacy of a write-in candidate may protest that candidacy. The protest filing deadline is 4 p.m. on September 2, 2011 (67th day before the general election). (R.C. 3513.041)

## **UNEXPIRED TERMS**

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### **Generally**

Vacancies may occur in public elective offices due to an officeholder's death, resignation, removal, or failure to satisfy the legal requirements to take or remain in office. Some vacancies in public elective office will be filled for the remainder of the unexpired term by appointment; others will be filled by appointment only until a successor is elected for the remainder of the term.

The general statutory provisions governing elections for the remainder of unexpired terms ("unexpired term elections") are set forth in R.C. 3.02(A), which states:

When an elective office becomes vacant and is filled by appointment, such appointee shall hold the office until his successor is elected and qualified; and such successor shall be elected for the unexpired term, at the first general election for the office which is vacant that occurs more than forty days after the vacancy has occurred; provided that when the unexpired term ends within one year immediately following the date of such general election, an election to fill such unexpired term shall not be held and the appointment shall be for such unexpired term.

Unexpired term – partisan office. Several statutes govern candidacies for unexpired term elections. R.C. 3513.31 is a general statute that always should be consulted in connection with an unexpired term election for an office that, under Ohio law, is subject to party primaries. R.C. 3513.31(I) provides how and when party nominees are selected for unexpired term elections for such offices, while R.C. 3513.31(J) describes how persons become independent candidates for those unexpired term elections.

Petition must include term-ending date. Ohio law requires each person filing a declaration of candidacy or a nominating petition as a candidate for the unexpired term of any office shall designate the date on which

that unexpired term will end. (R.C. 3513.08, 3513.28) Failure to provide the correct term-ending date on the petition will result in the petition being invalidated.

## **MUNICIPAL OFFICES (OTHER THAN JUDGE AND CLERK OF COURTS)**

### **Villages**

Vacancies in elective office of villages that have adopted a limited form of home rule will be filled as provided by the applicable home-rule provisions.

In all statutory (non-home rule) villages, the office of mayor is the only office requiring an election to fill an unexpired term, and then only if the following two conditions exist:

- the vacancy occurs more than 40 days before the next regular municipal election, and
- the unexpired term will end more than one year after that election.

Vacancies in other statutory village offices are filled by an appointment for the entire unexpired term (R.C. 731.43, 733.25, 733.31).

### **Cities**

In all cities operating under a charter or other plan of limited home-rule government, the applicable provisions of the charter or home-rule plan will control the filling of vacancies.

In statutory (non-home rule) cities, vacancies in municipal offices for director of law, auditor, treasurer, and in certain cases, the president of council, are filled by an election for the unexpired term if the following two conditions exist:

- the vacancy occurs more than 40 days before the next regular municipal election, and
- the unexpired term will end more than one year after that election.

Vacancies in other offices are filled by an appointment for the remainder of the unexpired term (R.C. 731.43, 733.08, 733.31).

## **MUNICIPAL JUDGE AND CLERK**

**Judge:** Except where otherwise provided by charter, a vacancy in the office of a municipal judgeship that does not appear on this year's ballot and that occurs after the 100th day (January 23, 2011) before the date of the primary election, and prior to the 56th day (September 13, 2011) before the November 8, 2011 general election, shall be filled by an election for the unexpired term (R.C. 3.02, 1901.10).

**Clerk:** A vacancy in the office of an elected municipal court clerk is filled according to R.C. 1901.31.

## **TOWNSHIP OFFICES**

A vacancy occurring in a township elective office that does not appear on this year's ballot shall be filled by an election for the unexpired term if the vacancy occurs prior to the 56th day (September 13, 2011) before the November 8, 2011 general election (R.C. 503.24).

## **BOARDS OF EDUCATION**

Each person selected to fill a vacancy on a board of education shall hold office for the shorter of the following periods:

- Until the completion of the unexpired term, or
- Until the first day of January immediately following the next regular board of education election taking place more than 90 days after a person is selected to fill the vacancy.

If, prior to the 90th day (August 10, 2011) before the general election, a person is appointed to a board of education term expiring in 2013, an election for the remainder of the unexpired term shall be held on November 8, 2011 (R.C. 3313.11).

## **DEATH OR WITHDRAWAL OF CANDIDATE**

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An individual's candidacy may cease to exist due to the individual's death or decision to withdraw from the election.

A candidate may withdraw his or her candidacy at any time prior to the primary or general election by filing a written statement of withdrawal with the appropriate board of elections. (R.C. 3513.30)

If a candidate dies, the candidate's party organization, committee or family should notify the appropriate county board of elections of the death.

The law provides various procedures for the replacement of a candidate who dies or withdraws during the election cycle. The procedures to be followed will be dictated by the specific facts surrounding the vacancy on the ballot (e.g., the office involved, why the vacancy occurred, the time remaining before the election, and so forth). Two statutes generally governing vacancies on the ballot are R.C. 3513.30 (death of candidate before a primary election, withdrawal of candidacy before or after a primary election) and R.C. 3513.31 (filling vacancies in party, independent and nonpartisan nominations).

# OBSERVERS

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## Generally

Any political party that is supporting candidates on the ballot, a group of five or more candidates, or a ballot issue committee recognized by the board of elections pursuant to law as supporting or opposing a ballot issue may appoint one observer to each precinct or the board of elections office on election day, and to the board of elections office or any other site designated by the board for voting before Election Day. Every observer must be a qualified elector. An observer appointed to a board of elections office also may observe in any precinct in the county. (SoS Directive 2008-29 and SoS Directive 2008-97)

An observer appointed to a precinct serves from the time the polling place opens until after the ballots in that precinct have been processed. An observer appointed to the board of elections office serves from the time the polls open until the ballots are counted or otherwise processed on election night. (R.C. 3505.21, 3506.13)

Observers may be designated to be present at the official canvass of votes. (R.C. 3505.32)

## Appointment

Notice to the board of elections: All observers must be appointed in writing using forms prescribed by the Secretary of State. The names and addresses of the appointees, and the precinct or board of elections office at which they will serve, must be provided using a properly completed and signed "Notice of Appointment" or "Amendment of Appointment of Observers", which must be filed with the board of elections of the appropriate county by 4 p.m. on the 11th day before the election.

Amendment of Notice: Any amendment to the originally filed Notice of Appointment must be filed with the appropriate board of elections by the close of regular business hours the day before the election.

## Certificates of appointment

### Appointments by a Political Party

The chair and secretary of a party controlling committee that timely filed Form #214 must sign and issue a completed certificate of appointment to each observer (Form #215), who files the certificate with election officials at the appropriate precinct or board of elections, respectively.

### Appointments by a Group of Five or More Candidates

The five or more candidates who timely filed Form #216 must sign and issue a completed certificate of appointment to each observer (Form #217), who files the certificate with election officials at the appropriate precinct or board of elections, respectively.

### **Appointments by a Recognized Ballot Issue Committee**

First, a committee supporting or opposing an issue on the ballot must file with the board of elections Form #218 by 4 p.m. of the 20th day before the election, asking to be recognized as the committee entitled to appoint observers to the count at the election. Then, a recognized ballot issue committee timely files a completed Form #219 and issues a properly completed certificate of appointment (Form #220) to each observer to the count who files the certificate with election officials at the appropriate precinct or board of elections, respectively.

### **Restrictions**

No uniformed peace officer, state highway patrol trooper, member of any fire department, member of the armed services or the organized militia, person wearing any other uniform, and no person carrying a firearm or other deadly weapon shall serve as an observer. A candidate may not serve as an observer unless the candidate also is a member of the party controlling committee and has been appointed by the party.

Observers must sign an oath administered by a judge of elections.

Observers cannot be compensated by a county, city, village or township. (R.C. 3505.21)

## **RECOUNTS AND CONTESTS**

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### **Recounts**

**Mandatory.** State law requires election officials to conduct a recount if the difference between the declared winning and losing candidates, or winning and losing local question or issue after the official canvass is equal to or less than a margin of one-half of 1 percent of the total vote for that office, question or issue. The cost of conducting the recount is publicly funded, and no deposit is required. (R.C. 3515.011)

If the official canvass of a candidate race results in a tie, the board of elections first must break the tie by lot, then declare the winning and losing candidates and order the recount. A ballot issue that receives an equal number of votes for and against automatically fails, because the issue failed to receive a majority of the votes cast.

**Requested.** If the difference between the declared winning and losing candidates, or winning and losing local question or issue, is greater than one-half of 1 percent of the total vote for that office, question or issue, a losing candidate or, in the case of a ballot issue, a group of five or more qualified electors who voted on a question or issue that was on the ballot, may request a recount. In order for the recount to be conducted, the candidate or group must file a written application for the recount of the votes cast in any or all of the precincts where that candidacy or issue appeared on the ballot.

The application must:

- Be filed with the board of elections within five days after the board certifies the election results,
- List the precinct(s) to be recounted; and
- Be accompanied by a \$55 fee in currency, bank money order, bank cashier's check, or certified check for each precinct listed in the application.

The county board of elections determines the date, time and manner of the recount and gives notice of the recount to the appropriate people or entities. (R.C. 3515.01, 3515.011, 3515.02, 3515.03, 3515.07, 3515.071)

## **Contest of election**

A contest of elections is a judicial proceeding that may be brought by a declared defeated candidate, or by 25 voters who voted for or against the candidate or for or against the issue being contested. The contesteer must prove that there was some flaw, fraud or error in the way the election was conducted and that, but for such flaw, fraud or error, the result of the election would have been different.

The contesteer must file the court action (described in R.C. 3515.09 as a "petition," but it is not an elections petition, and thus is not available from election officials) with the appropriate court within 15 days after the election has been certified or, if a recount is conducted, within 10 days after the recount is certified. The contest procedures are set forth in R.C. 3515.08 - 3515.16.

## **CAMPAIGN FINANCE REPORT**

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Each candidate will receive materials from the board of elections pertaining to campaign finance compliance and reporting at the time petitions of candidacy are filed.

A "Designation of Treasurer" (Form #30-D) must be filed prior to the receipt or expenditure of any contributions, including personal funds spent by the candidate used to further the campaign (except for payment of the candidate's filing fee from the candidate's personal funds). (R.C. 3517.10)

## **CAMPAIGN MATERIALS**

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A complete disclaimer for a candidate's campaign committee is comprised of the phrase, "Paid for by," followed by the name of the candidate's campaign committee, the name and title of the campaign committee chairperson, treasurer or secretary and a residence street address or business street address. A disclaimer may use a post office box in addition to, but not in lieu of, a complete street address. If more than one piece of printed matter is mailed as a single packet, the disclaimer

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requirement is considered to be met if one of the pieces of printed matter contains the disclaimer. (R.C. 3517.20)

Exemptions to the disclaimer requirement have been granted by rule (O.A.C. 111-5-19) of the Secretary of State for specified articles. Specific exemptions for articles not exempted by rule may be requested by sending a written request to the Office of the Secretary of State, Campaign Finance Division, P.O. Box 2828, Columbus, OH 43216. The request must include the requestor's name, address and telephone number, and a full description of the item for which the exemption is requested, including the item's measurements and material.

In accordance with R.C. 3513.33, each candidate will receive, at the time of filing a declaration of candidacy, nominating petition or declaration of intent to be a write-in candidate, a copy of R.C. 3517.21, which prohibits certain unfair political campaign activities.

## **PERSONAL FINANCIAL DISCLOSURE STATEMENT**

Any individual who becomes a candidate for or holds a state, county or city elected office, or the position of school board member in a school district with more than 12,000 students average daily membership, is required to file a personal financial disclosure statement. All public officials and candidates for elected office file statements with the Ohio Ethics Commission, except members of and candidates for the General Assembly (who file with the Joint Legislative Ethics Committee) and judges (who file with the Board of Commissioners on Grievances and Discipline of the Supreme Court).

### **Filing deadlines**

The filing deadlines for personal financial disclosure statements are prior to any election. Therefore, a candidate is required to file the statement, regardless of whether he/she won the election, and regardless of how much he/she spent on the campaign.

The filing deadline for candidates whose names are printed on the ballot is 30 days prior to the earliest election in which their candidacy is to be voted upon. Thus, the filing deadline for a candidate whose name will be printed on the May 3, 2011, primary ballot is April 4, 2011 (because the 30th day before the primary election falls on a Sunday, the filing deadline carries over to the following Monday).

The deadline for write-in candidates is 20 days prior to the earliest election in which their candidacy is to be voted upon. Consequently, the filing deadline for a write-in candidate in the May 3, 2011, primary is April 13, 2011.

Also, all persons who are appointed to fill a vacancy for an unexpired term in an elected office for which financial disclosure is required must file within 15 days after they are sworn into office.

Individuals who fail to file the required statement are subject to criminal penalties, and those who file after the appropriate filing deadline incur a late filing fee.

The Ohio Ethics Commission provides blank financial disclosure statements to county boards of elections for distribution to candidates for, and persons appointed to fill an unexpired term of, an elected office (members of and candidates for the General Assembly file statements provided by the Joint Legislative Ethics Commission). Persons are required to acknowledge receipt of the statement in writing. A copy of a blank statement can also be found on the Commission's Web site at: [www.ethics.ohio.gov](http://www.ethics.ohio.gov). If further information is needed, view the Commission's website or contact the commission at (614) 466-7090.

# 2011 OHIO ELECTIONS CALENDAR

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(Abridged)

- \*Jan. 10 Deadline for voter registration for Feb. 8 Special Elections (30 days before the election)
- Feb. 2 Declarations of Candidacy for partisan candidates must be filed by 4 p.m. (90 days before the primary)  
Local questions and issues must be certified to the board by 4 p.m. (90 days before primary)
- Feb. 8 Special Elections may be held
- \*Feb. 22 Write-in candidates for primary election must file Declarations of Intent by 4 p.m. (72 days before the primary)
- Mar. 19 UOCAVA absentee ballots must be ready (45 days before the primary)
- Mar. 29 Non-UOCAVA absentee ballots must be ready (35 days before the primary)
- \*Apr. 4 Deadline for voter registration for primary election (30 days before the primary)
- Apr. 21 Pre-primary election campaign finance reports must be filed by 4 p.m. (12 days before the primary)
- May 2 Nominating petitions for independent candidates must be filed by 4 p.m. (day before the primary)
- May 3 Primary/Special Elections
- May 4 Local questions and issues must be certified to the board by 4 p.m. for Aug. 2 special elections (90 days before the special)
- May 14 Boards may begin official canvass (11 days after the primary)
- June 10 Post-primary election campaign finance reports must be filed by 4 p.m. (38 days after the primary)
- June 16 Last day for local option petitioners to send street listing to Div. of Liquor Control (55 days before petition filing deadline)
- \*July 5 Deadline for voter registration for Aug. 2 Special Elections (30 days before the election)

- Aug. 2 Special Elections may be held
- Aug. 10 Candidates' nominating petitions for non-partisan races must be filed by 4 p.m. (90 days before the general)  
Local questions and issues must be certified to board by 4 p.m. (90 days before the general)
- \*Aug. 29 Write-in candidates for general election must file Declarations of Intent by 4 p.m. (72 days before the general)
- Sept. 24 UOCAVA absentee ballots must be ready (45 days before the general)
- Oct. 4 Non-UOCAVA absentee ballots must be ready (35 days before the general)
- \*Oct. 11 Deadline for voter registration for general election (30 days before the general)
- Oct. 27 Pre-general election campaign finance reports must be filed by 4 p.m. (12 days before the general)
- Nov. 8 General Election
- Nov. 19 Boards may begin official canvass (11 days after the general)
- Dec. 16 Post-general election campaign finance reports must be filed by 4 p.m. (38 days after the general)

\*In some instances, the statutory deadline falls on a day when the offices of the Secretary of State and boards of elections are closed. In those instances, the deadlines are extended to the next day when the offices are open for regular business hours. (R.C. 1.14)