

# Reviewing Candidate Applications for Local Election Officials

TS-36  
Prescribed by Secretary of State  
Sections 142.031, Chapters 143 and 144, Texas Election Code  
09/2022

**APPLICATION FOR A PLACE ON THE BALLOT FOR A GENERAL ELECTION  
FOR A CITY, SCHOOL DISTRICT OR OTHER POLITICAL SUBDIVISION**

ALL INFORMATION IS REQUIRED TO BE PROVIDED UNLESS INDICATED AS OPTIONAL. Failure to provide required information may result in rejection of application.

**GENERAL ELECTION BALLOT**

APPLICATION FOR A PLACE ON THE \_\_\_\_\_ (name of election)  
TO: City Secretary/Secretary of Board  
I request that my name be placed on the above named official ballot as a candidate for the office indicated below.

OFFICE SOUGHT (include any place number or other distinguishing number, if any.)  INDICATE TERM  UNEXPIRED  
 FULL  PARTIAL

FULL NAME (First, Middle, Last) \_\_\_\_\_ PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT\* \_\_\_\_\_

PERMANENT RESIDENCE ADDRESS (Do not include a P.O. Box or Rural Route. If you do not have a residence address, describe location of residence.) \_\_\_\_\_ PUBLIC MAILING ADDRESS (Optional) (Address for which you receive campaign related correspondence, if available.) \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PUBLIC EMAIL ADDRESS (Optional) (Address for which you receive campaign related emails, if available.) \_\_\_\_\_ OCCUPATION (Do not leave blank) \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_ VOTER REGISTRATION VOID NUMBER\* (Optional) \_\_\_\_\_

TELEPHONE CONTACT INFORMATION (Optional) \_\_\_\_\_ Cell: \_\_\_\_\_

Home: \_\_\_\_\_ Office: \_\_\_\_\_

LENGTH OF CONTINUOUS RESIDENCE AS OF DATE THIS APPLICATION WAS SWORN IN THE STATE OF TEXAS \_\_\_\_\_ IN TERRITORY/DISTRICT/PRECINCT FROM WHICH THE OFFICE SOUGHT IS ELECTED \_\_\_\_\_

\_\_\_\_\_ year(s) \_\_\_\_\_ month(s) \_\_\_\_\_ year(s) \_\_\_\_\_ month(s)

**FELONY CONVICTION STATUS (You MUST check one)**

I have not been finally convicted of a felony.  
 I have been finally convicted of a felony, but I have been pardoned or otherwise released from the resulting disabilities of that felony conviction and I have provided proof of this fact with the submission of this application.  
 I have been finally convicted of a felony, but I have been pardoned or otherwise released from the resulting disabilities of that felony conviction and I have provided proof of this fact with the submission of this application.

\*If using a nickname as part of your name to appear on the ballot, you are also signing and swearing to the following statements: I further swear that my nickname does not constitute a slogan or contain a title, nor does it indicate a political, economic, social, or religious view or affiliation. I have been commonly known by this nickname for at least three years prior to this election. Please review sections 52.031, 52.032 and 52.033 of the Texas Election Code regarding the rules for how names may be listed on the official ballot.

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, who being by me here and now duly sworn, upon oath says:

"I, (name of candidate) \_\_\_\_\_, of \_\_\_\_\_ County, Texas, being a candidate for the office of \_\_\_\_\_, am a citizen of the United States eligible to hold such office under the constitution and laws of the United States and of the State of Texas. I am aware that I must disclose any prior felony conviction, and if so convicted, must provide proof that I have been pardoned or otherwise released from the resulting disabilities of that felony conviction, and I am aware that knowingly providing false information on the application regarding my possible felony conviction status constitutes a Class B misdemeanor. I further swear that the foregoing statements included in my application are in all things true and correct."

X  
SIGNATURE OF CANDIDATE \_\_\_\_\_ by \_\_\_\_\_ (name of candidate)

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_ (month) \_\_\_\_\_ (year) \_\_\_\_\_

Printed Name of Officer Authorized to Administer Oath \_\_\_\_\_  
Notarial or Official Seal \_\_\_\_\_

Signature of Officer Authorized to Administer Oath\* \_\_\_\_\_

Title of Officer Authorized to Administer Oath \_\_\_\_\_

TO BE COMPLETED BY FILING OFFICER: THIS APPLICATION IS ACCOMPANIED BY THE REQUIRED FILING FEE (IF APPLICABLE) PAID BY:  
 CASH  CHECK  MONEY ORDER  ASHIERS CHECK OR  EDITION IN LIEU OF A FILING FEE.  Voter Registration Status Verified  
This document and \$ \_\_\_\_\_ filing fee or a nominating petition of \_\_\_\_\_ pages received. \_\_\_\_\_  
Date Received \_\_\_\_\_ Date Accepted \_\_\_\_\_ (See Section 1.007) Signature of Filing Officer or Designee \_\_\_\_\_



# Topics Covered

- Notice Requirements
- Candidate Filing Deadlines
- Methods of Filing Candidate Applications
- Review of Candidate Applications



# Resources

## Local Election Official (Cities, Schools, and Other Political Subdivisions)

<https://www.sos.state.tx.us/elections/laws/local-laws.shtml>

### Candidacy Corner

- [Candidacy for Local Political Subdivisions](#)
- [Voter Registration for Candidates](#)
- [Terms, Qualifications, and Vacancies](#)



# Filing for Public Office - Posted Notice

- **General Elections:**
  - [Notice of Deadline to File Applications for Place on the Ballot](#)
  - Must be Posted 30 days before 1<sup>st</sup> day to file:
    - **Thursday, June 22, 2023 for the November 7, 2023 election**
- **Special Elections:**
  - No posting requirement, but we recommend posting something that includes filing deadline dates/times once the special election has been ordered.



# Web Notice - Requirements

- Political subdivisions with authority to impose a tax that at any time on or after January 1, 2019 maintained a publicly accessible Internet website must provide certain relevant information on their website.
- The requirements and deadline for filing for candidacy of each elected office of the political subdivision which shall be continuously posted on website for at least one year before the election day for the office.
  - If entity has taxing authority
  - This means you will need to know your requirements accurately, before the filing period



# Filing Deadlines – General Elections

- **First Day to File**

- General Elections (Uniform Election Date)
- 30 days before filing deadline.
  - [Notice of Deadline to File Applications for Place on the Ballot](#)
    - Must be Posted 30 days before 1<sup>st</sup> day to file

- **Filing Deadline**

- General Elections (Uniform Date)
  - Regular Candidates:
    - 5:00 pm, 78<sup>th</sup> day before election day.
  - Write-in Candidate Deadline
    - 5:00 pm, 74<sup>th</sup> day before election day.



# Filing Deadlines – Special Elections

- **First Day to File**
  - Day special election is ordered.
- **Filing Deadline**
  - Windows are outlined by TEC Section 201.054.



# Filing Deadlines – Write-in Candidates

- Must file a Declaration of **Write-in Candidacy**
  - Filing Deadlines
    - **General Election:** 5:00 pm on the 74<sup>th</sup> day before election day (withdrawal deadline – 5:00 pm on the 71<sup>st</sup> day before election day)
    - **Special Election to fill a Vacancy:** Same deadline as for regular candidates to file application for a place on the ballot (withdrawal deadline – 5:00 pm on the 5<sup>th</sup> day after filing deadline)





# Filing for Public Office - Filing Authority

Type of Entity	Filing Authority
City	City Secretary
School District	Secretary of School Board or designee
Water District	Secretary of Board or Presiding Officer or Agent, if permitted under Water Code
Hospital District	Secretary of the Board, or designee
Junior Colleges	Secretary of the Board
Library District	Secretary of the Board, or Presiding Officer
Emergency Services District	Multi-County District, County Clerk of each County.

- Employee Rule
- Delegation of Duty
  - Permitted within political subdivision
  - **NOT** permitted **between** political subdivisions.



# Method of Filing

- Applications can be delivered in person, by mail, by fax, or by email.
  - If by mail, must look at time of receipt, **NOT** postmark.
    - Receipt = actual possession of filing authority or agent, or time deposited in the authority's mail box.
  - Application cannot be submitted in parts. All parts must be submitted at the same time.
  - Section 1.007: Application can be received by any employee at the usual place of business.



# Candidate Applications

- [Application for Place on General Election Ballot \(2-26\)](#)
  - [Application for Place on Special Election Ballot \(2-27\)](#)
  - [Declaration of Write-in Candidacy \(2-28\)](#)
- 
- Applications and more can be found at:  
<https://www.sos.texas.gov/elections/forms/pol-sub/index.shtml>



# Using the Correct Application Forms

- Forms can be accessed on the following pages:
  - Forms Manual
  - November uniform election law calendar
- If you are having trouble accessing the new forms, clear your cache on your web browser.
- How to determine if it's the correct form...



2-76  
 Prescribed by Secretary of State  
 Section 141.031, Chapters 143 and 144, Texas Election Code  
 09/2021

## APPLICATION FOR A PLACE ON THE BALLOT FOR A GENERAL ELECTION FOR A CITY, SCHOOL DISTRICT OR OTHER POLITICAL SUBDIVISION

ALL INFORMATION IS REQUIRED TO BE PROVIDED UNLESS INDICATED AS OPTIONAL! Failure to provide required information may result in rejection of application.

APPLICATION FOR A PLACE ON THE _____ GENERAL ELECTION BALLOT					
TO: City Secretary/Secretary of Board (name of election)					
I request that my name be placed on the above-named official ballot as a candidate for the office indicated below.					
OFFICE SOUGHT (Include any place number or other distinguishing number, if any.)				INDICATE TERM <input type="checkbox"/> FULL <input type="checkbox"/> UNEXPIRED	
FULL NAME (First, Middle, Last)			PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT*		
PERMANENT RESIDENCE ADDRESS (Do not include a P.O. Box or Rural Route. If you do not have a residence address, describe location of residence.)			PUBLIC MAILING ADDRESS (Optional) (Address for which you receive campaign related correspondence, if available.)		
CITY	STATE	ZIP	CITY	STATE	ZIP
PUBLIC EMAIL ADDRESS (Optional) (Address for which you receive campaign related emails, if available.)		OCCUPATION (Do not leave blank)	DATE OF BIRTH	VOTER REGISTRATION VOID NUMBER <sup>2</sup> (Optional)	
TELEPHONE CONTACT INFORMATION (Optional) Home: _____ Office: _____ Cell: _____					
FELONY CONVICTION STATUS (You MUST check one)			LENGTH OF CONTINUOUS RESIDENCE AS OF DATE THIS APPLICATION WAS SWORN		
<input type="checkbox"/> I have not been finally convicted of a felony. <input type="checkbox"/> I have been finally convicted of a felony, but I have been pardoned or otherwise released from the resulting disabilities of that felony conviction and I have provided proof of this fact with the submission of this application.			IN THE STATE OF TEXAS		IN TERRITORY/DISTRICT/PRECINCT FROM WHICH THE OFFICE SOUGHT IS ELECTED
			_____ year(s)		_____ year(s)
			_____ month(s)		_____ month(s)
*If using a nickname as part of your name to appear on the ballot, you are also signing and swearing to the following statements: I further swear that my nickname does not constitute a slogan or contain a title, nor does it indicate a political, economic, social, or religious view or affiliation. I have been commonly known by this nickname for at least three years prior to this election. Please review sections 52.031, 52.032 and 52.033 of the Texas Election Code regarding the rules for how names may be listed on the official ballot.					
Before me, the undersigned authority, on this day personally appeared (name of candidate) _____, who being by me here and now duly sworn, upon oath says: "I, (name of candidate) _____, of _____ County, Texas, being a candidate for the office of _____, swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the constitution and laws of this state. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code. I am aware that I must disclose any prior felony conviction, and if so convicted, must provide proof that I have been pardoned or otherwise released from the resulting disabilities of any such final felony conviction. I am aware that knowingly providing false information on the application regarding my possible felony conviction status constitutes a Class B misdemeanor. I further swear that the foregoing statements included in my application are in all things true and correct."					
<b>X</b> _____ SIGNATURE OF CANDIDATE					
Sworn to and subscribed before me this the _____ day of _____, _____, by _____ (name of candidate)					
Signature of Officer Authorized to Administer Oath <sup>1</sup>			Printed Name of Officer Authorized to Administer Oath		
_____ Notarial or Official Seal					
Title of Officer Authorized to Administer Oath					
TO BE COMPLETED BY FILING OFFICER: THIS APPLICATION IS ACCOMPANIED BY THE REQUIRED FILING FEE (If Applicable) PAID BY: <input type="checkbox"/> CASH <input type="checkbox"/> CHECK <input type="checkbox"/> MONEY ORDER <input type="checkbox"/> CASHIERS CHECK OR <input type="checkbox"/> PETITION IN LIEU OF A FILING FEE This document and \$_____ filing fee or a nominating petition of _____ pages received. <input type="checkbox"/> Voter Registration Status Verified					
Date Received		Date Accepted		(See Section 1.007)	
Signature of Filing Officer or Designee					

- Things to Look for:
  - 9/2021 Revision Date
  - Box on Felony Conviction Status
- Other Changes
  - More boxes marked “optional”
  - More references to Texas Election Code provisions on nicknames
  - Revised Oath
  - More information for filing authority to fill out



# Review of Application

- **Form, Content and Procedure**
  - Was the candidate application submitted timely?
  - Was it filled out properly?
- **Eligibility**
  - On the face of the application, does the candidate meet the eligibility requirements associated with that office?



# Review of Candidate Application

- **Form, Content, and Procedure**
  - Review must be completed no later than 5<sup>th</sup> day after application is received (unless there is a petition).
  - Accepting application does not preclude a later determination that there is a deficiency in the application.
  - If rejecting, must do so immediately and deliver to candidate a written notice of rejection.
  - Cannot challenge after the 50th day before election day.



# Review of Candidate Petition (if Applicable)

- **Review of Petition (141.032, TEC)**
  - Petition is part of application and review should be completed as soon as practicable.
  - Deficiency in petition cannot be cured with information provided in application.
  - **Unless the petition is challenged, the authority is only required to review the petition for facial compliance with the applicable requirements as to form, content, and procedure.**





# Candidate Eligibility

- **Eligibility for Public Office (141.001, TEC)**
  - US Citizen
  - 18 years of age or older
  - No final judgment indicating:
    - Totally mentally incapacitated or
    - Partially mentally incapacitated without the right to vote
  - No final felony conviction
    - Unless pardoned or released from resulting disabilities
  - Resided continuously in the state for 12 months
  - Resided continuously in the territory for 6 months
  - Registered voter of the territory

**NOTE:** Some offices have exclusive eligibility requirements, some laws are only partially conflicting, and for some offices all of Section 141.001 applies.



# Administrative Declaration of Ineligibility

- **Eligibility**

- MAY administratively declare candidate ineligible if:
  - Information on candidate application indicates ineligible for office, OR
  - Conclusive public record shows ineligible.

**NOTE:** There is NO public record that conclusively establishes residency.



# Administrative Declaration of Ineligibility

- Candidate MAY be declared ineligible:
  - By filing authority before early voting in person begins, OR
  - By presiding officer of final canvassing authority after polls close and before certificate of election is issued.
- Candidate must be given **written notice** of the declaration of ineligibility.



# Administrative Declaration of Ineligibility

- Deadline for declaration **in time to remove from ballot** is different.
- Check the calendar for that deadline.



2-26  
 Prescribed by Secretary of State  
 Section 141.031, Chapters 143 and 144, Texas Election Code  
 09/2021

**APPLICATION FOR A PLACE ON THE BALLOT FOR A GENERAL ELECTION  
 FOR A CITY, SCHOOL DISTRICT OR OTHER POLITICAL SUBDIVISION**

ALL INFORMATION IS REQUIRED TO BE PROVIDED UNLESS INDICATED AS OPTIONAL<sup>1</sup> Failure to provide required information may result in rejection of application.

APPLICATION FOR A PLACE ON THE _____ <b>Box 1</b> GENERAL ELECTION BALLOT	
TO: City Secretary/Secretary of Board _____ (name of election) I request that my name be placed on the above-named official ballot as a candidate for the office indicated below.	
OFFICE SOUGHT (Include any place number or other distinguishing number, if any.) <b>Box 2</b>	INDICATE TERM <input type="checkbox"/> FULL <input type="checkbox"/> UNEXPIRED <b>Box 3</b>

**Box 1:** If left blank, not necessarily fatal.

**Box 2:** Should include distinguishing number, if applicable. Does not have to be stylized any certain way as long as you can determine which office the candidate is applying for.

**Box 3:** Must be completed if there is another office that has the same title but does not have place numbers. If it is blank, but you understand which office the application is for, you can accept.



<input type="checkbox"/> FULL <input type="checkbox"/> UNEXPIRED	
FULL NAME (First, Middle, Last)	PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT*
Box 4	Box 5
PERMANENT RESIDENCE ADDRESS (P.O. Box, Street, Apt., etc.)	PUBLIC MAILING ADDRESS (Oversight, etc.)

- **Box 4: Full Name**
  - Legal name, but does not have to exactly match legal documents.
    - EX: John Michael Smith, John M. Smith, John Smith
  
- **Box 5: Name as you want it to appear on ballot**
  - Nickname rules apply.
  - Candidate may use any surname acquired by law or marriage.



<b>PERMANENT RESIDENCE ADDRESS</b> (Do not include a P.O. Box or Rural Route. If you do not have a residence address, describe location of residence.)			<b>PUBLIC MAILING ADDRESS (Optional)</b> (Address for which you receive campaign related correspondence, if available.)		
<b>Box 6</b>			<b>Box 7</b>		
CITY	STATE	ZIP	CITY	STATE	ZIP

- **Box 6: Permanent Residence Address**
  - MUST be completed by all candidates
  - Even candidates subject to confidentiality (judges and peace officers) must complete this box.
- **BOX 7: Public Mailing Address, if Available.**



# Eligibility

- **Residency**

- Is the candidate a resident of the territory they would be elected from? (If applicable)
- Is the address on their application located within the territory?
- Have they resided in the territory the proper amount of time? (If there is a durational residence requirement)

**NOTE:** Eligibility verification by the filing authority does NOT include whether the candidates actually live at the address provided. This is left up to the courts.

**NOTE:** Texas law does not allow a filing authority to make a conclusive determination about the location of a person's residence. Only a court of law may make such a determination.





<b>PUBLIC EMAIL ADDRESS (Optional)</b> (Address for which you receive campaign related emails, if available.) <b>Box 8</b>	<b>OCCUPATION (Do not leave blank)</b> <b>Box 9</b>	<b>DATE OF BIRTH</b> <b>Box/10 /</b>	<b>VOTER REGISTRATION VOID NUMBER<sup>2</sup> (Optional)</b> <b>Box 11</b>
<b>TELEPHONE CONTACT INFORMATION (Optional)</b> Home: <b>Box 12</b> Office:      Cell:			

- **Box 8: Public Email Address, if available**
  - This is what they should use to receive campaign email. Public address does NOT mean the candidate’s county or government email address as a public official.
- **Box 9: Occupation**
  - Required per Section 141.031, Texas Election Code. However, please review [In re Anthony](#), 642 S.W.3d 588 (Tex. 2022)
- **Box 10: Date of Birth**
  - Used to validate that the candidate meets minimum age requirements.
- **Box 11: VR Number (VOID)**
  - Not required, but very helpful as it can help you to validate their VR status, if applicable.
  - Also puts the candidate on notice that they need to think about their current VR status.
- **Box 12: Contact information**
  - Optional, but helpful to you if you need to contact a candidate.



# Eligibility

- **Age**
  - Does the candidate meet the minimum age requirements required for that office?
  - **NOTE:** Sec. 141.001 rule is 18 years of age by election day. However, for offices requiring voter registration by filing deadline, candidate will need to be 18 years old earlier.



# Eligibility

- **Voter Registration**
  - Is the candidate a registered voter of the territory from which they are seeking office? (NOTE: This is not applicable to all offices. Water districts are a major exception.)
  - Is the candidate’s registration effective?
    - by the date of the filing deadline (for place on the ballot) OR
    - election day (for write-in)?
  - A candidate’s registration must be **EFFECTIVE**. It is not enough to have submitted a registration application.
- **Status as Registered Voter**
  - As Candidate (141.001(6), TEC)
  - As Officeholder (601.009, Government Code)
    - “A person may not qualify for a public elective office unless the person is a registered voter.”
  - Inconsistency in the Law



FELONY CONVICTION STATUS (You MUST check one)	
<input type="checkbox"/>	I have not been finally convicted of a felony. <b>Box 13</b>
<input type="checkbox"/>	I have been finally convicted of a felony, but I have been pardoned or otherwise released from the resulting disabilities of that felony conviction and I have provided proof of this fact with the submission of this application. <sup>3</sup>

- **BOX 13: Felony Conviction Status**

- Must be completed.
- If they mark the second box, the candidate must provide documentation to provide proof that they have been pardoned or released from the resulting disabilities.
- See back of form for list of acceptable documents. Call SOS with questions!



# Eligibility

- **Felony Conviction**

- Does the voter have a final felony conviction? If so, have they been pardoned or otherwise released from the resulting disabilities? (NOTE: Not all offices prohibit felony convictions.)
- **School District eligibility – Section 11.066, Education Code**
- OAG Opinion – [KP-0251](#) – Felony Convictions and Candidacy



# Eligibility / New Form

- **Felony Conviction**
- **On the form updated in 2021**, a candidate must provide an indication on their candidate application that the candidate has either not been finally convicted of a felony or if so convicted has been pardoned or otherwise released from the resulting disabilities.
- A person who has been convicted of a felony **shall include** in the application proof that the person has been pardoned or otherwise released from the resulting disabilities. The application form warns candidates to submit this information.
- Application form warns candidates that knowingly providing false information on their application related to their final felony conviction status is Class B misdemeanor.
- **Do not distribute old form!**
- [Sections 141.031, 141.039, TEC]



LENGTH OF CONTINUOUS RESIDENCE AS OF DATE THIS APPLICATION WAS SWORN	
IN THE STATE OF TEXAS	IN TERRITORY/DISTRICT/PRECINCT FROM WHICH THE OFFICE SOUGHT IS ELECTED
____ year(s)	____ year(s)
____ month(s)	____ month(s)

**Box 14**

- **BOX 14: Length of Continuous Residence**

- Must be completed
- Must indicate how long they have lived in the territory for which they are seeking office.
- Check [Qualifications for Public Office](#) chart if you have questions on requirements.



# Eligibility

- **Length of Continuous Residence**

- Has the candidate been a resident of the territory elected from for the required period of time?
  - **Type A general-law city** requires a candidate for mayor to reside in the city for at least 12 months preceding election day and requires a candidate or alderman to reside in the territory the office is elected from on election day.
  - **Type B general-law city** requires a candidate for mayor or alderman to reside in the city for at least 6 months preceding election day.
  - Other political subdivisions should check laws or rules regarding residency for their entity.





# As the filing authority, can I determine a candidate's residence?

No. An individual's residency is where an individual intends to return. In reviewing residency questions, the courts have consistently ruled that residency is a combination of intention and fact, and that the voter's intention must be reviewed to make a final determination of residence. McBeth v. Streib, 96 S.W.2d 992 (Tex. Civ. App.--San Antonio 1936, no writ). For example, the El Paso Court of Appeals held that "the voter's intention was material to a proper determination of the voter's residence requirement." Simmons v. Jones, 838 S.W.2d 298, 301 (Tex. App.--El Paso 1992, no writ).

Coupled with the voter's intention must be a physical connection to the place in which he or she is claiming residence. Commercial Standard Ins. Co. v. Nunn, 464 S.W.2d 415 (Tex. Civ. App.--Texarkana 1971, writ dismissed).

In the absence of judicial review, a person must generally be presumed to have the requisite intent.

Further, the Texas Supreme Court has not indicated a single or a combination of public records that conclusively establish residency.



# Residence Determinations – Continued

If the candidate describes a residence address on the face of the application within the district and the state for the requisite amount of time, the filing authority must accept that statement.

Under Section 145.003(f) of the Texas Election Code, an administrative declaration of ineligibility may be made only if the application or a conclusive public record establishes the candidate's ineligibility.

Again, neither the courts nor the Texas Legislature have established a public document that conclusively establishes residency.



## What if an elected person seems to have moved from their elected territory?

In terms of the elections process, when a candidate files an application for a place on the ballot, he or she presents a sworn description on the face of the application as to the location of the person's residence, and the length of time at that location. The authority with whom the application is filed relies on this sworn description when reviewing the application for purposes of certifying the name to the ballot. In order to challenge this residence description, an opposing candidate would likewise need to challenge the application in court.



# Continued

An officer is presumed to be a resident of the required territory he or she was elected to serve. To challenge this would require a judicial proceeding: specifically, a quo warranto hearing brought by the county or district attorney. Whitmarsh v. Buckley, 324 S.W.2d 298 (Tex. Civ. App., Houston, 1959, no writ hist.).

The Secretary of State's office is not a fact-finding tribunal (i.e., a court).



Before me, the undersigned authority, on this day personally appeared (name of candidate) \_\_\_\_\_, who being by me here and now duly sworn, upon oath says:

"I, (name of candidate) \_\_\_\_\_, of \_\_\_\_\_ County, Texas, being a candidate for the office of \_\_\_\_\_, swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the constitution and laws of this state. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code. I am aware that I must disclose any prior felony conviction, and if so convicted, must provide proof that I have been pardoned or otherwise released from the resulting disabilities of any such final felony conviction. I am aware that knowingly providing false information on the application regarding my possible felony conviction status constitutes a Class B misdemeanor. I further swear that the foregoing statements included in my application are in all things true and correct."

**Box 15**                      **X** \_\_\_\_\_  
SIGNATURE OF CANDIDATE

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_  
(day)                      (month)                      (year)                      (name of candidate)

\_\_\_\_\_  
Signature of Officer Authorized to Administer Oath<sup>4</sup>                      Printed Name of Officer Authorized to Administer Oath

\_\_\_\_\_  
Title of Officer Authorized to Administer Oath                      Notarial or Official Seal

- **Box 15: Oath and Notary**
  - Must be completed and signed and sworn to by candidate.
  - If they leave blanks in statement of oath, it is not fatal if the application (Not Petition) contains the applicable information.
  - Oath must be administered by someone authorized to administer oaths under Chapter 602 – list on back of form.
  - Mistakes by the notary are not always fatal. Please call SOS for additional guidance if that happens.



# Eligibility

- **Oath and Notary**
  - **Was the oath properly administered and notarized?**
    - The oath must be administered by a notary public or any other person authorized to administer an oath under Chapter 602 of the Texas Government Code.
    - For cities, the oath can be administered by the city secretary in a matter pertaining to the official business of the city. [Sec. 602.002]



TO BE COMPLETED BY FILING OFFICER: THIS APPLICATION IS ACCOMPANIED BY THE REQUIRED FILING FEE (If Applicable) PAID BY:  
 CASH  CHECK  MONEY ORDER  CASHIERS CHECK OR  PETITION IN LIEU OF A FILING FEE.  
 This document and \$\_\_\_\_\_ filing fee or a nominating petition of \_\_\_\_\_ pages received.  Voter Registration Status Verified  
 \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ (See Section 1.007) **Box 16**  
 Date Received Date Accepted Signature of Filing Officer or Designee

- **Box 16: Completed by Filing Authority or Employee Who Received Application**
  - Failure to complete this box is not fatal to an application!
  - Part of this box should be completed at the time the application has been received by the person who takes the application.
  - The remainder should be filled in after it has been reviewed and a disposition has been made on the application.
  - This contains information to help you know what actions have been taken and when on an application.
  - Section 1.007 provides that any employee at the usual place of business can receive the filing.



# Withdrawal

- To be effective, withdrawal **MUST** be:
  - In writing, signed, and acknowledged (sworn to) by the candidate, AND
  - Timely filed with the filing authority.
- This has the effect of removing name from ballot. If withdrawal submitted too late, candidate's name remains on ballot and withdrawal has no effect.





# Withdrawal

- **Filing Deadline**
  - Uniform Dates: 5 pm, 71<sup>st</sup> day before election day.
    - Regular candidates AND write-in candidates.
  - Runoff Elections: 5 pm, third day after canvass of main election
  - Other elections: 5 pm, fifth day after application deadline.
- **EXCEPTION**
  - Untimely withdrawal can still remove name from ballot if ballots have not been prepared at the time candidate files request. Sec. 145.098.



# Public Information

- All candidate applications, including petitions, are public upon filing (Section 141.035).
- Confidentiality for voter registration purposes does not mean a candidate has confidentiality for candidacy purposes.
- Certain candidates can request confidentiality
  - Candidates entitled to confidentiality under Gov't Code 552.1175 must separately request confidentiality from the filing authority for information on a candidate application.



# Public Information

- Any individual subject to Section 552.1175 is eligible for certain protections.
- HB 1082 extended certain confidentiality protections to elected public officers. (552.1175, Texas Government Code).
  - To receive confidentiality, qualified individual MUST:
    - (1) choose to restrict public access, AND
    - (2) notify the governmental body of their choice and provide evidence of individual's status.
  - If the individual has submitted this request to filing authority, you may redact information without seeking OAG ruling. You must provide certain information to requestor – form on [OAG website](#) that you can use. (**Form Letter 552.1175**)
  - If requestor wants that information, the requestor can seek a ruling from the OAG.



# Questions?

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