

# Chapter 12

## Candidates

### Directive 2015-34

permanent directive issued on 12/15/2015

**JON HUSTED**  
Ohio Secretary of State



Ohio Election Official Manual

## SECTION 1.01 DEFINITIONS

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### A. Partisan Candidate - Declaration of Candidacy<sup>1</sup>

A partisan (“party”) candidate is a person who seeks to be a political party’s nominee for an elective office for which candidates are nominated at a party primary. The person must file the proper declaration of candidacy with the appropriate election official not later than 4 p.m. of the 90th day before the primary election. The person’s name will appear on the primary ballot of the political party named in the person’s declaration of candidacy.

A person may be a candidate for nomination of any political party at a primary election (regardless of party affiliation established by voting in a prior partisan primary) if either of the following applies:

1. The person does not hold an elective office, or
2. The person holds an elective office other than one for which candidates are nominated at a primary election.

However, a person holding an elective office for which candidates are nominated at a party primary may become a candidate for a different

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<sup>1</sup> [R.C. 3513.04](#); [R.C. 3513.05](#); [R.C. 3513.07](#); [R.C. 3513.08](#); [R.C. 3513.09](#); [R.C. 3513.10](#); [R.C. 3513.191](#).



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 the primary election. The completed [Form 10-Y](#) must be filed with the same county board of elections with which the person is required to file his or her declaration of candidacy and petition.

A person may file such declaration of intent only once during a period of 10 years after filing a first declaration of intent.<sup>2</sup>

### **B. Independent Candidate - Nominating Petition<sup>3</sup>**

An independent candidate is a person who is not affiliated with a political party, but seeks to run for an office for which partisan candidates may be nominated at a primary election. Independent candidates must file the appropriate nominating petition no later than 4 p.m. the day before the primary election. The name of any certified independent candidate appears on the general election ballot.

An independent candidate must actually be unaffiliated from any political party, and the required claim of unaffiliation must be made in good faith for the candidate to be qualified to run as an independent candidate.<sup>4</sup>

A non-judicial candidate who files a nominating petition may request in writing at the time of filing that the candidate be designated on the ballot as a "nonparty" candidate or as an "other-party" candidate, or may request that the candidate's name be placed on the ballot without any designation. Any independent candidate who fails to request a designation either as a "nonparty" candidate or as an "other-party" candidate will have the candidate's name placed on the ballot without any designation.

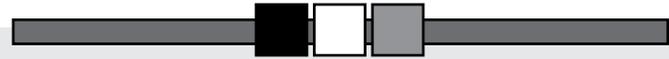
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<sup>2</sup> [R.C. 3513.191](#); [R.C. 3513.04](#); [R.C. 3513.052](#).

<sup>3</sup> [R.C. 3505.03](#); [R.C. 3513.257](#); [R.C. 3513.261](#); [R.C. 3513.262](#); [R.C. 3513.28](#).

<sup>4</sup> *Morrison v. Colley*, 467 F.3d 503 (6th Cir. 2006); *Jolivette v. Husted*, 694 F.3d 760 (6th Cir. 2012). See also *State ex rel. Davis v. Summit County Board of Elections*, 137 Ohio St.3d 222 (2013).





### C. Nonpartisan Candidate - Nominating Petition<sup>5</sup>

A nonpartisan candidate is a person who seeks to run for an office that pursuant to Ohio law does not provide for the nomination of party candidates, such as state board of education, county court judge, township office, and offices in some municipal corporations. Although most of these candidates are nominated by petition, some municipalities hold nonpartisan primaries. The filing deadline for candidates for statutory nonpartisan offices generally is 4 p.m. on the 90th day before the general election. However, the board of elections should confirm the filing deadline for each nonpartisan office elected in its county.

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.<sup>6</sup> If the village has not adopted partisan elections, all candidates are designated as nonpartisan candidates.

Candidates for municipal office will be nominated by petition as nonpartisan candidates unless one or more of the following applies:

1. the electors of the municipal corporation have petitioned to have partisan elections,
2. previous municipal elections in that municipality were partisan, or
3. a municipal charter provides otherwise.

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

### D. Write-In Candidates - Declaration of Intent to Be a Write-In Candidate<sup>7</sup>

A write-in candidate is a person seeking elected office whose name is not printed on the ballot. The candidate must file a declaration of intent to

<sup>5</sup> [R.C. 1907.13](#); [R.C. 3513.251](#); [R.C. 3513.259](#); [R.C. 3513.261](#).

<sup>6</sup> [R.C. 3513.01](#).

<sup>7</sup> [R.C. 3513.041](#); Ohio Attorney General Opinions [1970-011](#) and [1973-094](#).





be a write-in candidate not later than 4 p.m. of the 72nd day before the primary or general election. The board may only tally the votes of a write-in candidate who filed a valid declaration of intent to be a write-in candidate. A write-in candidate must meet all of the eligibility requirements of the office. The Secretary of State prescribes the form of the declaration of intent to be a write-in candidate.

A write-in candidacy is possible for most, but not all, elections. A board of elections cannot accept a declaration of intent to be a write-in candidate for nomination for a municipal office if, pursuant to [R.C. 3513.02](#), no primary election is held.

## **SECTION 1.02 PRIMARIES AND NOMINATIONS**

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### **A. Certificate of nomination issued when no primary is held R.C. 3513.02**

Partisan primary elections held in statutory municipalities in odd-numbered years are subject to the restrictions of [R.C. 3513.02](#), which provides if and when nominations for certain offices will be submitted to the voters. No partisan primary election will be held in an odd-numbered year in a statutory municipality that nominates municipal office holders by partisan primary election if either of the following circumstances occurs:

1. No valid declaration of candidacy is filed for nomination as a candidate of a political party for election to any of the offices to be voted for at the general election to be held in such year; or
2. The number of persons filing such declarations of candidacy for nominations as candidates of one political party for election to such offices does not exceed, as to any such office, the number of candidates which such political party is entitled to nominate as its candidates for election to such office.





## B. Duties of Election Officials When Primary Election Eliminated

If no partisan primary election is held in a municipality, the board of elections that would have conducted the primary election, declared the results, and issued certificates of nomination shall:

1. Declare to be nominated as of the ninetieth day before the primary election each person who would have been entitled to receive a certificate of nomination if the primary election had been held,
2. Issue appropriate certificates of nomination to each of them, and
3. Certify their names to the proper election officials, in order that their names may be printed on the official ballots provided for use in the succeeding general election in the same manner as though such primary election had been held and such persons had been nominated at such election.

## SECTION 1.03 CANDIDATE REQUIREMENTS

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### A. Generally

The Secretary of State prescribes candidate petitions as required by law. The Secretary of State's forms are provided in PDF format on the [Secretary of State's website](#). The board must ensure that, when it is providing petition forms to candidates, it is providing the most current version of the prescribed form.<sup>8</sup> Forms are updated in response to law changes, so it is imperative that boards pull petitions from the Secretary of State's website when providing them to a candidate.

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<sup>8</sup> [R.C. 3501.38\(L\)](#).





## B. Qualification for Candidacy

### 1. Filing for more than one office per election prohibited

A person whose candidacy was submitted to the voters at the primary election, but who was not nominated may file to become a candidate by nominating petition or by declaration of intent to be a write-in candidate at the general election held in the same year only for one of the following offices:

- member of the state board of education,
- member of a city, local, or exempted village board of education,
- member of a governing board of an educational service center, or
- township trustee.<sup>9</sup>

A person who filed for candidacy on the primary ballot, but whose candidacy was not submitted to the voters, either because the person's petitions were not certified or because the person withdrew as a candidate, can be a write-in candidate for the same office or some other office at the general election held in the same year.<sup>10</sup>

The Supreme Court of Ohio has held that the primary election and general election are separate elections rather than two parts of the same election.<sup>11</sup> In other words, "same election" in [Chapter 3513](#) of the Revised Code does not mean "the same election cycle/the same election year."<sup>12</sup>

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<sup>9</sup> [R.C. 3513.04](#).

<sup>10</sup> [R.C. 3513.041](#). If a person filed to be a candidate for nomination at the primary election but the person's petitions were not certified or the person withdrew as a candidate and no primary election was ultimately required, the person can still be a write-in candidate for the same office or some other office at the general election held in the same year.

<sup>11</sup> *State ex rel. Brinda v. Lorain Cty. Bd. of Elections*, 115 Ohio St.3d 299.

<sup>12</sup> The *Brinda* interpretation of "same election" applies to all the statutes in [R.C. Chapter 3513](#) that use the phrase "same election."





Additionally, the Ohio Supreme Court has clarified that because the word “seek” is limited in statute by the phrase “at a primary election,” “seek” means that the person attempting to become the party nominee actually appear on the ballot as a choice that can be selected by voters at the primary election.<sup>13</sup>

## 2. Relevant Statutes

[R.C. 3513.04](#) generally prevents persons who have unsuccessfully sought a party nomination at a primary election from running for the same or a different office at the following general election unless the person wants to run for office of member of a city, local, or exempted village board of education, office of member of a governing board of an educational service center, or office of township trustee.<sup>14</sup> The statute provides in pertinent part:

**No person** who seeks party nomination for an office or position at a primary election by declaration of candidacy or by declaration of intent to be a write-in candidate \* \* \* **shall be permitted to become a candidate by nominating petition or by declaration of intent to be a write-in candidate at the following general election for any office other than** the office of member of the state board of education, office of member of a city, local, or exempted village board of education, office of member of a governing board of an educational service center, or office of township trustee.

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<sup>13</sup> *State ex rel. Knowlton v. Noble Cty. Bd. of Elections*, 126 Ohio St. 3d 483, 2010-Ohio-4450.

<sup>14</sup> The prohibition in [R.C. 3513.041](#) does not apply to a person seeking to run as a write-in candidate for a federal office.





[R.C. 3513.041](#) prohibits a person from being a write-in candidate if the person has already filed to be a candidate for the same election (and not timely withdrawn pursuant to the *Coble* decision, discussed below<sup>15</sup>) or has become a candidate for the same election. The statute provides, in pertinent part:

A board of elections shall not accept for filing the declaration of intent to be a write-in candidate of a person seeking to become a candidate if that person, **for the same election**, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section [3513.30](#) or [3513.31](#) of the Revised Code\* \* \*. (Emphasis added.)

[R.C. 3513.254](#) prohibits a board of elections from accepting a nominating petition of a person seeking to be a candidate for a city, local, or exempted village board of education if that person has already filed a declaration of candidacy to be a candidate for a municipal or township office at the same election (and not timely withdrawn pursuant to the *Coble* decision, discussed below.<sup>16</sup> The statute provides in pertinent part:

(B) Nominating petitions shall be filed with the board of elections not later than four p.m. of the ninetieth day before the day of the general election \* \* \*. A board of elections **shall not accept for filing** a nominating petition of a person if that person, **for the same election**, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section [3513.30](#) or [3513.31](#) of the

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<sup>15</sup> [R.C. 3513.052\(G\)](#) and *State ex rel. Coble v. Lucas County. Board. of Elections*, 130 Ohio St. 3d 132 (2011), ¶14.

<sup>16</sup> See footnote 15.





Revised Code for any other position 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, or for a municipal or township office. (Emphasis added.)

Therefore, [R.C. 3513.04](#) prohibits a person whose candidacy was submitted to the electors at a primary election from filing to become a candidate by nominating petition or by declaration of intent to be a write-in candidate at the general election held in the same year unless the person is seeking to be a candidate for the state board of education, a city, local, or exempted village board of education, a governing board of an educational service center, or township trustee.<sup>17</sup>

In contrast, [R.C. 3513.041](#) does not prohibit a person who filed a declaration of candidacy and petition or a declaration of intent to be a write-in candidate for the primary election, but whose candidacy was not submitted to the voters at the primary election, either because the person's petition or declaration of intent to be a write-in was rejected or because the person withdrew as a candidate, to be a write-in candidate for the same office or some other office at the general election held in the same year.<sup>18</sup>

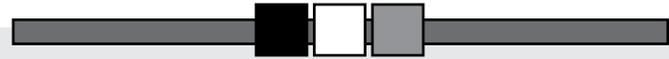
[R.C. 3513.254](#) prohibits a board of elections from accepting the nominating petition of a person seeking to be a candidate for a city, local, or exempted village board of education if that person has already filed a declaration of candidacy to be a candidate for a municipal or township office at the same election. The primary and general elections are not the same election.

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<sup>17</sup> See Knowlton, *supra* note 13.

<sup>18</sup> See Brinda, *supra* note 11.





### 3. Effect of withdrawal of candidacy for purpose of refiling for same or different office for same election

Based on the Supreme Court's decision in *State ex rel. Coble*,<sup>19</sup> a candidate who timely withdraws that person's candidacy prior to board action on his nominating petition and prior to the filing deadline may file a new petition even if that petition is for the same office to be elected at the same election as the withdrawn petition as long as the board has not officially acted on the petition.

### 4. Candidate Disclosures

#### a. Ethics Commission Financial Disclosure

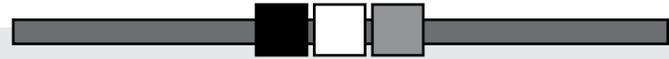
Any individual who becomes a candidate for or holds a state, county, or city elected office, or the position of school board member in a school district with more than 12,000 students average daily membership, is required to file a personal financial disclosure statement. For further information on the filing requirements and deadlines or to find a copy of a blank statement, visit the sites below:

- Ohio Ethics Commission [www.ethics.ohio.gov](http://www.ethics.ohio.gov)  
(Statewide, county, and city candidates, as well as candidates for a board of education)
- Joint Legislative Ethics Committee [www.jlec-olig.state.oh.us](http://www.jlec-olig.state.oh.us)  
(Candidates for the Ohio House of Representatives or the Ohio Senate)
- Ohio Supreme Court - Board of Commissioners on Grievances and Discipline [www.supremecourt.ohio.gov](http://www.supremecourt.ohio.gov)  
(Judges, judicial candidates, and magistrates)

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<sup>19</sup> *State ex rel. Coble v. Lucas County. Board. of Elections*, 130 Ohio St. 3d 132 (2011).





- U.S. House of Representatives – Office of the Clerk  
[clerk.house.gov/public\\_disc/financial.aspx](http://clerk.house.gov/public_disc/financial.aspx)  
(Members and candidates for the U.S. House of Representatives)
- U. S. Senate [www.ethics.senate.gov/public/index.cfm/financialdisclosure?p=overview](http://www.ethics.senate.gov/public/index.cfm/financialdisclosure?p=overview)  
(Members and candidates for the U.S. Senate)
- Federal Election Commission [www.fec.gov](http://www.fec.gov)  
(Candidates for U.S. President and Vice-President)

b. *Campaign Finance Reporting*

At the time candidacy petitions are filed, each candidate should receive materials from the board of elections about campaign finance reporting and compliance, including information about unfair political campaign activities. Each person who receives the copy must acknowledge its receipt in writing.<sup>20</sup> Additional information regarding campaign finance rules, reporting requirements, and filing deadlines may be found in the online [Campaign Finance Handbook](#), [Ohio Elections Calendar](#), and other publications located on the Ohio Secretary of State's website at [www.OhioSecretaryofState.gov](http://www.OhioSecretaryofState.gov). Also, please note that some charter municipalities have campaign finance disclosure and limitations in addition to those set forth in state law. Municipal candidates should contact the appropriate municipal authority for information on these local regulations, if applicable.

c. *Specific Requirements for Certain Offices*

Candidates are advised that certain offices (e.g., county sheriff, judge, coroner, etc.) have specific educational and professional requirements that must be met before the candidate can run

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<sup>20</sup> [R.C. 3513.33](#).





for or hold the office. Candidates are encouraged to review the [Candidate Requirement Guide](#) published by the Secretary of State's Office and to consult with private legal counsel regarding any educational and professional requirements for an office.

d. *Filing Fees*

Each candidate who files for an office must pay a filing fee. The fee must be paid at the time of filing to the entity responsible for accepting the filing (i.e., the board of elections or, if the candidate files with the Secretary of State, the Secretary of State). The amount of the filing fee is prescribed by [R.C. 3513.10](#) and dependent upon the office being sought. A filing fee is non-refundable.<sup>21</sup>

There is no filing fee for a party office (i.e., delegate to a national convention, county central committee, or state central committee).<sup>22</sup>

A board of elections is required to pay a portion of each filing fee it collects to the Ohio Elections Commission Fund.<sup>23</sup> The amount of the fee paid to the Ohio Elections Commission Fund is listed in division (B) of [R.C. 3513.10](#).

## **SECTION 1.04 PROTEST OF CERTIFIED CANDIDATES<sup>24</sup>**

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### **A. Procedure**

A protest is a written objection to the certification of a candidacy, issue or ballot. Protests of candidacies or nominating petitions are specifically provided for in the Revised Code.

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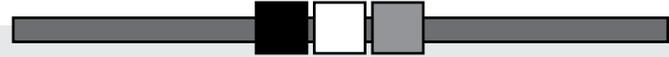
<sup>21</sup> [R.C. 3513.10\(F\)\(1\)](#).

<sup>22</sup> [R.C. 3513.10\(C\)](#).

<sup>23</sup> [R.C. 3513.10\(B\)](#).

<sup>24</sup> [R.C. 3513.041](#); [R.C. 3513.05](#); [R.C. 3513.262](#); [R.C. 3513.263](#).





Protests against the candidacy of any person must be in writing, must specify the legal ground(s) for the protest, and must be filed with the board of elections where the candidate filed his/her declaration of candidacy, nominating petition, or declaration of intent to be a write-in candidate. If the candidate filed with the office of the Secretary of State, the protest must be filed with the Secretary of State.

After a valid protest is filed, the board of elections or, if applicable, the Secretary of State, must promptly set a time and place for hearing the protest and give notice to both the person whose candidacy is being protested and the protestor. Both the protestor and the protested candidate, or his or her respective legal counsel, must be given an opportunity to address the board at the hearing.

**Note:** In the absence of a timely filed protest, [R.C. 3501.39\(B\)](#) prohibits a board of elections from invalidating any declaration of candidacy or nominating petition after the 60th day before an election.<sup>25</sup>

### 1. **Partisan Primary Candidacy**<sup>26</sup>

Protests against any 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. For purposes of protesting a candidacy for party nomination, an elector is considered a member of the candidate's political party if the elector either voted only in that party's primary in the current calendar year and last two calendar years, or did not vote in any other party's primary in the current calendar year and last two calendar years.

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<sup>25</sup> *State ex rel. Harbarger v. Cuyahoga Cty. Bd. of Elections*, 75 Ohio St.3d 44 (1996).

<sup>26</sup> [R.C. 3513.05](#).





The deadline to file a protest against any party candidate who filed a declaration of candidacy for the primary is 4 p.m. on the 74th day before the primary election.

## 2. **Write-In Candidacy**<sup>27</sup>

Any elector eligible to vote on the candidacy of a write-in candidate may protest that candidacy. The deadline to file a protest against a write-in candidate is 4 p.m. on the 67th day before the primary election for primary election write-in candidates or 4 p.m. on 67th day before the general election for general election write-in candidates.

## 3. **Independent Candidacy**<sup>28</sup>

Protests against the nominating petition of an independent candidate may be made by any qualified elector who is eligible to vote for the candidate. The deadline to file a protest against any candidate who filed a nominating petition as an independent candidate is 4 p.m. on July 30, or, if the primary election was a presidential primary election, not later than the end of the twelfth week after the day of that election.

## 4. **Nonpartisan Candidacy**<sup>29</sup>

Any elector eligible to vote for a candidate for nonpartisan office may protest that candidacy. The deadline to file a protest against any candidate who filed a nominating petition as a nonpartisan candidate is 4 p.m. on the 74th day before the general election.

### **B. Hearing**

At the hearing scheduled by the board, the members of the board of elections give both the protester and the candidate an opportunity to address the issues raised in the protest. The board then determines the merit

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<sup>27</sup> [R.C. 3513.041](#).

<sup>28</sup> [R.C. 3513.262](#).

<sup>29</sup> [R.C. 3513.263](#).





of the protest and the validity of the petition. Such determination is final.

A board should seek the guidance of its legal counsel, the county prosecutor, as soon as a valid protest is filed with the board.

### **C. Re-consideration of a candidate not-certified**

When a board of elections has not certified a candidate to the ballot based upon its determination of invalidity or insufficiency of one or more requirements of the petition process, the candidate in question may ask the board of elections to reconsider its determination. Unlike a protest hearing (where the protestor asserts that a candidate certified to the ballot by the board of elections should be removed), it is not mandatory for a board of elections to hold a reconsideration hearing. But having decided to conduct a hearing, the Ohio Supreme Court has determined it can be an abuse of discretion for the board to disregard evidence the hearing produces if the board decides the candidate or issue should remain off the ballot.<sup>30</sup> Reconsideration hearings should be conducted in a similar manner to a protest hearing, including notice, representation, etc.

## **SECTION 1.05 DEATH OF CANDIDATE PRIOR TO PRIMARY ELECTION<sup>31</sup>**

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### **A. Partisan Candidate Dies Before the Primary Election**

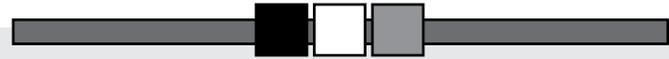
Generally, if a person who filed a valid and sufficient declaration of candidacy dies prior to the primary election, the resulting vacancy on the ballot is not filled unless a charter provision provides otherwise. However, there are exceptions to that rule when only one valid declaration of candidacy has been filed for party nomination for an office.

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<sup>30</sup> *Scott v. Franklin County, Board. of Elections*, 139 Ohio St. 3d 171 (2014).

<sup>31</sup> [R.C. 3513.17](#); [R.C. 3513.30](#).





## 1. **Partisan candidate dies more than 10 days before the Primary**<sup>32</sup>

If only one valid declaration of candidacy is filed for nomination as a candidate of a political party for an office, and that candidate dies prior to the 10th day before the primary election, both of the following may occur:

- The political party whose candidate died may fill the vacancy so created, and
- Any major political party other than the one whose candidate died may select a candidate under either of the following circumstances:
  - No person has filed a valid declaration of candidacy for nomination as that party's candidate at the primary election.
  - Only one person has filed a valid declaration of candidacy for nomination as that party's candidate at the primary election, that person has withdrawn, died, or been disqualified under [R.C. 3513.052](#), and the vacancy so created has not been filled.

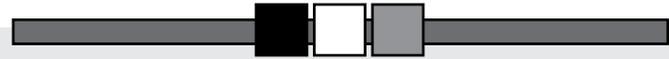
A vacancy may be filled, and a selection may be made, by the appropriate political party committee in the same manner as the filling of vacancies that occur after the primary election,<sup>33</sup> except that the required certification must be filed with the Secretary of State, with a board of the most populous county of a district, or with the board of a county in which the major portion of the population of a subdivision is located, respectively, no later than 4 p.m. of the 10th day before the primary election, or with any other board later than 4 p.m. of the fifth day before the day of that primary election.

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<sup>32</sup> [R.C. 3513.30\(A\)](#).

<sup>33</sup> [R.C. 3513.31 \(A\)-\(E\)](#).





## 2. **Partisan candidate dies on or after the 10th day before the Primary**<sup>34</sup>

If only one valid declaration of candidacy is filed for nomination as a candidate of a political party for an office, and that candidate dies on or after the 10th day before the primary election, that candidate is considered to have received the nomination of that candidate's political party at that primary election, and, for purposes of filling the vacancy so created, that candidate's death is treated as if that candidate died on the day after the day of the primary election.

## **SECTION 1.06 DEATH OF CANDIDATE PRIOR TO GENERAL ELECTION**<sup>35</sup>

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### **A. Major Political Party Nominee Dies After the Day of the Primary Election Major Political Party**<sup>36</sup>

If a person who was nominated in the party's primary election dies, the vacancy so created may be filled by the appropriate party committee by certifying to the board of elections the name of the person selected to fill the vacancy at a meeting called for that purpose.

The committee's chairperson must call a meeting and give each member of the committee at least two days' notice of the time, place, and purpose of the meeting. If a majority of the members of the committee are present at the meeting, a majority of those present may select a person to fill the vacancy.

The chairperson and secretary of the meeting shall certify, in writing and under oath, the name of the person selected to fill the vacancy. If the candidacy appears in more than one county, the certification must be filed with the board of elections of the most populous county

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<sup>34</sup> [R.C. 3513.30\(B\)](#).

<sup>35</sup> [R.C. 3513.30](#); [R.C. 3513.31](#).

<sup>36</sup> [R.C. 3513.31\(G\)](#).





not later than 4 p.m. on the 10th day before the general election. If the candidacy appears in only one county or part of a county, the certification is filed with the appropriate board of elections not later than 4 p.m. of the fifth day before the general election. The certification must be accompanied by the written acceptance of the nomination by the person whose name is certified.

### **B. Minor Political Party Nominee Dies After the Day of the Primary Election<sup>37</sup>**

If a person nominated by a minor political party in a primary election or nominated by petition under section [3517.012](#) of the Revised Code as a minor party candidate for election at the next general election dies, the vacancy so created may be filled by the appropriate party committee in accordance with the party's rules.

Certification must be made as in the manner provided for a major political party.

The chairperson and secretary of the meeting shall certify, in writing and under oath, the name of the person selected to fill the vacancy. If the candidacy appears in more than one county, the certification must be filed with the board of elections of the most populous county not later than 4 p.m. on the 10th day before the general election. If the candidacy appears in only one county or part of a county, the certification is filed with the appropriate board of elections not later than 4 p.m. of the fifth day before the general election. The certification must be accompanied by the written acceptance of the nomination by the person whose name is certified.<sup>38</sup>

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<sup>37</sup> [R.C. 3513.31\(G\)](#).

<sup>38</sup> [R.C. 3513.31\(A\)-\(E\)](#).





### **C. Independent or Nonpartisan Candidate<sup>39</sup>**

If a person nominated by petition as an independent or nonpartisan candidate for the next general election dies prior to the 10th day before the general election, the vacancy may be filled by a majority of the committee of five designated in the nominating petition.

To fill the vacancy, a member of the committee shall, not later than 4 p.m. of the fifth day before the day of the general election, file with the election officials with whom the petition nominating the person was filed, a certificate signed and sworn to under oath by a majority of the members, designating the person they select to fill the vacancy. The certification must be accompanied by the written acceptance of the nomination by the person whose name is so certified.

### **D. Vacancy on General Election Ballot May Trigger Other Rights of Selection<sup>40</sup>**

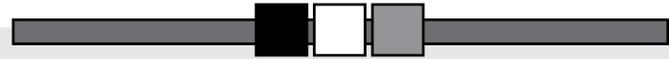
When a person nominated as a candidate by a political party in a primary election or by nominating petition for an elective office for which candidates are nominated at a party primary election withdraws, dies, or is disqualified prior to the general election, the appropriate committee of any other major political party or committee of five that has not nominated a candidate for that office, or whose nominee as a candidate for that office has died without the vacancy so created having been filled, may fill the vacancy. The vacancy is filled in the same way a vacancy in a party nomination or nomination by petition is filled.

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<sup>39</sup> [R.C. 3513.31\(H\)](#).

<sup>40</sup> [R.C. 3513.31\(K\)](#).





## SECTION 1.07 WITHDRAWAL

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### A. Deadlines

#### 1. Generally

Generally, a candidate may withdraw his or her candidacy at any time before a primary or general election by filing a written statement of withdrawal with the board of elections with whom the declaration of candidacy was filed or, in the case of a candidate for statewide office, the Secretary of State. However, there is an exception to this rule for partisan presidential candidates in a presidential primary election.

#### 2. Presidential Primary Election<sup>41</sup>

Ohio law imposes a different withdrawal deadline for candidates in primary elections in presidential years. The deadline for partisan presidential candidates to withdraw is 4 p.m. on the 40th day before the primary.

### B. Valid Notice: Written Statement Filed with Appropriate Election Officials<sup>42</sup>

State law requires that a withdrawal of candidacy must be made in writing and filed with the election officials with whom the declaration of candidacy or nominating petition was filed. No board of elections may take action relating to a reported withdrawal before receiving the official written notice of the withdrawal from the candidate.

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<sup>41</sup> [R.C. 3513.30\(C\)](#).

<sup>42</sup> [R.C. 3513.30\(B\)-\(E\)](#).





## C. Selection of Person to Fill Vacancy on General Election Ballot<sup>43</sup>

### 1. Major Political Party

If a person nominated in a party primary election withdraws as the nominee, the vacancy in nomination may be filled by the appropriate party committee.

A meeting must be called by the committee chairperson, who must give each member of the committee at least two days' notice of the time, place, and purpose of the meeting. If a majority of the members of the committee are present at the meeting, a majority of those present may select a person to fill the vacancy.

The chairperson and secretary of the meeting must certify the name of the person selected to fill the vacancy to the appropriate election officials, in writing and under oath, not later than the 86th day before the general election. The certification must be accompanied by the written acceptance of the person chosen to fill the vacancy.

### 2. Minor Political Party<sup>44</sup>

A vacancy created by a minor political party candidate's withdrawal may be filled in accordance with the party's rules by authorized officials of the party.

The chairperson and secretary of the meeting must certify the name of the person selected to fill the vacancy to the appropriate election officials, in writing and under oath, not later than the 86th day before the general election. The certification must be accompanied by the written acceptance of the person chosen to fill the vacancy.

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<sup>43</sup> [R.C. 3513.31\(A\)-\(E\).](#)

<sup>44</sup> [R.C. 3513.31\(A\)-\(E\).](#)





### 3. Independent or Nonpartisan Candidate<sup>45</sup>

A vacancy created by the withdrawal of a person nominated by petition as an independent or nonpartisan candidate for election at the next general election may be filled by a majority of the committee of five designated on the candidate's nominating petition. A member of that committee must certify the name of the person selected to fill the vacancy to the election officials with whom the candidate filed the nominating petition, in writing and under oath, not later than the 86th day before general election. The certification must be accompanied by the written acceptance of the person chosen to fill the vacancy.

### 4. Vacancy on General Election Ballot May Trigger other Rights of Selection<sup>46</sup>

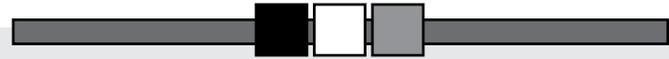
When a person nominated as a candidate by a political party in a primary election or by nominating petition for an elective office for which candidates are nominated at a party primary election withdraws, dies, or is disqualified prior to the general election, the appropriate committee of any other major political party or committee of five that has not nominated a candidate for that office, or whose nominee as a candidate for that office has died without the vacancy so created having been filled, may fill the vacancy. The vacancy is filled in the same way a vacancy in a party nomination or nomination by petition is filled.

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<sup>45</sup> [R.C. 3513.31\(F\)](#).

<sup>46</sup> [R.C. 3513.31\(K\)](#).





## **SECTION 1.08 SPECIAL CIRCUMSTANCES (DEATH OR WITHDRAWAL OF CANDIDATE FOR GOVERNOR / LIEUTENANT GOVERNOR OR REPRESENTATIVE TO CONGRESS)**

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### **A. Candidate for Governor / Lieutenant Governor<sup>47</sup>**

#### **1. Death, Withdrawal, or Disqualification Before the Primary Election**

If a candidate for governor or lieutenant governor dies, withdraws, or is disqualified as a candidate prior to the 70th day before the day of a primary election, the vacancy on the ballot is filled by appointment by the joint candidate for the office of governor or lieutenant governor, respectively. Such candidate for governor must certify the name and residence address of the person selected to fill such vacancy to the Secretary of State in writing and under oath, not later than the 65th day before the primary election

If a candidate for the office of governor or lieutenant governor dies on or after the 70th day, but prior to the 10th day, before a primary election, the vacancy so created is filled by appointment by the joint candidate for the office of governor or lieutenant governor, respectively. Such candidate for governor must certify the name and residence address of the person selected to fill such vacancy to the Secretary of State, in writing and under oath, not later than the 5th day before the day of the primary election.

#### **2. Death, Withdrawal, or Disqualification Before the General Election**

If a person nominated in a primary election or nominated by petition under section [3517.012](#) of the Revised Code as a candidate for election to the office of governor or lieutenant governor at the next general election withdraws as such candidate before the 90th day before the day of the general election, or dies prior to the 10th day before the day

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<sup>47</sup> [R.C. 3513.311](#).





of such general election, the vacancy so created shall be filled in the manner provided for by section [3513.31](#) of the Revised Code.

If a person nominated by petition as an independent candidate for election to the office of governor or lieutenant governor withdraws prior to the 90th day before the day of the general election or dies prior to the 10th day before general election, the vacancy is be filled by a majority of the committee of five designated on the candidate's nominating petition. A member of that committee must certify the name of the person selected to fill the vacancy to the Secretary of State, in writing and under oath, not later than the 86th day before general election in the case of a withdrawal, or not later than 4 p.m. of the 5th day before the general election in the case of death. The certification must be accompanied by the written acceptance of the person chosen to fill the vacancy.

If the vacancy in a joint candidacy for governor and lieutenant governor is not so filled, the joint candidacy is invalidated and not presented for election.

## **B. Candidate for Representative to U.S. Congress<sup>48</sup>**

### **1. Death, Withdrawal, or Disqualification Before the Primary Election**

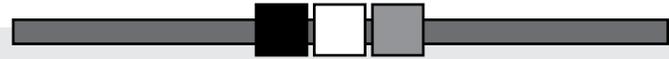
If only one person has filed a valid declaration of candidacy for nomination as the candidate of a political party for the office of representative to Congress, and that person withdraws or dies at any time before the primary election, a special election must be held.

At that special election, the withdrawn or deceased candidate's party may select its replacement candidate for Congress, and any other major political party may select a candidate if no one from the party has filed a valid declaration of candidacy or only one person from the

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<sup>48</sup> [R.C. 3513.301](#); [R.C. 3513.312](#).





party filed a valid declaration of candidacy, and that person withdrew or died.

The special election must occur as soon as reasonably practicable in the same manner as a primary election. The state pays all costs of this election.

## **2. Death, Withdrawal, or Disqualification Before the General Election**

If a person nominated in a party primary election for the office of representative to Congress withdraws prior to the 90th day before the general election, a special election must be held to fill the vacancy in party nomination.

The special election must occur as soon as reasonably practicable in the same manner as a primary election. The state pays all costs of this election.

