

CHAPTER 20. CANDIDATE FILING
SUBCHAPTER 3. FILING FOR STATE AND COUNTY OFFICE
PART 1. WHEN AND WHERE TO FILE

230:20-3-1. Filing period [REVOKED]

~~The filing period for state and county offices will begin at 8 a.m. on the first Monday in June of an even-numbered year. [26:5-110] The filing period will close at 5 p.m. on the next succeeding Wednesday. [26:5-110]~~

230:20-3-2. Candidates filing with Secretary of State Election Board [REVOKED]

~~Candidates for the following offices will file with the Secretary of the State Election Board: United States Senator, United States Representative, State Officers, State Senator, State Representative, District Judge, Associate District Judge and District Attorney. [26:5-102] Candidates in the Presidential Preferential Primary also will file with the Secretary of the State Election Board. [26:20-102]~~

230:20-3-3. Candidates filing with Secretary of County Election Board [REVOKED]

~~Candidates for county office will file with the Secretary of the County Election Board. [26:5-103]~~

PART 3. QUALIFICATIONS FOR COUNTY OFFICE

230:20-3-9. Candidate swears oath [REVOKED]

~~When the candidate signs the Declaration of Candidacy form, he is swearing an oath that he meets the qualifications for the office he seeks. [26:5-111]~~

230:20-3-10. Qualifications for all county offices [REVOKED]

~~(a) To file as a candidate for any county office, one must have been a registered voter within the county for the six-month period immediately preceding the first day of the filing period. [19:131.1]~~

~~(b) The date of voter registration for candidate filing purposes shall be the earliest time the completed voter registration application is received in person at the State Election Board, at any County Election Board, at any voter registration agency identified in 230:15-5-122 or 230:15-5-123 or at any motor license agency, provided that the completed application subsequently is determined to be valid. In the case of an application for voter registration submitted by mail, the date of voter registration for candidate filing purposes shall be the date that the completed voter registration application is postmarked, provided that the application subsequently is determined to be valid. If an application received by mail does not bear a dated postmark or if the postmark is illegible, the date of voter registration for candidate filing purposes shall be the date the application is received at the State Election Board, providing that it subsequently is determined to~~

be valid.

230:20-3-11. Persons not eligible to be candidates [REVOKED]

Persons who have been convicted of or who have entered pleas of guilty or nolo contendere to a misdemeanor involving embezzlement or a felony under the laws of this state or of the United States shall not be eligible to be a candidate for any state, county, municipal, judicial or school office or any other elective office of any political subdivision of this state for a period of 15 years following the completion of the sentence or during the pendency of an appeal of such conviction or plea. [26:5-105a(A)] This shall not be construed to prohibit persons who have received pardons from being eligible for or from holding public office. [26:5-105a(B)]

230:20-3-12. Additional qualifications for party primaries [REVOKED]

(a) To file for nomination by any political party to any county office, one must have been a registered voter in that party and in the county for at least six months immediately preceding the first day of the filing period. [26:5-105(A)]

(b) The date of voter registration for party affiliation purposes shall be the earliest time the completed voter registration application is received in person at the State Election Board, at any County Election Board, at any voter registration agency identified in 230:15-5-122 or 230:15-5-123 or at any motor license agency, provided that the completed application subsequently is determined to be valid. In the case of an application for voter registration submitted by mail, the date of voter registration for party affiliation purposes shall be the date that the completed voter registration application is postmarked, provided that the application subsequently is determined to be valid. If an application received by mail does not bear a dated postmark or if the postmark is illegible, the date of voter registration for party affiliation purposes shall be the date the application is received at the State Election Board, providing that it subsequently is determined to be valid.

230:20-3-13. Additional qualifications for Independent candidates [REVOKED]

(a) *To file as an Independent candidate for any state or county office, a person must have been registered to vote as an Independent for the six month period immediately preceding the first day of the filing period.* [26:5-105(B)]

(b) The date of voter registration as an Independent voter for candidate filing purposes shall be the earliest time the completed voter registration application is received in person at the State Election Board, at any County Election Board, at any voter registration agency identified in 230:15-5-122 or 230:15-5-123 or at any motor license agency, provided that the completed application subsequently is determined to be valid. In the case of an application for voter registration submitted by mail, the date of voter registration as an Independent voter for candidate filing purposes shall be the date that the completed voter registration application is postmarked, provided that the application subsequently is determined to be valid. If an application received by mail does not bear a dated postmark or if the postmark is illegible, the date of voter registration as an Independent voter for candidate filing purposes shall be the date the application is received at the State Election Board, providing that it subsequently is determined to be valid.

230:20-3-14. Exception to qualifications for party primary [REVOKED]

~~If one files as a candidate for the nomination of a political party which attains recognition less than six months preceding the first day of the filing period required by law, the candidate shall be required to have registered with the newly recognized party within 15 days after such party recognition was ordered. [26:5-105(A)] The date of registration shall be determined according to the requirements of 230:20-3-12(b).~~

230:20-3-15. Additional qualifications for County Commissioner [REVOKED]

~~(a) To file as a candidate for County Commissioner, one must have been a registered voter in the County Commissioner district for at least six months immediately preceding the first day of the filing period.~~

~~(b) The date of voter registration within a County Commissioner district shall be determined as indicated in 230:20-3-10(b).~~

230:20-3-17. Additional qualifications for County Sheriff [REVOKED]

~~To file as a candidate for County Sheriff, one must have been a resident of the state for two years, must be at least 25 years of age and must possess at least a high school education. [19:510] In counties of 80,000 or more population, a prospective candidate also must *have completed a basic police course of 120 hours or more which has been approved by the Council on Law Enforcement Education and Training.* [19:510] These additional qualifications do not apply to any person serving as County Sheriff or to any person who has previously served as County Sheriff. [19:510]~~

PART 5. TERMS OF COUNTY OFFICES

230:20-3-23. Four-year terms

All County Officers serve four-year terms. In 1996, and every four years thereafter, the following officers will be elected: Court Clerk, County Clerk, County Sheriff and the County Commissioner for District Two. In 1994, and every four years thereafter, the following officers will be elected: County Assessor, County Treasurer and County Commissioners for District One and for District Three. Beginning in 2014, one County Free Fair Association Board of Directors member from each County Commissioner District will be elected to four-year terms. Beginning in 2016, one County Free Fair Association Board of Directors member from each County Commissioner District will be elected to four-year terms.

230:20-3-25. Beginning dates of terms

The term of the County Treasurer begins on the first Monday in July following his or her election. The terms of all other County Officers begin on the first business day in January

following their election. The terms of County Free Fair Board of Directors members begin on January 1 of the year following their election.

PART 7. PROCEDURE FOR FILING

230:20-3-30. Necessary form

Candidates for county office must file a Declaration of Candidacy form. Declaration of Candidacy forms are available on the State Election Board website – www.elections.ok.gov. The form may be filled out online but must be downloaded and printed and must be signed personally by the candidate in the presence of a Notary Public or other person authorized by law to administer oaths.

230:20-3-31. Service to potential candidates

The Secretary ~~shall~~ may furnish the following ~~forms~~ items to any potential candidate who inquires about filing:

- (1) Two Declaration of Candidacy forms.
- (2) A copy of Instructions for Filing.

230:20-3-32. Declarations may be mailed or delivered in person

Declarations of Candidacy may be mailed or delivered in person by the candidate or by an agent for the candidate. Declarations of Candidacy cannot be accepted by electronic mail or by fax. No filing can be accepted until the filing period opens. [26:5-110] No filing can be accepted unless it is in the hands of the Secretary by 5 p.m. on the last day of the filing period. [26:5-110] This applies even if a Declaration is mailed earlier, but is not received by the Secretary until after the 5 p.m. deadline. The Secretary should check his post office box shortly before 5 p.m. on the last day of the filing period. Each candidate who arrives to file by 5 p.m. on the last day of the filing period is entitled to file. Any candidate who arrives after that time is not entitled to file.

230:20-3-33. Filing fees and petitions

A Declaration of Candidacy must be accompanied by one of the following:

- (1) *A cashier's check or certified check in the amount of \$200.* [26:5-112] Cashier's checks shall include money orders issued by banks or ~~savings and loan associations~~ credit unions.
- (2) A petition supporting the candidate's Declaration signed by four percent (4%) of the registered voters eligible to vote for the candidate in the first election that the candidate's name could appear on the ballot. [26:5-112] For candidates seeking political party nomination, the first election wherein the candidate's name could appear on the ballot is the party Primary Election. For Independent candidates, the first election wherein the candidate's name could appear on the ballot is the General Election. To calculate the number of signatures required, the following examples are offered:

(A) A Democratic candidate for County Clerk would need four percent of the registered Democrats in the county.

(B) A Republican candidate for County Commissioner would need four percent of the registered Republicans in the County Commissioner district.

(C) An Independent candidate for any county office would need four percent of all registered voters in the county (or County Commissioner district).

230:20-3-34. Personal checks, cash, money orders not acceptable

Personal checks, cash and money orders other than money orders issued by banks or ~~savings and loan associations~~ credit unions are not acceptable as filing fees.

230:20-3-36. Candidate's signature [REVOKED]

~~—A Declaration of Candidacy submitted to the Secretary of the County Election Board shall be signed in writing by the candidate to be valid. [26:5-111.1] The candidate personally shall sign his name to the Declaration of Candidacy. [26:5-111.1] No agent, representative or employee of the candidate may sign on the candidate's behalf and no facsimile, reproduction, typewritten or other substitute signature will be valid. [26:5-111.1]~~

230:20-3-37. Checking Declarations

(a) The Secretary shall scrutinize all information on the Declaration of Candidacy form. The Secretary is advised to read each line of the Declaration aloud to the candidate and to spell out the candidate's name. Specifically, the Secretary shall confirm the following facts regarding the Declaration:

(1) The candidate's signature is notarized or witnessed by an appropriate authority. Check to see that both the Notary Public's signature and an impression of the Notary's seal are present on the Declaration of Candidacy form.

(2) The supporting petition bears the required number of signatures or more, or the accompanying cashier's check or certified check is in the proper amount and form. See 230:20-3-33.

(3) The name of the candidate as it appears on the first line of the Declaration of Candidacy conforms identically to the signature of the candidate at the bottom of the form.

(4) The office sought is complete, including district number if required.

(5) The address of residence listed is within the county (or district) of the office sought.

(6) The mailing address is complete, including zip code.

(7) The telephone number, if provided, is accurate.

(8) The e-mail address, if provided, is accurate.

(9) The website address, if provided, is accurate.

~~(7)~~ (10) The box for party candidate, Independent, or Judicial is checked. If the party candidate box is checked, then the name of the political party is written in immediately thereafter. (Judicial candidates file their Declarations of Candidacy only with the Secretary of the State Election Board.)

(8) (11) The precinct and county blanks are completed.

~~(9)-(12)~~ The date of birth blank is completed.

(b) The Secretary has no authority to reject the filing of any candidate unless the Declaration shows on its face that the candidate does not meet the qualifications to become a candidate for the office as contained in the Oklahoma Constitution, statutes, or the resolution calling the election, or in the case of a home rule charter city, in the charter. [26:5-117] If there are errors on the Declaration, the Secretary shall point out such errors to the candidate. For example, one common error is to indicate the current year in the date of birth instead of the actual year of birth. The candidate then shall correct the errors and sign his initials beside the correction. Only the candidate may make corrections on a Declaration of Candidacy.

(c) If the Declaration of Candidacy was received by mail or was delivered by someone other than the candidate, the Secretary shall indicate on the form that it was not received in person from the candidate by noting the letters "NIP" for "not in person" on the upper right corner.

230:20-3-41. Oklahoma Ethics Commission [REVOKED]

~~Candidates who file with the Secretary of the County Election Board and candidates who file with the Secretary of the State Election Board are responsible for providing certain information and submitting certain documents to the Oklahoma Ethics Commission. The appropriate Election Board Secretary shall make available to candidates copies of the forms required by the Ethics Commission if such forms are supplied to the Secretary by the Ethics Commission. All questions from candidates regarding the requirements of the Ethics Commission shall be referred to the Executive Director of the Ethics Commission.~~

230:20-3-42. Retention of Declarations

Declarations of Candidacy shall be retained permanently.

230:20-3-43. Unopposed candidates [REVOKED]

~~(a) Any candidate who is unopposed in a primary election shall be considered to be nominated. [26:6-102] Any candidate who is unopposed in a general election shall be considered to be elected. [26:6-102]~~

~~(b) The name of an unopposed candidate shall not appear on the ballot at any election in which he is so unopposed. [26:6-102]~~

~~(c) The Secretary may issue a Certificate of Election to a candidate who is unopposed for election at any time after 5 p.m. on Friday following the close of the filing period. [26:8-103]~~

PART 9. WITHDRAWALS OF CANDIDATES

230:20-3-47. Withdrawal after filing period [REVOKED]

~~(a) **Time for withdrawal.** Any candidate may withdraw his candidacy only by filing a written notice of withdrawal with the Secretary of the County Election Board no later than 5 p.m. on Friday following the close of the filing period. [26:5-115]~~

~~(b) **Form of withdrawal.** The written notice shall state, "I (Name), hereby withdraw as a candidate for (Office)." The notice shall be signed, dated and notarized by a Notary Public. [26:5-115]~~

~~(c) **Withdrawal of deceased candidate.** In the event a candidate dies after filing a Declaration of Candidacy, but prior to 5 p.m. on Friday following the filing period, a lawfully appointed special administrator may withdraw the deceased candidate's candidacy by filing a written notice as described in subsections (a) and (b) of this Section.~~

230:20-3-48. Filing fee forfeited upon withdrawal

Any candidate who withdraws his candidacy forfeits his filing fee.

230:20-3-49. Becoming a candidate again

If a candidate withdraws, in order to become a candidate again, he must file a new Declaration of Candidacy and another filing fee before the filing period ends.

230:20-3-50. Withdrawals from Runoff Primary [REVOKED]

~~(a) A candidate in the Runoff Primary Election may withdraw his candidacy upon filing a written notice of withdrawal with the Secretary of the County Election Board no later than 5 p.m. on Friday following the Primary. [26:5-116] The notice shall be in the same form as outlined in 230:20-3-47(b).~~

~~(b) In the event a candidate in the Runoff Primary Election dies, the deceased candidate's candidacy may be withdrawn by a lawfully appointed personal representative or special administrator for the deceased candidate. The withdrawal of the deceased candidate's candidacy must be filed in the same manner outlined in (a) of this Section.~~

230:20-3-51. Withdrawals from General Election [REVOKED]

~~A candidate in the General Election may withdraw his candidacy upon filing a written notice of withdrawal with the Secretary of the County Election Board no later than 5 p.m. on the Friday following the date of the Runoff Primary Election. [26:5-116.1] The notice shall be in the same form as outlined in 230:20-3-47(b).~~

PART 11. FILING REPORTS TO STATE ELECTION BOARD

230:20-3-56. Filing reports to State Election Board [REVOKED]

~~At 5 p.m. on Friday following the close of the filing period, the Secretary of the County Election Board shall fax or mail a Filing Report to the Secretary of the State Election Board.~~

PART 15. RUNOFF PRIMARY ELECTION

230:20-3-70. Determining candidates for a Runoff Primary Election [REVOKED]

If, at the Primary Election, no candidate for the nomination for office of any political party receives a majority of all votes cast for all candidates of that party for that office, no candidate shall be nominated for that office, but the two candidates receiving the highest number of votes at said election shall be placed on the official ballot as candidates for the nomination at a Runoff Primary Election. [26:1-103] To aid in calculating the number of votes needed to determine whether or not a Runoff Primary is required, the following examples are offered:

(1) In the Primary Election, the following candidates for County Sheriff received the following votes: Jones, 511; Smith, 438; Johnson, 72. The total votes cast in this race was 1,021. Half of 1,021 is 510.5, so a majority in this case is 511 votes. Jones received a majority; therefore, there is no Runoff Primary Election.

(2) In the Primary Election, the following candidates for County Clerk received the following votes: Bernard, 1,088; Edwards, 356; Lucas, 321; Evans, 211; Hart, 180; Pruitt, 176; Burns, 92; Lewis, 61. The total votes in this race was 2,485. Half of 2,485 is 1,242.5, so a majority in this case is 1,243 votes. Bernard received less than a majority; therefore, Bernard and Edwards will appear on the Runoff Primary Election ballot.

SUBCHAPTER 5. CONTESTS OF CANDIDACY

230:20-5-1. Who may file contest; "petitioner" and "contestee" defined [REVOKED]

Any candidate (referred to as petitioner) may contest the candidacy of any other candidate for the same office (referred to as contestee) by filing a written petition with the Secretary of the County Election Board who accepted their Declarations of Candidacy. [26:5-118] In the event of an unopposed candidate, a petition contesting his candidacy may be filed by any registered voter who is eligible to vote for the candidate. [26:5-118]

230:20-5-2. Time for filing contest [REVOKED]

A contest of candidacy *petition must be filed no later than 5 p.m. on the second day following the close of the filing period.* [26:5-119]

230:20-5-3. Grounds for contest [REVOKED]

A candidacy may be contested only if the petitioner alleges *that the contestee was not qualified by law to become a candidate for the office.* [26:5-120] The reasons must be stated in the petition. [26:5-120]

230:20-5-4. Deposit required [REVOKED]

A contest of candidacy petition must be accompanied by a deposit of \$250, which must be either a certified check or cashier's check. [26:5-121]

230:20-5-5. Date for hearing contest [REVOKED]

~~When a contest of candidacy petition is filed, the Secretary shall consult the other two members of the County Election Board and set a date and hour for a hearing. The Secretary shall make a written Notice of Hearing, setting out the date, hour and subject of the hearing. The contest shall be heard as quickly as possible. However, the hearing may not be held earlier than the fourth day after the petition is filed. To aid in calculating the earliest date that the hearing may be held, the following examples are offered:~~

- ~~—(1) For a petition filed on Thursday, the hearing shall not be held earlier than Monday.~~
- ~~—(2) For a petition filed on Friday, the hearing shall not be held earlier than Tuesday.~~

230:20-5-8. Striking a candidacy [REVOKED]

~~If the Board determines that the contestee was not qualified to become a candidate for the office, the Board may order that his candidacy be stricken and that his name not be placed on the ballot. [26:5-127]~~

230:20-5-9. Declaration may be amended [REVOKED]

~~If the Board determines that the contestee's Declaration of Candidacy may be amended to conform to the law, the Board may order that that be done. [26:5-128]~~

230:20-5-10. Contestee may answer [REVOKED]

~~If the contestee desires to appear in opposition to the petition, he may file a written answer, or he may appear in person at the hearing. [26:5-129] In the event that occurs, the contestee must post a deposit of \$150 in cashier's or certified check at the time he either files the written answer or appears in person. [26:5-129]~~

230:20-5-11. Burden of proof on petitioner [REVOKED]

~~The petitioner must prove the allegations in his petition, but if the contestee fails to appear or answer to the petition, he is deemed in default and is considered to have admitted the allegations of the petition. [26:5-130] If the allegations are sufficient to disqualify the contestee, the Board shall strike the contestee's candidacy. [26:5-130]~~

230:20-5-12. Disposition of deposit [REVOKED]

~~The Secretary, upon receipt of the deposit or deposits, shall place the check or checks in the County Election Board's Special Depository Account. After the contest is resolved, the Secretary shall write vouchers for expenses of the hearing from the Depository Account. The person charged with the expenses of the hearing shall receive an itemized statement of the costs.~~

230:20-5-13. When contestee pays cost [REVOKED]

~~In the event a contestee answers or makes an appearance and is unsuccessful, costs of the hearing are deducted from his deposit, and the balance returned to him. [26:5-131] In this situation, the petitioner's entire deposit is returned. [26:5-131]~~

230:20-5-14. When petitioner pays cost [REVOKED]

~~If the petitioner is unsuccessful, costs of the hearing are deducted from his deposit, and the balance is returned to him. [26:5-131] If the contestee does not answer or appear, and the petitioner is successful, then costs of the hearing are deducted from the petitioner's deposit, and the balance is returned to the petitioner. [26:5-131]~~

230:20-5-15. Filing fee forfeited when candidacy is stricken [REVOKED]

~~In the event a candidate's candidacy is stricken, his filing fee is forfeited.~~

230:20-5-16. Appeals from decision of the Board [REVOKED]

~~The decision of the County Election Board is final and cannot be appealed. [26:5-126] However, candidates sometimes ask a court to assume "original jurisdiction" and name the Board as a defendant in a lawsuit. If that occurs, the Board is represented by the District Attorney.~~

230:20-5-17. Open Meeting Act applies [REVOKED]

~~Whenever the County Election Board meets to resolve a Contest of Candidacy, that meeting is covered by the guidelines listed in the Oklahoma Open Meeting Act. Therefore, the Secretary is responsible for the following:~~

- ~~—(1) Notifying the County Clerk of the meeting in the manner prescribed in 230:10-7-4.~~
- ~~—(2) Providing written notice of the meeting in the manner described in 230:10-7-5.~~
- ~~—(3) Posting an agenda in the manner prescribed in 230:10-7-7.~~
- ~~—(4) Recording minutes of the meeting in the manner prescribed in 230:10-7-15.~~