

# County Chair Handbook

For Primary-Holding Parties



*Issued by the*

## **SECRETARY OF STATE ELECTIONS DIVISION**

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## **Introduction**

The Elections Division of the Texas Secretary of State's Office has prepared this handbook for use by county chairs and county election officials to provide guidance and information about the duties of the county chair and the primary election process. This handbook addresses the role of county chairs in the primary process and covers the procedures and legal standards that apply to county chairs in other areas of Texas elections.

The current version of this handbook incorporates all changes to Texas election law that were effective on September 1, 2023. Throughout this handbook, numerous references are made to statutes and provisions of Texas law. All references are to the Texas Election Code, except as otherwise specified.

The requirements and guidelines discussed in this handbook are based on the requirements of Texas law as outlined in the Texas Election Code. However, your party may have additional requirements and procedures outlined in your party rules that govern your conduct as county chair. Please consult your party's party rules for additional guidance on those requirements and procedures.

## Resources

### Calendars and General Information

- 2024 Primary Election Law Calendar– Coming Soon!
- [Important Election Dates 2023-2024](#)
- [Current Election Information Page](#)
- [Election Law Advisories for County Chairs of Political Parties](#)

### Candidacy Resources

- [Candidate’s Guide to Nomination and General Election for 2024](#)
- [Candidacy for County Chairs](#)
- [Voter Registration for Candidates](#)
- Vacancies and Replacement Nominees for the General Election for State and County Officers– Coming Soon!
- [Advisory No. 2022-11 – Party Affiliation Questions and Answers](#)
- [Advisory No. 2019-29 – Procedures for Write-in Candidates for County and Precinct Chair](#)

### Resources for Appointment Procedures for Election Workers

- [Appointment Procedures for November Constitutional Amendment Elections](#)
- [Appointment Procedures for the General Election for State and County Officers](#)
- [Online Pollworker Training](#)

### General Resources

- [Election Judges and Clerks Handbook](#)
- Early Voting Ballot Board Handbook
- Signature Verification Committee Handbook
- [Central Counting Station Handbook](#)
- Election Workers Handbook- Coming Soon!
- [Poll Watcher’s Guide](#)
- [Advisory 2020-27 – Minority Language Requirements](#)

## **Chapter 1 – Overview of Primary Elections and Election Officials**

A primary election is an election held by a political party to select that party's nominees for public office and to elect the officers of that political party.

This chapter discusses primary elections at a general level and outlines the roles of various election officials throughout the election process, with a focus on their role in the primary election.

### **Section A – Overview of Primary Elections**

#### **1. Introduction to Primary Elections**

Primary elections serve two main purposes. The first is the selection of the political party's nominees for the general election for state and county officers. The second is the election of political party officers, specifically the offices of county chair and precinct chair.

Primary elections may also involve non-binding referendums that are submitted to the voters of a specific party. Those referendums may be placed on the ballot by voter petition or by the state executive committee.

#### **2. Conduct of Primary Elections Generally**

Primary elections are conducted at the county level by each party's county chair and county executive committee, often with the assistance of the county election officer through an election services contract. A primary election will generally involve the selection of nominees for statewide, district, county, and precinct level offices, but each individual county party is responsible for the conduct of the primary election within that county. If a political party does not have a county chair or county executive committee in a specific county, then in some circumstances the state party can perform certain duties related to the conduct of the primary election in that county.

Not all parties are authorized to hold primary elections. In Texas, each party whose nominee for Governor received 20% or more of the votes received by all candidates for Governor in the most recent gubernatorial election is required to conduct a primary election. For all other political parties, their nominees and political party officers are selected through the convention process under Chapters 181 and 182 of the Texas Election Code.

#### **3. Primary Election Dates**

The general primary election and the runoff primary election are required to be held on the following dates:

- **Primary** – First Tuesday in March in each even-numbered year.
- **Runoff Primary** – Fourth Tuesday in May following the general primary election.

**Note:** No other election may be held on the date of a primary election.

[Sec. 41.007]

## **Section B – State and County Election Officials**

Elections are conducted primarily at the county level in Texas, but there are several officials at the state and county level who are involved in the elections process for both general and primary elections.

### **1. Secretary of State (SOS)**

The Secretary of State is designated as the chief election officer for the state of Texas. The Secretary of State’s Office performs several duties with regard to the conduct of Texas elections, including providing assistance and advice to election officials and voters, maintaining and obtaining uniformity in the application of the Election Code and the election laws of this state, prescribing the design and content of election-related forms (except for campaign finance documents under Title 15), and referring criminal complaints to the Attorney General’s Office. [Secs. 31.001 - 31.006]

The Secretary of State’s Office also operates a toll-free hotline for voters and election officials, and publishes a number of advisory and instructional materials for election officials, including this handbook.

### **2. County Election Officer**

The county election officer is the county-level official who is responsible for the conduct of elections in that county.

By default, the county election officer is the county clerk. In some counties, the county will create the office of county elections administrator, who is responsible for performing both the election duties and the voter registration duties for that county. Other counties may choose to transfer the election-related responsibilities for that county to the county tax assessor-collector. [Secs. 31.043, 31.071]

The county election officer is responsible for the conduct of early voting in a primary election, and may be responsible for additional duties relating to the primary election if the county executive committee enters into an election services contract to have the county election officer conduct all or part of the primary election. [Secs. 31.093, 83.002]

### **3. Voter Registrar**

The county voter registrar is responsible for voter registration activities in that county, including the registration of voters and performing list maintenance activity for that county's voter registration list. The county voter registrar is also responsible for preparing the list of registered voters for each election conducted in the county, including primary elections. [Secs. 12.001, 18.001]

By default, the county voter registrar is the county tax assessor-collector. In some counties, the county will create the office of county elections administrator, who is responsible for performing both the election duties and the voter registration duties for that county. Other counties may choose to designate the county clerk as the county voter registrar. [Secs. 12.001, 12.031, 31.043]

### **4. Commissioners Court**

The commissioners court is the governing body of the county and is responsible for performing a number of duties related to county elections, including the appointment of term-appointed election judges, ordering the election, and designating the county's polling places based on the recommendations of the county election officer. [Secs. 3.004, 32.002, 43.002]

### **5. County Election Board**

A county election board is established in each county for the general election for state and county officers, a special election for an officer regularly elected at the general election, and any other election ordered by a county authority or held at county expense. [Sec. 51.002]

In the general election for state and county officers or a special election for an officer regularly elected at the general election, the county election board is made up of the county judge, county election officer (elections administrator or county clerk/voter registrar), the voter registrar (if different from the county election officer), sheriff, and county chair of each political party required to nominate candidates by primary election. For other elections, the county election board is made up of the county judge, county election officer, voter registrar (if different from the county election officer), and sheriff. [Sec. 51.002]

In an election for which the county election board is established, the county election board is responsible for reviewing and approving the selection of election supplies by the county election officer. The county election board also has other specific duties in the general election for state and county officers and special elections for which the use of county election precincts is required. [Secs. 42.008, 51.003, 87.002, 87.027]

A meeting of the county election board must be held in person and open to the public. The county election officer shall post notice of the meeting on the county's website no later than 48 hours before each meeting of the county election board. [Sec. 51.002]

In a primary election, the duties that the county election board would perform in the general election for state and county officers are typically handled by the county chair and the county executive committee for the party holding the primary election, or by the county election officer if the parties are holding a joint primary election. [Secs. 51.003, 172.126]

## **6. County Election Commission**

The county election commission only exists in a county that has created the position of county elections administrator. The commission is responsible only for the appointment, termination, or suspension of an elections administrator. The county election commission has no other duties or authority. [Secs. 31.032, 31.037, 31.038; Tex. Att’y Gen. Op. GA-0361]

The commission’s membership consists of the county judge (as chair), the county clerk (as vice-chair), the county tax assessor-collector, and the county chair of each political party that made nominations by primary election in the previous general election for state and county officers. [Sec. 31.032]

A majority vote of the commission is required to appoint a new elections administrator or to fill a vacancy in the office of elections administrator. The suspension or termination of an elections administrator requires a four-fifths vote of the county election commission and must be approved by a majority vote of the county commissioners court. [Secs. 31.032, 31.037, 31.038]

## **Section C – Party Officers**

### **1. County Chair**

The county chair is the chair of the county executive committee for a political party in a given county. The county chair is responsible for performing several duties in the course of the primary election process. The duties of the county chair are the main focus of this handbook, and are discussed at length throughout the handbook. [Sec. 171.022]

### **2. County Executive Committee**

The county executive committee governs a political party’s activities at the county level. The county executive committee is chaired by the county chair and is made up of the precinct chairs for that political party in that specific county. [Sec. 172.022]

The county executive committee is responsible for performing several duties in the course of the primary election process, including supervising the conduct of the primary and approving the contract for election services in the primary and joint primary agreements. [Secs. 31.093, 172.111]



The county executive committee is also responsible for performing certain other duties outside of the primary election context, including the appointment of poll watchers in elections with partisan candidates, nominating candidates to fill vacancies in county-level offices under certain circumstances, and setting the time and place for precinct conventions. [Secs. 33.003, 174.022, 202.006]

### **3. Precinct Chair**

The precinct chairs are the political party's representatives for each county election precinct in a specific county. Those precinct chairs are elected at the primary election and serve alongside the county chair on the county executive committee. [Sec. 171.022]

Precinct chairs are responsible for running the precinct conventions for their party in their specific county election precinct. Those precinct chairs will also serve on other executive committees for that political party if the territory covered by that executive committee includes that precinct chair's county election precinct. [Sec. 174.025]

### **4. Precinct Executive Committee**

Each commissioner precinct or justice of the peace / constable precinct is served by a precinct executive committee for the political party. The membership of the precinct executive committee will vary based on the number of county election precincts contained within that commissioner precinct or justice of the peace / constable precinct. [Secs. 171.072, 171.073]

The primary responsibility of a precinct executive committee is to fill vacancies in nominations in that commissioner or justice of the peace / constable precinct under certain circumstances. [Sec. 202.006]

### **5. District Executive Committee**

Each district-level office is served by a district executive committee for that office. The district executive committee is made up of the members of each county executive committee who reside in the territory of that district. [Secs. 171.052, 171.053, 171.054]

The primary responsibility of a district executive committee is to fill vacancies in nominations in that district-level office under certain circumstances. [Sec. 202.006]

### **6. Primary Committee**

The primary committee is an optional committee that may be established by a political party to perform specific duties relating to that party's primary election. The county executive committee will determine whether a primary committee is established and whether that committee will consist of more or fewer than five members. [Sec. 172.081]

By default, the primary committee consists of the county chair and four other members of the county executive committee who are appointed by the county chair and approved by the county executive committee. The county executive committee may provide by resolution that the primary committee consists of fewer or more members of the county executive committee than four, and those members are appointed by the county chair and approved by the county executive committee. [Sec. 172.081]

If a primary committee is established, the main duty of the primary committee is to approve the format of the official ballot. If a primary committee is not established, then the county chair shall perform the duties of the primary committee unless the county executive committee designates another member of the committee for that purpose. [Secs. 172.081, 172.083]

## **Chapter 2 – Taking Office as County Chair**

Following the primary election, the new county chair will assume the duties of their office and will take over the duties and records of the former county chair. The Election Code outlines a number of procedures that also address vacancies in the office of county chair and other positions on the county executive committee that relate to the responsibilities of the county chair and other local party officers.

This chapter discusses the procedures for new county chairs assuming the duties of their office, the transition process for former county chairs to transfer those duties and records to the new county chair, and various vacancy-filling and removal procedures for members of the county executive committee.

### **Section A – Assuming the Duties of County Chair**

The county chair is elected by majority vote of the qualified voters of the county who vote in that party's primary election. A county chair may also be appointed to that position by the county executive committee under the procedures outlined in Sections 171.024 and 171.025. [Secs. 171.022, 171.024, 171.025]

The newly-elected county chair may begin assuming the duties of their office beginning on the 20th day after runoff primary election day. The chair will serve a two-year term. [Sec. 171.022(c)]

### **Section B – TEAM Access and Security Training**

Many of the duties of the county chair involve the submission of candidate information and election information through the TEAM system.

In order to access the TEAM system, the county chair is required to take mandatory security training provided by our office before the chair can be provided with the necessary login credentials. Our office will provide information to county chairs about how to perform the security training prior to the start of the candidate filing period.

### **Section C – Transitioning From Previous Chair to New Chair**

No later than the 30th day after the date that the term of office of a new county chair begins, the previous chair must transfer the following to the new county chair:

- Local party bank accounts over which the previous chair has authority;

- Precinct chair and county chair canvass results;
- Candidate applications;
- Paperwork related to the primary election; and
- Any other documents concerning party affairs that are in the previous chair's possession.

If the previous chair fails to transfer any of these records to the new chair by the 30th day after the start of the new chair's term of office, then the previous chair has committed a Class C misdemeanor. [Sec. 171.028]

### **Section D – Filling Vacancies on the County Executive Committee**

The county executive committee must fill any vacancy on the committee by appointment. The procedures for filling those vacancies are outlined in Sections 171.024 and 171.025 of the Texas Election Code, but additional requirements may be adopted by the state executive committee in the party rules. [Sec. 171.024]

If a vacancy occurs in the office of county chair, then a majority of the county executive committee's membership must participate in filling that vacancy. The secretary of the county executive committee must call a meeting for the purpose of filling the vacancy. If the secretary receives a request for the meeting to fill the vacancy from another member of the county executive committee, then the secretary must call that meeting no later than the 20th day after the date the secretary receives the request. If the committee does not have a secretary or the secretary fails to call the meeting, then the state chair must call the meeting no later than the 20th day after the date they receive a written request to do so from a member of the county executive committee. The authority calling the meeting must notify each committee member of the time, place, and purpose of that meeting. [Sec. 171.025]

The vacancy may not be filled before the beginning of the term of office in which the vacancy occurs. Once that vacancy is filled, the county chair will submit the replacement member's name electronically to the Secretary of State's Office. [Sec. 171.024]

The state executive committee will set the rules for what constitutes a quorum on the county executive committee for purposes of filling a vacancy and for the deadlines for filling those vacancies before a vacancy in nomination for public office can be filled. Consult your party rules for more guidance on those requirements. [Sec. 171.024]

### **Section E – Removal of Precinct Chair for Abandonment of Office**

A precinct chair may be removed for abandonment of office if they fail to perform certain statutory duties outlined in the Texas Election Code or they fail to attend four or more consecutive meetings of the county executive committee. [Sec. 171.029]

The procedures for removal are outlined in Election Code Section 171.029. If the county executive committee provides authorization by resolution, then the county chair may send a notice to a precinct chair that states that the precinct chair is considered to have abandoned the office of precinct chair and the duties of the office. The notice must be sent by certified mail, it must state the reasons the county executive committee believes the precinct chair has abandoned the office, and it must request a response from the precinct chair no later than the seventh day after the date that the precinct chair receives the notice. [Sec. 171.029]

The precinct chair must respond to the notice on or before the seventh day after the date the precinct chair receives the notice and must state whether the chair wishes to continue in office. If the precinct chair fails to respond and/or fails to state that they wish to remain in the office of precinct chair, then that office of precinct chair becomes vacant. [Sec. 171.029]

### **Section F – Removal of County Chair for Abandonment of Office**

A county chair may be removed for abandonment of office if they fail to perform certain statutory duties outlined in the Texas Election Code or they fail to attend four or more consecutive meetings of the county executive committee. [Sec. 171.029]

The procedures for removal are outlined in Election Code Section 171.029. If the state executive committee provides authorization by resolution, then the state chair may send a notice to a county chair that states that the county chair is considered to have abandoned the office of county chair and the duties of the office. The notice must be sent by certified mail, it must state the reasons the state executive committee believes the county chair has abandoned the office, and it must request a response from the county chair no later than the seventh day after the date that the county chair receives the notice. [Sec. 171.029]

The county chair must respond to the notice on or before the seventh day after the date the county chair receives the notice and must state whether the chair wishes to continue in office. If the county chair fails to respond and/or fails to state that they wish to remain in the office of county chair, then that office of county chair becomes vacant. [Sec. 171.029]

### **Section G – Creating a Temporary County Executive Committee if the Party Has No County Executive Committee**

The Texas Election Code provides a procedure for establishing a temporary county executive committee if a county executive committee for a political party does not exist in a county in which the party is holding a primary election. [Sec. 171.027]

To initiate this process, the state executive committee or the state chair will appoint an individual to serve as the temporary county chair for the party in that county. If the temporary county chair is appointed by the state chair rather than the state executive committee, then at the next regular meeting of the state executive committee, the state executive committee must ratify the state chair's appointment or appoint another person to serve as a temporary county chair. A majority vote of the members voting on the state executive committee is required for ratification or appointment. [Sec. 171.027]

Once the temporary county chair has been appointed, they shall call a meeting of the voters of the county who consider themselves to be aligned with the party. The voters present at the meeting shall elect the other members (i.e. the precinct chairs) of the temporary county executive committee. [Sec. 171.027]

The temporary executive committee will exercise the same authority and perform the same duties as a regularly constituted county executive committee. The members of the temporary executive committee will serve until the members of the county executive committee are elected at the primary election. [Sec. 171.027]

The eligibility requirements for a member of a temporary county executive committee are the same as those for serving as a member of a regularly constituted county executive committee, except that affiliation with the political party is not required. [Sec. 171.027]

### **Section H – Contracting with the State Party if the Party Has No County Executive Committee**

If a party is holding a primary election for nomination of a statewide office, a multicounty district office, or a presidential primary election, and the party does not have a county chair in the relevant county and is unable to establish a temporary county executive committee, then the state chair of the party may contract directly with the county election officer to hold that party's primary election in the county. [Sec. 172.128]

If the state chair requests to contract with the county election officer to conduct a primary election in the county under this process, the county election officer is required to contract with the state chair for that party's primary election. [Sec. 172.128]

## **Section I – Party Rules**

The requirements and guidelines discussed in this handbook are based on the requirements of Texas law as outlined in the Texas Election Code. However, your party may have additional requirements and procedures outlined in your party rules that govern your conduct as county chair.

Please consult your party's party rules for additional guidance on those requirements and procedures.

## **Chapter 3 – Party Affiliation**

Party affiliation in Texas is not selected at the time that a voter registers to vote, but rather a voter will temporarily affiliate with a party by taking certain specific actions to participate in that party's affairs in a given calendar year.

The Election Code outlines a few situations where a person is required to be affiliated with the party before they can take certain actions or participate in certain party affairs, and your party rules may also identify other situations where affiliation is required. A voter's or candidate's party affiliation also imposes specific restrictions on their ability to participate in the affairs of other political parties or to engage in other aspects of the candidacy process.

This chapter discusses the basic rules surrounding affiliation and the restrictions that are imposed by a person's affiliation.

### **Section A – Affiliation Basics**

#### **1. How to Affiliate**

In Texas, a voter does not select a party affiliation when they register to vote. Instead, a person can affiliate with a political party in Texas in two ways.

First, a person can affiliate with a party by being accepted to vote in a party's primary election, either by voting in person or by returning a voted ballot by mail. [Secs. 162.003, 162.004, 162.005]

Second, a person can affiliate with a party by taking an oath of affiliation with a party. The oath of affiliation can be taken at any time. However, if a person wishes to participate in a party's precinct convention, then they must take an oath of affiliation at that time. [Secs. 162.006, 162.007, 162.008]

#### **2. Expiration of Affiliation**

When a voter becomes affiliated with a party by voting in a primary election or taking an oath of affiliation in an even-numbered year, then that affiliation will automatically expire at the end of the calendar year in which the affiliation occurred. [Sec. 162.010]

However, if a person affiliates with a party by taking the oath of affiliation in an odd-numbered year, then that affiliation expires on the first day on which the person may file an application for a place on the primary election ballot. [Sec. 162.010]

If a voter has not voted in a party primary or taken an oath of affiliation with a party this calendar year, they have not yet affiliated with any party. [Sec. 162.010]



There is no mechanism in the Election Code for a voter to change their affiliation once they have affiliated with a party in a given calendar year. They must wait until their affiliation automatically expires at the end of that year or on the first day of the filing period.

### **3. When Affiliation is Required**

Texas voters are not required to affiliate when registering to vote or take any steps towards affiliating themselves with a party before voting in a party's primary election. [Sec. 162.003]

If a voter has not yet affiliated with a party, they are able to vote in either party's primary election. The voter is not required to vote in a party's general primary election in order to participate in that party's subsequent runoff primary election.

However, a voter who has affiliated with one party by voting in that party's general primary election or participating in that party's conventions may not vote in the runoff primary election of a different party. [Secs. 162.012, 162.013, 162.014]

A person must be affiliated with a party in order to:

- Serve as a delegate or participate in a party convention,
- Be elected or appointed to fill a vacancy on a state executive committee,
- Be appointed to fill a vacancy on a county executive committee, or
- For any other purpose within the party as provided by the state party rules.

[Sec. 162.001]

## **Section B - Restrictions on Affiliation**

### **1. Restrictions on Voters**

A voter who has affiliated themselves with a party is unable to participate in the party affairs of a party other than the party with which they have affiliated themselves. For example, if a voter affiliates with a party by voting in that party's general primary election or by participating in that party's convention, then they may not vote in a different party's primary runoff election. [Sec. 162.012, 162.013, 162.014]

If a voter signs a candidate's petition for a place on the primary ballot, that voter is only able to vote in the primary of that candidate's party. However, signing a candidate's petition does not formally affiliate you with a party. [Sec. 172.026]

A person who signs a candidate application on behalf of a minor party candidate is subject to the same restriction as a person who signs a candidate application on behalf of a candidate in the primary election. A person who signs a petition for a minor party candidate or a candidate in a

primary election may only participate in the convention or primary election of that candidate's party. [Sec. 172.026]

## **2. Candidate**

A person who was a candidate for nomination in a primary is ineligible for a place on the ballot for the succeeding general election for state and county officers either as an independent candidate or write-in candidate for the same office, or as the nominee for any office of a different political party. [Sec. 162.015]

## **Chapter 4 – Candidacy for Parties Holding Primary Elections**

One of the principal responsibilities of the county chair is to act as the filing authority for candidates who wish to run for county and precinct level offices in that party's primary elections.

This chapter discusses the candidacy process at length, including the rules governing the filing procedures and requirements for candidates, the rules governing the review process for candidate applications and petitions, the procedures for death, withdrawal, and ineligibility of candidates, the eligibility requirements for party offices, the procedures for conducting the ballot drawing, and the procedures for reporting candidate information to the Secretary of State's Office.

### **Section A – Candidate Applications**

#### **1. Filing Authority**

The authority responsible for receiving and reviewing candidate applications is the county chair for offices that fall within a single county, or the state chair for offices whose geographical territory falls within multiple counties. [Sec. 172.022]

An application filed by personal delivery is considered timely filed if it is filed with an employee of the filing authority at the filing authority's usual place of business.<sup>1</sup> [Sec. 1.007]

#### **2. Filing Period**

An application for a place on the general primary election ballot must be filed within the filing period for that primary election. The filing period for the primary election for an office other than the office of precinct chair begins 30 days before the filing deadline. The filing deadline is 6 PM of the second Monday in December of the odd-numbered year preceding the general primary election. [Sec. 172.023]

The filing period for the office of precinct chair begins earlier than the filing period for other offices. The filing period for the office of precinct chair begins 90 days before the filing deadline. The filing deadline is 6 PM of the second Monday in December of the odd-numbered year preceding the general primary election. [Sec. 172.032(b)]

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<sup>1</sup> In the case of a party's office (which is often staffed by unpaid volunteers), our office has interpreted this provision to apply to the employees and unpaid volunteers working in that office.

### **3. Notice of Filing Location**

The county chair must post notice on the party's website or in the location where a candidate files an application for a place on the ballot of the address at which the county chair or secretary will be available to receive an application on the last day of the filing period. If both the county chair and the secretary will be available on that day, then the notice must include an address where both individuals will be available to receive those applications. That notice must be posted no later than the day before the last day of the filing period. [Sec. 172.022(b)]

### **4. Method of Filing Application**

An application can be filed by mail or in person. An application accompanied by a petition in lieu of a filing fee may also be filed by fax or email.<sup>2</sup> However, an application accompanied by a filing fee must be filed by mail or in person, because the filing fee must be filed at the same time the application is filed. Since it is not possible to fax or email a filing fee, those methods of transmission are unavailable for individuals who wish to pay a filing fee rather than collect petition signatures to support their application. [Sec. 1.007]

The application is considered filed at the time it is received by the filing authority. The application is considered received when it is either placed in the actual possession of the filing authority or an agent of the filing authority, or when it is deposited in the filing authority's mailbox or usual place of delivery for that authority's mail. [Secs. 1.007, 1.009]

If the filing authority cannot determine when a deposit occurred or whether it occurred before a specific deadline, then the deposit is considered to have occurred at the time the mailbox or usual place of mail delivery was last inspected for removal of mail. [Sec. 1.009]

### **5. Application Requirements**

An application for a place on the general primary election ballot must be in writing and sworn to. In addition, it must include the following information:

- (A) The candidate's name;
- (B) The candidate's occupation;
- (C) The office sought, including any place number or other distinguishing number;
- (D) An indication of whether the office sought is to be filled for a full or unexpired term (if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers);

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<sup>2</sup> While this is a legally permissible method of filing an application accompanied by a petition, our office does not recommend filing an application by fax because it is possible for petition pages to become illegible or lost in transmission when using this method of filing.

- (E) A statement that the candidate is a United States citizen;
- (F) A statement that the candidate has not been determined by a final judgment of a court exercising probate jurisdiction to be:<sup>3</sup>
  - i. Totally mentally incapacitated; or
  - ii. Partially mentally incapacitated without the right to vote;
- (G) An indication 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;
- (H) The candidate's date of birth;
- (I) The candidate's residence address, or if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the candidate's residence;
- (J) The candidate's length of continuous residence in the state and in the territory from which the office sought is elected as of the date the candidate swears to the application;
- (K) The statement: "I, \_\_\_\_\_, 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."
- (L) A statement that the candidate is aware of the nepotism law, Chapter 573, Government Code; and
- (M) A public mailing address and public email address at which the candidate receives correspondence relating to the candidate's campaign, if available.

The official candidacy forms promulgated by the Secretary of State's Office contain sections for the candidates to address each of the statutory requirements outlined above. [Secs. 141.031, 172.021]

If a candidate has been finally convicted of a felony, they must indicate that fact on their application and must include proof of their pardon or release from the resulting disabilities of their felony conviction along with their application. [Sec. 141.031]

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<sup>3</sup> A candidate who is unable to meet this requirement may still be eligible if these rights have been restored under Section 1.020. In such situations, the candidate shall include with their application a statement that their mental capacity has been restored by the final judgment of a court or that their guardianship has been modified to include the right to vote. [Sec. 141.031(b) & (c)]

## 6. Judicial Candidate Application Requirements

Candidates for the following judicial offices are also required to provide additional information with their candidate application:

- Chief justice or justice of the supreme court;
- Presiding judge or judge of the court of criminal appeals;
- Chief justice or justice of a court of appeals;
- District judge, including a criminal district judge; or
- Judge of a statutory county court.

Candidates for the above listed offices are required to provide the following information in addition to the general requirements for a candidate application:

- The candidate's state bar number for Texas;
- The candidate's state bar number for any other state in which the candidate has been licensed to practice law (if any);
- A disclosure of any public sanction or censure (as those terms are defined by Section 33.001, Government Code) issued by the State Commission on Judicial Conduct or a review tribunal against the candidate;
- A disclosure of any public disciplinary sanction imposed on the candidate by the state bar;
- A disclosure of any public disciplinary sanction imposed on the candidate by an entity in another state responsible for attorney discipline in the state;
- A statement describing the nature of a candidate's legal practice, including any area of specialization, for the preceding five years;
- A statement describing the candidate's professional courtroom experience for the preceding five years, if any; and
- A disclosure of any final conviction of a Class A or Class B misdemeanor in the 10 years preceding the date the person would assume the judicial office for which the person is filing the application, if any.

In addition, a candidate for the office of chief justice or justice of the supreme court, presiding judge or judge of the court of criminal appeals, or chief justice or justice of a court of appeals must also provide the following additional information if that person does not hold or has not previously held one of those offices:

- A description of any appellate court briefs the candidate has prepared and filed in the preceding five years; and
- A description of any oral arguments the candidate has presented before any appellate court in the preceding five years.

[Sec. 141.0311]

The Secretary of State's Office has created a Judicial Candidate Application form for use by candidates for these offices.

## **7. Form of Name on Ballot**

Chapter 52 of the Election Code outlines specific rules for how a candidate's name may appear on the ballot, imposes specific guidelines for acceptable nicknames, and prohibits the use of titles.

A candidate's name must be printed on the ballot with the given name or initials first, followed by the nickname (if any), followed by the surname. A candidate may use any surname acquired by law or marriage, including a maiden name or a married name. The candidate may use their given name, a contraction or familiar form of a given name by which the candidate is known, or an initial of their given name. The candidate may also use a suffix such as "Jr.", "Sr.", "2nd", or a similar suffix in combination with their name. [Sec. 52.031]

If the candidate wishes to use a nickname, it must be one unhyphenated word of not more than 10 letters by which the candidate has been commonly known for at least three years before the election. The nickname may not consist of a slogan or otherwise indicate a political, economic, social, or religious view or affiliation. The candidate application form includes a sworn statement by the candidate that their chosen nickname meets these requirements. [Sec. 52.031]

A candidate may not have a title or designation of office, status, or position used in conjunction with their name on the ballot. For example, designations such as "Dr.", "Capt.", "Senator", "The Honorable", "Esq.", "Coach", or similar other titles or designations of office or status may not be used in conjunction with the candidate's name. [Sec. 52.033]

If two or more candidates have the same or similar surnames, then each of those candidates may have printed on the ballot a brief distinguishing description or title of no more than four words printed after the candidate's name. The description or title may only refer to the candidate's place of residence or present or former profession, occupation, or position. The description or title may not refer to a public office or their status as an incumbent. [Sec. 52.032]

## **8. Filing Fee**

A candidate who files an application for a place on the primary election ballot must include either a filing fee or a petition in lieu of a filing fee with the requisite number of signatures. The filing fee or petition must be filed at the same time as the application. [Sec. 172.021(b)]

The amount of the filing fee depends on the office for which the candidate wishes to run. The filing fees for each office are identified in Section 172.024 and may be found in the Candidate's Guide on our website.

An applicant may submit their filing fee by cash, check, or money order. A credit card may not be used to pay a filing fee. Our office recommends that the filing authority deposit the filing fee as soon as possible to avoid potential issues in the event that the filing fee is returned for insufficient funds.

If an applicant's payment of a filing fee is returned for insufficient funds, then the authority must notify the applicant that the filing fee is being returned for insufficient funds. The applicant may resubmit the filing fee before the end of the filing period, but payment of the filing fee cannot be made with a check from the same account that was used to make the payment that was rejected for insufficient funds. If the payment is returned for insufficient funds after the end of the filing period but before the 50th day before election day, then the application must be rejected as being untimely and the filing authority must notify the applicant of such rejection. [Sec. 172.021(b-1) & (b-2)]

There is no filing fee for party offices such as county chair or precinct chair. [Sec. 172.021(b)]

## **9. Petition in Lieu of Filing Fee**

A candidate who files an application for a place on the primary election ballot must include either a filing fee or a petition in lieu of a filing fee with the requisite number of signatures. The filing fee or petition must be filed at the same time as the application. [Sec. 172.021(b)]

Petition signatures gathered for any candidate petitions in a primary election (including judicial petitions) may not be gathered on the grounds of a county courthouse or courthouse annex. [Sec. 172.021(e)]

The petition may not be amended once it has been filed with the filing authority. If the filing authority determines that the petition fails to meet the requirements or that there is an insufficient number of valid signatures contained on the petition, then the candidate cannot amend that petition. The candidate may start over by creating a new petition and gathering the full number of signatures on that petition, but they must still file that new petition along with their new application before the filing deadline. [Sec. 141.062]

Please see the Candidate's Guide on our website for a detailed list of the signature requirements for each office.



## **10. Petitions for Candidates for County Chair if Required by Party Rule**

A political party's state executive committee may require by party rule that an application for the office of county chair be accompanied by a nominating petition containing the signatures of at least 10 percent of the incumbent precinct chairs serving on the county executive committee. [Sec. 172.021(f)]

These petitions may not be required for all parties or in all counties. Please consult your party rules for more guidance on whether a nominating petition is required for candidates for county chair for your party in your county.

## **11. Judicial Petitions**

Candidates for certain judicial offices must also collect petition signatures in support of their candidacy. The number of signatures required depends on the office for which the individual is running. These signatures may not be gathered on the grounds of a county courthouse or courthouse annex. [Sec. 172.021(e) & (g)]

If the prospective candidate wishes to file a petition in lieu of a filing fee in addition to the judicial petition, then they are required to gather additional signatures but may collect all necessary signatures on the same petition form. The number of additional signatures required depends on the office for which the individual is running. [Sec. 172.021(e) & (g)]

Offices requiring a Petition for Judicial Office:

- Chief Justice or Justice, Supreme Court
- Presiding Judge or Judge, Court of Criminal Appeals
- Chief Justice or Justice, Court of Appeals (district wholly or partially situated in a county with population of more than 1.2 million)
- District or Criminal District Judge (district wholly contained in a county with population of more than 1.5 million)
- Judge of Statutory County Court (in a county with population of more than 1.5 million)
- Justice of the Peace (in a county with population of more than 1.5 million)

[Sec. 172.021(e) & (g)]

Please see the Candidate's Guide on our website for a detailed list of the signature requirements for each office.

## **12. Petition Requirements – Generally**

These requirements apply to all petitions filed in connection with candidate applications, including judicial petitions and petitions in lieu of filing fees. [Sec. 141.061]

A petition signature is valid if the signer is a registered voter of the territory from which the office sought is elected, and the signer provides the necessary information on the petition:

- (1) The signer's residence address;
- (2) The date of birth OR the signer's voter registration number;
- (3) If the territory from which the office is elected is situated in more than one county, then the county where the signer is registered to vote;
- (4) The date of signing; and
- (5) The signer's printed name.

[Sec. 141.063]

A person may only sign a petition in support of one candidate for each office in a given election. If a person signs a petition on behalf of a candidate, then that person may not sign a petition on behalf of a different candidate running for the same office in the same election. If a person signs a candidate's petition after signing another candidate's petition for the same office, then that signature on the second petition is invalid. [Sec. 141.066]

When a person signs a petition in support of a candidate's application for a place on the primary election ballot, that person becomes ineligible to vote in a primary election or participate in a convention of another political party during the voting year in which the primary election is held. [Sec. 172.026]

A petition that accompanies a candidate application in a primary election must contain a specific statement at the top of each page of the petition:

I know that the purpose of this petition is to entitle [insert candidate's name] to have his or her name placed on the ballot for the office of [insert office title, including any place number or other distinguishing number] for the [insert political party's name] primary election. I understand that by signing this petition I become ineligible to vote in a primary election or participate in a convention of another party, including a party not holding a primary election, during the voting year in which this primary election is held.

The standard petition form provided by the Secretary of State's Office includes this statement. [Sec. 172.027]

For the petition itself to be valid, it must be (1) timely filed with the appropriate authority, (2) contain valid signatures in the number required by the Election Code, and (3) comply with any other applicable requirements for validity prescribed by the Election Code. [Sec. 141.062]

### **13. Petition Requirements – Circulator’s Affidavit**

In addition, the petition itself must meet certain requirements for the signatures on the petition to be considered valid. Each part of the petition must be accompanied by an affidavit by the person who circulated that part. The affidavit must be sworn to by the circulator, and must state that the person:

- (1) Pointed out and read to each signer, before the petition was signed, each statement pertaining to the signer that appears on the petition;
- (2) Witnessed each signature;
- (3) Verified each signer’s registration status; and
- (4) Believes that each signature is genuine and that the corresponding information is correct.

[Sec. 141.065]

When reviewing the circulator’s affidavit, note that a single notarized affidavit by any person who obtained signatures is valid for all signatures gathered by the person if the date of notarization is on or after the date of the last signature obtained by the person. A circulator may complete a single affidavit that applies to all petition signatures gathered on all the pages circulated by that circulator before the date the affidavit is notarized. [Sec. 141.065]

### **14. Petition Requirements – Withdrawal of Signatures**

A signature may be withdrawn by a signer if the signer files a sworn written request to withdraw their signature with the filing authority no later than the date the petition is received by the filing authority or the seventh day before the petition filing deadline, whichever is earlier. The signer must also deliver a copy of the withdrawal request to the candidate when the request is filed. [Sec. 141.067]

If the withdrawal of signatures would result in the petition falling below the required number of signatures, then the filing authority must notify the candidate immediately by telephone (or an equally expeditious method) about the number of withdrawn signatures. In this situation, a candidate may supplement their petition with an equal number of signatures to the number withdrawn before the third day after the date the candidate receives the notice. [Sec. 141.067]

If a voter’s signature on a candidate petition is timely withdrawn under the procedures outlined here, then that voter is considered to have never signed the petition and therefore that voter would no longer be restricted from voting in another party’s primary or convention process. [Secs. 141.067, 172.026]

## **Section B – Reviewing, Accepting, and Rejecting Candidate Applications**

### **1. Reviewing Candidate Applications**

When a filing authority receives an application for a place on the ballot, they must review that application to determine whether it complies with the requirements as to form, content, and procedure. [Sec. 172.0222]

The review process must be completed no later than the fifth business day after the date the application is received by the authority. If the application is submitted fewer than five business days before the regular filing deadline, then the review must be completed no later than the first Friday after the regular filing deadline. If the application is accompanied by a petition, then the review of that petition must be completed as soon as practicable after the date the application is received by the filing authority. [Sec. 172.0222]

Reviewing form, content, and procedure essentially requires the filing authority to look over the information provided on the application to determine whether the required information is listed on the form. At this stage of the review process, the filing authority should assess the application to determine if the candidate is eligible based on the facts provided on the application, with the presumption that the facts sworn to by the applicant are true.

Though it is not strictly required by the Election Code, we also recommend that filing authorities check the applicant's voter registration status at the time they file their application.<sup>4</sup>

**Note on Residency:** Texas courts have consistently held that residency is a fact question that can only be determined by a fact-finding tribunal in a court of law.<sup>5</sup> If a candidate provides a residential address located within the territory, then the filing authority must accept that applicant's stated residence for purposes of this review process. If the filing authority or other individual wishes to challenge the location of the applicant's residence, they must do so in a court proceeding.

The filing authority may only disqualify an applicant based on residence if (1) the residential address provided on the application is not located within the territory the office is elected from, (2) the applicant states on their application that they did not live at that residence for the

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<sup>4</sup> The general rule is that an individual who wishes to apply for a place on the ballot must be a registered voter of the territory they wish to be elected from as of the filing deadline. If the individual is not a registered voter at the time their application is filed, and will not be able to have an effective date of registration that falls before the filing deadline, then they are not an eligible candidate for a place on the ballot. However, if they become a registered voter by election day, then they are still eligible to run as a write-in candidate. For exceptions to the general rule, please refer to the most recent Candidates' Guide on our website. [Sec. 141.001(a)(6)]

<sup>5</sup> The Texas Election Code provides a definition of residence in Section 1.015. However, only a court may make a determination as to whether a particular person's choice of residence on their application meets this definition.

required amount of time to be eligible for the office, or (3) a final judgment of a court determines that the person lives at a residence located outside the territory that the office is elected from.

Texas Election Code Section 141.001(a-1) and (a-2) provide a definition of residency for purposes of candidacy under that section. Subsection (a-3) also provides that the authority with whom an application for a place on the general primary election ballot is filed shall use that definition of residency in determining whether the candidate meets the residency requirement. This review of a candidate's residence is authorized "to the extent permitted by law." However, Texas law does not allow a filing authority to make a conclusive determination about the location of a person's residence, and requires that any such determination be made by a court of law. The filing authority must accept the applicant's sworn affirmation regarding the location of the applicant's residence, and can only challenge the location of the applicant's residence in a court of law.

Note on Felony Convictions: Texas Election Code Section 141.031 requires a candidate to affirmatively indicate either that they have not been finally convicted of a felony or that they have been finally convicted of a felony and have been pardoned or otherwise released from the resulting disabilities of that felony conviction. If the candidate indicates that they have been finally convicted of a felony, then they are required to submit proof along with their application that shows that the person has been pardoned or released from the resulting disabilities of their felony conviction.

Proof of release from the resulting disabilities of a felony conviction would include proof of judicial clemency under Texas Code of Criminal Procedure Article 42A.701, proof of executive pardon under Texas Code of Criminal Procedure Article 48.01, or proof of a restoration of rights under Texas Code of Criminal Procedure Article 48.05. A candidate who has indicated that they have been finally convicted of a felony must provide one of those documents to demonstrate their eligibility for public office. [Sec. 141.031; Tex. Att'y Gen. Op. KP-0251]

The eligibility requirements relating to final felony convictions do not apply to federal offices whose exclusive qualifications are defined by the U.S. Constitution, such as the offices of U.S. Senator or U.S. Representative. [Sec. 141.001(c)]

## **2. Accepting Candidate Applications**

An application that is timely filed and meets all the requirements for a candidate application on its face must be accepted by the filing authority. Upon acceptance of a candidate application, the filing authority should notify the candidate that their application has been accepted.

A determination that an application complies with the applicable requirements as to form, content, and procedure does not prevent the filing authority from making a subsequent determination that the application does not comply with those requirements. However, an

application cannot be challenged for compliance with these requirements after the 50th day before primary election day. If such a challenge is made, it must state with specificity how the application does not comply with those requirements. The authority's review of the challenge is limited to the specific items challenged and any response filed with the authority by the challenged candidate. [Secs. 172.0222, 172.0223]

### **3. Rejecting Candidate Applications**

If an application does not comply with the requirements as to form, content, and procedure, then the authority must reject the application and immediately deliver written notice to the candidate indicating the reason for the rejection. [Sec. 172.0222]

A rejected candidate application may not be amended. However, a candidate may file a new application before the filing deadline if a previous application has been rejected.

## **Section C – Withdrawal, Death, and Ineligibility of Primary Candidates**

NOTE: Please see Chapter 5 of this Handbook and our Advisory on Deadlines for Vacancies and Replacement Nominees for the General Election for State and County Officers (Primary Calendar Appendices) for additional information on the withdrawal, death, or ineligibility of candidates in the primary election. Please refer to the most recent primary election law calendar on our website for withdrawal deadlines.

### **1. Withdrawal of Primary Candidate**

A candidate for nomination may not withdraw from the general primary election after the first day after the date of the regular filing deadline for the general primary election. A withdrawal request must be filed with the authority with whom the candidate's application for a place on the general primary election ballot must be filed. [Sec. 172.052]

A withdrawal request must be in writing, be signed by the candidate, and be acknowledged by a person who is authorized to administer oaths under Chapter 602 of the Government Code (such as a notary public).<sup>6</sup> A withdrawal request filed by mail is considered to be filed at the time it is received by the filing authority. A withdrawal request that is not timely filed in accordance with these requirements has no legal effect and is not considered to be filed. [Sec. 145.001]

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<sup>6</sup> A county chair is NOT one of the persons authorized to administer oaths under Chapter 602 of the Government Code. A county chair may only administer oaths if they also happen to be one of the persons authorized to administer oaths under Section 602.002 of the Government Code, such as if they are a notary public in addition to being county chair.

The withdrawn candidate's name shall be omitted from the general primary election ballot if the candidate withdraws on or before the first day after the date of the regular filing deadline. [Sec. 172.057]

## **2. Death or Ineligibility of Primary Candidate**

A candidate who dies or is declared ineligible on or before the first day after the date of the regular filing deadline must be omitted from the general primary ballot. A candidate who dies or is declared ineligible after the first day after the date of the regular filing deadline must have their name placed on the general primary election ballot. [Secs. 172.057, 172.058]

If the deceased or ineligible candidate's name must be placed on the general primary election ballot, then the votes for that candidate must be counted and entered on the official election returns in the same manner as for the other candidates. [Sec. 172.058]

In a race in which a runoff election is required, if the deceased or ineligible candidate received the vote that would entitle them to a place in the runoff, then the candidates in the runoff will be determined in the regular manner but without regard to the votes received by the deceased candidate. [Sec. 172.058]

If the deceased or ineligible candidate receives the vote required for nomination, then the appropriate executive committee may either certify the deceased candidate's name for placement on the general election ballot or they may fill the vacancy in nomination under Section 145.036. [Sec. 172.058]

## **3. Extended Filing Deadline**

The deadline for filing an application for a place on the general primary election ballot will be extended under certain circumstances. If the filing deadline for a specific office is extended, then candidates must file their application for a place on the general primary election ballot no later than 6 PM of the 5th day after the date of the regular filing deadline.<sup>7</sup> [Sec. 172.054]

The filing deadline is extended under the following circumstances:

1. Death of a candidate on or after the 5th day before the regular filing deadline and on or before the 1st day after the regular filing deadline;
2. Withdrawal or ineligibility of an incumbent candidate on the date of the regular filing deadline or the 1st day after the regular filing deadline;
3. Withdrawal or ineligibility of the sole candidate for that office on the date of the regular filing deadline or the 1st day after the regular filing deadline; or

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<sup>7</sup> Note that an application filed by mail with the state chair is not considered timely unless it is received by 5 PM on the fifth day after the date of the regular filing deadline.

4. Vacancy in a public office that is filled at the general election for state and county officers that occurs on or after the day after the 10th day before the regular filing deadline but on or before the 5th day before the regular filing deadline.

[Secs. 172.054, 202.004]

The extension of the filing deadline applies only to the primary election of the political party for which the withdrawn, deceased, or ineligible candidate applied for a place on the ballot. [Sec. 172.054]

If the filing deadline is extended, the filing authority must prepare a notice identifying the withdrawn, deceased, or ineligible candidate and the office for which the filing deadline is extended. The notice must also include the date of the extended filing deadline. [Sec. 172.055]

A county chair responsible for preparing the notice of the extended filing deadline must provide a copy of that notice to at least one daily newspaper published in the county or, if none, at least one weekly newspaper published there, if any.<sup>8</sup> The county chair must also publish the notice on the county party's website, and must provide a copy of the notice to the county election officer for posting on the county's website. A county chair's failure to provide this notice is cause for the officer's removal by the county executive committee. [Sec. 172.055]

#### **4. Withdrawal, Death, or Ineligibility of Primary Runoff Candidates**

A candidate for nomination may not withdraw from the runoff primary election after 5 PM of the 3rd day after the date of the state canvass. A withdrawal request for the runoff primary must be filed with the state chair for a statewide or district office, or the county chair for a county or precinct office. If a runoff candidate files a timely withdrawal request, then the remaining candidate is the nominee for that office in the general election for state and county officers and a runoff election is not held. [Sec. 172.059]

If a runoff primary candidate dies or is declared ineligible before runoff primary election day, then the candidate's name must be placed on the runoff primary election ballot. If the deceased or ineligible candidate receives the vote required for nomination, then the appropriate executive committee may either certify the deceased or ineligible candidate's name for placement on the general election ballot or they may fill the vacancy in nomination under Section 145.036. [Sec. 172.060]

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<sup>8</sup> Note that the state chair must provide notice to other publications and to the Secretary of State for posting on the Secretary of State's website in situations where the state chair is the filing authority for the office that is subject to the extended filing deadline. Those notice requirements are outlined in Texas Election Code Section 172.055(c).



## **Section D – Eligibility of Party Officers**

### **1. General Eligibility Requirements**

To be eligible to be a candidate for or to serve as an officer of a political party, a person must:

- (1) not be a candidate for nomination or election to, or the holder of, an elective office of the federal, state, or county government; and
- (2) if the office is a county or precinct chair of a political party, be a qualified voter of the county.

[Sec. 161.005(a)]

The term “officer of a political party” for purposes of these eligibility requirements would include the offices of precinct chair, county chair, and member, chair, or vice-chair of a state executive committee. [Sec. 161.005(a-1)]

A person who holds an elective office of a local government entity (e.g., a city, school district, water district, etc.) would not be ineligible to be a candidate for or to serve as a party officer and is permitted to run for and hold those offices. The ineligibility restriction only applies to persons who hold elective offices of the federal, state, or county government.<sup>9</sup> [Sec. 161.005]

For purposes of eligibility for party offices, a person is considered to be a candidate at the earliest time that one of the following occurs:

- (1) The person files:
  - (A) a declaration of intent to run as an independent candidate;
  - (B) an application for a place on a primary or general election ballot or for nomination by a convention; or
  - (C) a declaration of write-in candidacy; or
- (2) The person is nominated by a convention or executive committee.

[Sec. 161.005]

### **2. Residency Requirements for Party Officers**

To be eligible for the office of county chair or precinct chair, the person must be a qualified voter of the county. The candidate must therefore be a resident of the county to be eligible for those

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<sup>9</sup> This restriction does not apply to parties who nominate by convention under Chapter 181 of the Election Code.

offices. There is no specific period of time that the person must have been a resident of the county to be eligible for the office of precinct chair or county chair. [Sec. 161.005]

In addition to the general eligibility requirements for party office, a person must also reside in the election precinct to be eligible to be a candidate for or to serve as a precinct chair for that precinct. There is no specific period of time that the person must have been a resident of the precinct to be eligible for the office of precinct chair. [Sec. 171.022]

For purposes of candidacy, the candidate's residence is determined based on the information provided on the face of the application.

### **3. Write-In Candidates for Party Offices**

Write-in candidates for the offices of county chair or precinct chair are not permitted unless the county executive committee authorizes write-in candidates for those offices. [Sec. 171.0231]

If the county executive committee authorizes write-in candidates for county chair or precinct chair, then a write-in vote for a candidate for those offices may only be counted if the candidate's name appears on the list of declared write-in candidates for that office. [Sec. 171.0231]

To be on the list of declared write-in candidates for the office of county chair or precinct chair, a person must file a declaration of write-in candidacy with the county chair, the secretary of the county executive committee, or the county chair's designee no later than 6 PM of the fifth day after the date of the regular filing deadline for the general primary election. [Sec. 171.0231]

## **Section E – Ballot Drawing**

### **1. Order of Candidate Names on General Primary Ballot**

The order of the candidates' names on the general primary election ballot for each county must be determined through a ballot drawing. [Sec. 172.082]

The drawing must be conducted by the county chair or the county chair's designee, unless the county executive committee provides by resolution that the drawing will be conducted by the primary committee. To be eligible to serve as the county chair's designee, a person must be (1) a member of the county executive committee, or (2) if no county executive committee member is available to conduct the drawing, then the designee must be a resident of the county who is affiliated with the same political party. [Sec. 172.082]

The drawing must be conducted no later than the 10th day after the date of the regular filing deadline for the primary election. The county chair must post notice of the date, hour, and place of the drawing for at least 24 consecutive hours immediately before the drawing begins. That

notice must be posted on the party's website. If the party does not maintain a website, then the notice must be posted on the county commissioners court bulletin board. The county chair must also notify the candidates by email if they provided an email address on their application form. The candidates are entitled to be present or to have a representative present at the drawing. [Sec. 172.082]

The state chair must conduct the drawing on behalf of the county party if either (1) the county chair requests that the state chair conduct the drawing, or (2) the county chair or their designee fails to conduct the drawing by the 10th day after the date of the regular filing deadline. [Sec. 172.082]

## **2. Order of Candidate Names on Runoff Primary Ballot**

The order of the candidate names on the runoff primary election ballot must be in the same relative order that those names were placed on the general primary election ballot. [Sec. 172.084]

## **Section F – Reporting to SOS**

### **1. Certification of Candidates**

The appropriate party chair must submit information regarding each candidate who files a candidate application to the Secretary of State's Office.<sup>10</sup> For county chairs, this requires the chair to electronically submit the following information:

1. The name of each candidate who files an application for a place on the ballot with the chair, including an application for the office of a political party, as the name is to appear on the ballot;
2. The name of each candidate whose application meets the requirements of Section 171.021 and is accepted by the chair, as the name is to appear on the ballot;
3. The candidate's address as shown on the application;
4. The date on which the candidate filed the application; and
5. Any additional information required by the secretary of state.

[Sec. 172.029]

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<sup>10</sup> State chairs have additional reporting requirements for candidates who file with the state chair under Section 172.028, but this handbook is designed for county chairs so those requirements are not addressed here.

The county chair must submit this information along with a notation of the candidate's status no later than 24 hours after the chair completes the review of the candidate's application. In addition, the chair must submit a candidate's information and a notation concerning the candidate's status for all candidates who filed no later than the 8th day after the regular filing deadline. The county chair will not be able to modify this information after the 9th day after the regular filing deadline, and if any modifications are required after that date those modifications must be made by the state chair. [1 Tex. Admin. Code 81.112(a)(5)]

Once this information has been submitted for all candidates who filed and whose applications have been reviewed and accepted for a place on the ballot, the county chair must notify the county election officer that this information was submitted for all candidates. This notice may be sent by email, regular mail, or personal delivery, and must be delivered no later than the 9th day after the regular filing deadline. If an application is filed during the extended filing period for a particular office, then the county chair must also notify the county elections officer that such an application was filed. [1 Tex. Admin. Code 81.112(b)(1) & (3)]

### **Section G – Primary Litigation**

Litigation is potentially a reimbursable expense with primary funds under the following circumstances [1 Tex. Admin. Code 81.134(e)]:

- Litigation that seeks to include a candidate's name on the primary election ballot after the chair either rejected the candidate's application or declared the candidate ineligible; or
- Litigation that seeks to exclude a candidate's name from the primary election ballot after the chair declined to do so.

**As soon as litigation is initiated, such as service of process, contact the Legal Section of the Elections Division for advice and assistance. (Toll Free: 1-800-252-2216, option (2)).**

In order to utilize primary funds to retain legal counsel, the party chair must request so in writing by mail, fax, or email to the Director of the Elections Division of the SOS. **The Secretary of State's Office cannot provide reimbursement for legal fees unless the chair receives prior written approval from the Director of the Elections Division.** [1 Tex. Admin. Code 81.134(c)(1), (d)]

All requests shall include the style and cause number of the lawsuit for which the party chair seeks to retain legal counsel, the name of the attorney he or she wishes to retain, a brief summary of the facts that are the subject of the lawsuit, the attorney's hourly rate, and an estimate of the legal expenses necessary for legal services rendered in defense of the party chair, on behalf of the chair, the executive committee, and the party. [1 Tex. Admin. Code 81.134(c)(2)]

Failure to notify the SOS of litigation within thirty (30) business days following the receipt of service of process will disqualify the chair from using primary funds for the associated legal expenses. [1 Tex. Admin. Code 81.134(c)(3)]

The party chair seeking reimbursement for legal expenses shall provide to the SOS copies of all invoices related to legal expenses, along with all relevant pleadings, docket sheets, judgments and orders in the case, and any additional information requested by the SOS prior to approval or rejection of legal fee reimbursement from the primary fund. [1 Tex. Admin. Code 81.134(f)]

The SOS shall review all submitted documentation and invoices for legal expenses and make a determination as to the compensability and reasonableness of the legal fees and expenses. Upon SOS approval and subject to appropriation by the Texas Legislature, the SOS shall reimburse legal expenses the lesser of the hourly rate submitted or the hourly rate reflected in the State Bar of Texas--Hourly Rates Report at the time the final invoice for reimbursement of legal expenses is submitted. [1 Tex. Admin. Code 81.134(g)]

The chair will be notified in writing from the SOS General Counsel of the approval or rejection of the legal expenses. If approved, the correspondence will also indicate the amount approved. That amount shall be reported in the party chair's final cost report as outlined in Chapter 12 of this handbook. Funds will be disbursed accordingly.

All legal invoices, pleadings, correspondence, and any additional information requested by the SOS submitted to the SOS for reimbursement are subject to the Public Information Act (Chapter 552, Texas Government Code), and the party chair is advised not to submit any documents that are subject to attorney-client or work product privilege. [1 Tex. Admin. Code 81.134(h)]

In addition to any other requirements or limitations under 1 Tex. Admin. Code 81.134 and Chapter 173 of the Texas Election Code, the SOS shall not provide primary-fund reimbursement for legal expenses unless the party chair complies with the aforementioned conditions before any legal expenses are incurred. Additionally, funding is subject to appropriation by the Texas Legislature. [1 Tex. Admin. Code 81.134(c)]

## **Chapter 5 – Filling Vacancies in Party Nominations for the General Election for State and County Officers**

While most public offices are filled at the expiration of the term for that office, vacancies will occasionally occur in the middle of a term of office. The Election Code outlines specific procedures that determine whether that office will be placed on the ballot in the following November general election for state and county officers, and if so, whether the party's nominees for that office will be selected through the primary election process or whether nominations will be made by the party executive committees.

In addition, certain candidacy issues during the primary election process may result in situations where the party's nominee for a public office becomes vacant before the November general election for state and county officers. The Election Code outlines specific rules for when and how those vacancies in nomination may be filled by a political party.

This chapter discusses the rules and procedures for filling vacancies in public office and filling vacancies in nomination for the November general election for state and county officers.

NOTE: Please see our advisory on Deadlines for Vacancies and Replacement Nominees for the General Election for State and County Officers (Primary Calendar Appendices) for additional information on filling vacancies in party nominations for the general election for state and county officers.

### **Section A – Procedures for Filling Vacancies in State or County Offices**

When a vacancy occurs in an office of state or county government in a year in which that office would not normally be on the ballot, there are specific procedures outlined in the Election Code that address whether the vacancy will be placed on the ballot in the upcoming general election for state and county officers. If the office will be placed on the ballot in the general election for state and county officers, then the timing of the vacancy will also determine the method by which the political parties can select nominees for that office.

These procedures are highly fact-specific and will depend largely on the timing in which the vacancy occurred.

Please note that these procedures do not apply to legislative or congressional vacancies, which have their own special election procedures.

#### **1. Timelines for Vacancies to Be Placed on the General Election Ballot**

If a vacancy in an office of state or county government occurs on or before the 74th day before the general election for state and county officers held in the next-to-last even-numbered year of

a term of office, then the remainder of the unexpired term will be filled at the next general election for state and county officers. [Sec. 202.002(a)]

If the vacancy occurs after the 74th day before the general election for state and county officers, then that vacancy will not be placed on the ballot in that general election, and the unexpired term may be filled by appointment until the expiration of the term. [Sec. 202.002(b)]

Please note that most positions of state and county government have specific procedures that allow for the position to be filled by appointment until the office is next placed on the ballot. That appointed person will serve until someone is elected to the remainder of the unexpired term in the general election for state and county officers or until the expiration of the regular term for that office.

## **2. Nomination by Primary Election**

If a vacancy in an office of state or county government occurs on or before the 5th day before the filing deadline for the primary election, then that office will be placed on the ballot in the primary election, and the political parties will select their nominees for that office through the primary election process. [Sec. 202.004(a)]

If the vacancy occurs after the 5th day before the filing deadline and on or before the 74th day before the general election for state and county officers, then the political parties will select their nominees for that office through the appropriate party executive committees. [Sec. 202.004(b)]

### Regular Filing Deadline

If the vacancy occurs before the filing period or early on in the filing period, then the filing deadline for that office will be the same as the regular filing deadline. Specifically, if the vacancy occurs on or before the 10th day before the date of the regular filing deadline, then candidates for that office will need to file no later than the regular filing deadline for the primary election. [Sec. 202.004(b)]

### Extended Filing Deadline

If the vacancy occurs during the latter portion of the filing period, then the filing deadline for that office will be extended. Specifically, if the vacancy occurs after the 10th day before the date of the regular filing deadline and on or before the 5th day before the filing deadline, then candidates for that specific office will have until 6 PM of the 5th day after the filing deadline to submit their application for that office. [Sec. 202.004(c)]

If the filing deadline is extended, then the filing authority must provide notice of the extended filing period within 24 hours of the vacancy. The notice must identify the office for which the filing deadline is extended and the date and time of the extended filing deadline. [Sec. 172.055]

### **3. Nomination by Executive Committee**

If a vacancy in an office of state or county government occurs after the 5th day before the filing deadline for the primary election, then that office will be placed on the ballot in the general election for state and county officers, and the political parties will select their nominees for that office through the appropriate executive committees. [Sec. 202.006]

If the party is entitled to fill a vacancy in nomination, then that replacement nominee is selected by the appropriate executive committee for that party:

- Precinct offices are filled by the precinct executive committee for that office.
- County offices are filled by the county executive committee.
- District offices are filled by the district executive committee for that district.
- Statewide offices are filled by the state executive committee.

[Sec. 145.036(a)]

For purposes of selecting a replacement nominee, a majority of the committee's membership constitutes a quorum. To be selected as a replacement nominee, the person must receive a favorable vote of a majority of the members voting. [Sec. 145.036(d)]

The executive committee members who perform the nomination must be the appropriate committee members who are elected in the primary elections preceding that general election for state and county officers and whose new term starts beginning the 20th day after runoff primary election day. For example, the nomination of a candidate who will be on the ballot for the 2024 general election for state and county officers must be performed by the appropriate executive committee members who were elected in the 2024 primary elections. [Secs. 145.036, 202.006, 171.022]

However, note that if a vacancy in nomination for a district, county, or precinct office occurs after the nomination was already made by primary election, then that vacancy in nomination may not be filled before the beginning of the term of office of the county executive committee members elected in the year in which the vacancy occurs. The term of office for the county executive committee begins on the 20th day after runoff primary election day. [Secs. 145.036(e), 171.022]

To be nominated, a person must fulfill the eligibility requirements for the particular office. For purposes of calculating the residency requirement, count backwards from the date of the nomination (e.g., a candidate for county judge must be a resident of the county for six months prior to the date of nomination). [Secs. 145.036, 141.001(a)(5)(D)]

If the executive committee is filling a vacancy in nomination because the party's nominee was declared ineligible due to a failure to pay a filing fee under Election Code Section 145.003(f)(3),



then the executive committee may only make a replacement nomination if the replacement nominee pays the filing fee or petition in lieu of filing fee for that office. [Sec. 145.036(b-1)]

The chair of the executive committee making the nomination must certify in writing the replacement nominee's name for placement on the general election ballot. The certificate must:

- Be signed and acknowledged by the chair;
- Include the replacement nominee's name, residence address, and mailing address (if different from the residence address);
- Identify the name of the original nominee;
- State the office sought, including any place number or other distinguishing number;
- State the cause of the vacancy;
- State an identification of the executive committee making the replacement nomination; and
- State the date of the replacement nomination.

[Sec. 145.037]

Not later than 5:00 PM on the 71st day before general election day, the certificate must be delivered to the Secretary of State for a statewide or district office, or to the county clerk/elections administrator for a county or precinct office. If the certificate is filed by mail, it must be received by the filing authority by the deadline. [Sec. 145.037]

If the vacant office is a district-level office and the district executive committee fails to nominate and certify a replacement candidate by the 71st day before the general election for state and county officers, then the state executive committee may nominate a candidate to fill the vacancy. The state chair must deliver the replacement nominee's certificate to the Secretary of State not later than 5:00 PM of the 69th day before general election day. Again, if the certificate is filed by mail, it must be received by the filing authority by the deadline. [Sec. 145.038]

## **Section B – Procedures for Death, Withdrawal, or Ineligibility of Primary Election Candidates**

In some situations where a candidate for nomination in the general primary election dies, withdraws, or is declared ineligible during the filing period for the primary election, the Election Code will authorize an extended filing deadline for that specific office. This section discusses those situations and the required procedures.

### **1. Death of Candidate**

If a candidate in the general primary election dies on or after the 5th day before the date of the regular filing deadline and on or before the 1st day after the date of the regular filing deadline,

then the filing deadline for that office is extended to the 5th day after the regular filing deadline. [Sec. 172.054(a)(1)]

## **2. Withdrawal or Ineligibility of Incumbent Candidate**

If an incumbent candidate who currently holds the office that they are running for in the general primary election withdraws or is declared ineligible on the date of the regular filing deadline or on the 1st day after the regular filing deadline, then the filing deadline for that office is extended to the 5th day after the regular filing deadline. [Sec. 172.054(a)(2)]

## **3. Withdrawal or Ineligibility of Sole Candidate**

If the only candidate who is running for an office in the general primary election withdraws or is declared ineligible on the date of the regular filing deadline or on the 1st day after the regular filing deadline, then the filing deadline for that office is extended to the 5th day after the regular filing deadline. [Sec. 172.054(a)(3)]

The filing deadline is only extended if no other candidate has submitted a valid application for that office at the time that the sole candidate withdraws or is declared ineligible.

## **4. Notice of Extended Filing Deadline**

If the filing deadline is extended, then the filing authority must provide notice of the extended deadline which identifies the candidate and office for which the filing deadline is extended and states the extended deadline. [Sec. 172.055]

That notice must be given within 24 hours of the death/withdrawal/ineligibility in the following manner, depending on the office that is subject to the extended deadline:

- In at least one daily newspaper published in the county, or if there is none, then at least one weekly newspaper published there, if any (for offices filed with county chair);
- In at least three daily newspapers that regularly maintain a news representative at the State Capitol (for statewide offices); or
- In at least one daily newspaper published in each county wholly or partly situated in the district, or if none, at least one weekly newspaper published there, if any (for district offices filed with the state chair)

[Sec. 172.055]

## **5. Supplemental List of Candidates**

If the filing deadline is extended, then the filing authority must make an electronic submission containing the name of each candidate who files an application that complies with the applicable

requirements during the filing period if that candidate's information has not already been electronically submitted under Section 172.029. [Sec. 172.056]

The submission must contain the candidate's name as well as any additional information required under Section 172.029. [Sec. 172.056]

### **Section C – Procedures for Replacement Nominations After Vacancy in Party's Nomination for the General Election**

The Election Code also provides specific guidelines for addressing vacancies in nomination when a political party's nominee for public office withdraws, dies, or is declared ineligible after they have been selected as that party's nominee for that office.

#### **1. Withdrawal of Party Nominee for Public Office**

A party's nominee for public office may withdraw from the general election by filing a written, sworn withdrawal request. That withdrawal request may not be filed later than the 74th day before the date of the general election. That withdrawal request must be filed either with the Secretary of State (for statewide or district offices) or the authority responsible for having the official ballot prepared (for county or precinct offices). [Secs. 145.001, 145.032, 145.033]

The nominee must also deliver a copy of the withdrawal request to the chair of the party executive committee that is authorized to fill the nomination in vacancy for that office. If there is a vacancy in the office of chair for the relevant precinct or district executive committee, then the copy must be delivered either to the chair of the state executive committee (for a district office) or the chair of the county executive committee (for a precinct office). [Sec. 145.034]

There are three situations in which the appropriate executive committee may fill a vacancy in nomination due to the withdrawal of a nominee: (1) withdrawal by the only nominee for that office by any political party that held a primary election, (2) withdrawal due to catastrophic illness, and (3) withdrawal due to the nominee being elected or appointed to fill a vacancy in another elective office or being nominated for another office. [Sec. 145.036]

If the candidate who is withdrawing is the only nominated candidate for that office by any political party that held a primary election, then all political parties with ballot access are entitled to select a replacement nominee. [Sec. 145.036(b)(2)]

If the candidate is withdrawing due to a catastrophic illness, then the appropriate executive committee may select a replacement nominee. The withdrawal must be accompanied by the signed certificate of two licensed physicians. The illness must be such that the candidate will be permanently and continuously incapacitated and prevented from performing the duties of the

office sought. If the candidate withdrawing is the only nominee for the office in either party conducting a primary, then all political parties with ballot access are entitled to select a replacement nominee. [Sec. 145.036(b)(1), (b)(2)]

If the candidate is withdrawing due to being elected or appointed to fill a vacancy in another elective office or being nominated for another office, then the appropriate executive committee may select a replacement nominee. If the candidate withdrawing is the only nominee for the office in either party conducting a primary, then all political parties with ballot access are entitled to select a replacement nominee. [Sec. 145.036(b)(3)]

## **2. Death of Party Nominee for Public Office**

If a party nominee dies on or before the 74th day before the date of the general election, then the appropriate executive committee may fill the vacancy in nomination. [Secs. 145.035, 145.036]

## **3. Ineligibility of Party Nominee for Public Office**

If a party nominee is declared ineligible on or before the 74th day before the date of the general election, then the appropriate executive committee may fill the vacancy in nomination. [Secs. 145.035, 145.036]

## **4. Death or Ineligibility of Runoff Primary Candidate Before Runoff Primary Election Day**

If a candidate in the runoff primary election dies or is declared ineligible before runoff primary election day but wins the vote required for nomination in the runoff primary election, then a vacancy is created in that party's nomination for that office. In that situation, the appropriate executive committee may fill the vacancy in nomination. [Sec. 172.060]

## **5. Procedure for Nomination by Executive Committee**

The nomination process for a replacement nominee for the general election for state and county officers is generally the same as the nomination process in a situation where a vacancy in public office occurs in time to be placed on the general election ballot but too late to be placed on the primary election ballot. That nomination process is described in Section A.2 of this Chapter.

## **Chapter 6 – Appointment of Election Workers**

One of the major duties of the county chair in the election process is their role in the appointment of election workers for county elections. The county chair is responsible for submitting lists of election workers to be appointed to specific positions in county elections. The positions that are appointed through the list procedure will vary based on what type of election is being held.

This chapter discusses the various election worker roles and their eligibility requirements, and outlines the situations in which those workers are appointed through the list procedure. This chapter also discusses the list procedure itself and the county chair's responsibilities with regard to that procedure.

### **Section A – Types of Election Workers**

#### **1. Election Day – Presiding Judge**

The presiding judge of an election day polling place is responsible for the overall conduct of that polling place. The presiding judge is responsible for the setup of the polling place, assigning duties to election clerks, maintaining order in the polling place, and delivering records, ballot boxes, and voting system equipment from the polling place after the polls have closed. [Secs. 32.072, 32.075, 62.001, 66.051]

In addition to a presiding judge, the county will also appoint an alternate presiding judge, who will serve as the presiding judge in the event that the presiding judge is unable to serve. When the presiding judge is able to serve, the alternate presiding judge will serve as one of the election day clerks for that polling place. [Secs. 32.001, 32.032]

#### **2. Election Day – Election Clerks**

Election clerks are appointed by the election judges to assist them in the overall conduct of the polling place. The duties of the election clerks are assigned by the presiding judge of the polling place and typically involve setting up the polling place, checking in voters at the polling place, and various other necessary duties at the polling place. [Sec. 32.031, 32.072]

#### **3. Early Voting – Early Voting Clerk**

The early voting clerk is responsible for the overall conduct of early voting. For county elections and primary elections, the early voting clerk will be the county election officer. The early voting clerk is also generally responsible for the conduct of early voting at the main early voting location. [Secs. 83.001, 83.002, 85.002]

#### **4. Early Voting – Deputy Early Voting Clerk**

Deputy early voting clerks are appointed to assist the early voting clerk in the overall conduct of early voting. The deputy early voting clerk is responsible for performing various duties as assigned by the early voting clerk. [Sec. 83.031]

Each temporary branch early voting location will generally have a lead deputy early voting clerk who is responsible for the overall conduct of early voting at that specific location. The lead deputy early voting clerk will generally handle the assignment of duties of other deputy early voting clerks at that specific location, subject to the overall authority of the early voting clerk. [Sec. 83.031]

#### **5. Early Voting Ballot Board – Presiding Judge and Alternate Presiding Judge**

The presiding judge of the Early Voting Ballot Board (EVBB) is the presiding officer of the board, and is responsible for the general conduct of the board. The presiding judge will participate in the EVBB's activities, including the determination of whether a ballot by mail may be accepted for counting. [Secs. 87.002, 87.041]

The presiding judge's responsibilities include appointing ballot board members for elections other than the November general election for state and county officers, setting the time for materials to be delivered to the EVBB, giving notice to voters of rejected ballots, and resolving questions of voter intent for irregularly marked ballots in situations where the EVBB is responsible for counting ballots. [Secs. 87.002, 87.022, 87.041, 87.0431, 87.062]

An alternate presiding judge is also appointed for the EVBB, and serves as a member of the early voting ballot board. [Sec. 87.002]

#### **6. Early Voting Ballot Board – Ballot Board Member**

The members of the Early Voting Ballot Board participate in the general activities of the EVBB, which involve the determination of whether a ballot by mail may be accepted for counting and the review of provisional ballots. The EVBB may also be responsible for the counting of early voting and provisional ballots, depending on the manner in which the ballots are counted by a particular county. [Secs. 87.002, 87.041, 87.062]

#### **7. Signature Verification Committee – Chair, Vice Chair, and Member**

If a Signature Verification Committee (SVC) is created for a specific election, then the members of the SVC are responsible for conducting the signature comparison component of the ballot by mail review process. The SVC is responsible for comparing the signature on the carrier envelope containing the voter's returned ballot to the signature on the application for ballot by mail. A

voter's ballot may be rejected by the SVC only if the SVC determines that the signature on the carrier envelope was made by a person other than the voter. [Sec. 87.027]

A chair must be appointed to serve as the presiding officer of the SVC. A vice-chair will also be appointed for the SVC. [Sec. 87.027]

#### **8. Central Counting Station – Manager**

If a Central Counting Station (CCS) is established for an election, then a manager must be appointed. The manager is responsible for the overall administration of the CCS and the general supervision of the personnel at the CCS. The manager will typically be an employee of the political subdivision, such as the county election officer. [Sec. 127.002]

The manager's responsibilities include the general administration and supervision of the CCS, the establishment of a plan for the CCS, the appointment of clerks for the CCS, and the assignment of duties to the clerks who were appointed by the manager. [Secs. 127.002, 127.006, 127.007]

#### **9. Central Counting Station – Tabulation Supervisor**

The tabulation supervisor is responsible for the operation of the automatic tabulating equipment at the Central Counting Station. The tabulation supervisor must be trained in the operation of the tabulating equipment and may be an employee of the political subdivision. [Sec. 127.003]

#### **10. Central Counting Station – Presiding Judge and Alternate Presiding Judge**

The presiding judge's primary responsibilities in the Central Counting Station are to maintain order at the CCS and to resolve voter intent issues for irregularly marked ballots that are counted at the CCS. The presiding judge is also responsible for appointing clerks, and for assigning duties to those clerks who were appointed by the judge. [Secs. 127.005, 127.006]

While the manager is responsible for the overall supervision of the CCS and the tabulation supervisor is responsible for the operation of the automatic tabulating equipment at the CCS, the presiding judge may confer with and advise the tabulation supervisor and manager on any activity occurring at the CCS. [Secs. 127.002, 127.005]

In an election in which the election judges are appointed through the list procedure, an alternate presiding judge must also be appointed for the central counting station. If the presiding judge is unable to serve, then the alternate presiding judge will serve as the presiding judge. Otherwise, the alternate presiding judge will serve in one of the other roles at the CCS. [Sec. 127.005]

#### **11. Central Counting Station – Assistant Tabulation Supervisor**

The tabulation supervisor may appoint one or more assistants to aid the supervisor in operating the automatic tabulating equipment. The assistant tabulation supervisors must have sufficient

training, knowledge, and experience with the equipment to assist the tabulation supervisor in the operation of that equipment and to perform any other duties that are assigned by the tabulation supervisor. [Sec. 127.004]

## **12. Central Counting Station – Clerk**

The manager, the presiding judge, and the alternate presiding judge have the ability to appoint clerks for the Central Counting Station to assist those officers in the performance of their duties. [Sec. 127.006]

A clerk who is appointed by the manager serves under the manager and will have their duties assigned by the manager. A clerk who is appointed by the presiding judge or the alternate presiding judge serves under the presiding judge and will have their duties assigned by the presiding judge. [Sec. 127.006]

## **Section B – Eligibility Requirements**

Chapter 32 of the Texas Election Code outlines the eligibility requirements and eligibility restrictions that apply to the election worker positions discussed above. In addition, each individual position has more specific eligibility requirements for that specific position. The charts on the following pages outline those eligibility requirements and restrictions in greater detail.



## Election Day – Election Judges and Election Clerks

The following chart outlines the requirements to serve as an election judge or clerk. Many other election worker positions must also meet the eligibility requirements for an election judge in addition to other specific requirements for that position. The commissioners court may also prescribe additional eligibility requirements for term-appointed election judges by written order. [Secs. 32.051, 32.052, 32.053, 32.054, 32.055, 32.0551, 32.0552]

	Election Judge	Election Clerk
Qualified Voter of _____	Precinct (If unable to find qualified voter of precinct, may use qualified voter of political subdivision → clerk requirements)	Political Subdivision (County, City, etc.)
Can be an employee of political subdivision?	<b>Yes</b> – if there is no other legal or practical conflict, e.g. employee of candidate.	<b>Yes</b> – if there is no other legal or practical conflict, e.g. employee of candidate.
Can be a candidate?	<b>No</b> – if candidate for a <i>contested</i> office in election held on that day → cannot serve in a precinct for which candidate appears on ballot.	<b>No</b> – if candidate for a <i>contested</i> office in election held on that day → cannot serve in a precinct for which candidate appears on ballot.
Can be a relative of candidate?	<b>No</b> – if related within the second degree of consanguinity or affinity to an <i>opposed</i> candidate → cannot serve in a precinct for which candidate appears on ballot.	<b>No</b> – if related within the second degree of consanguinity or affinity to an <i>opposed</i> candidate → cannot serve in a precinct for which candidate appears on ballot.
Can be an employee of candidate?	<b>No</b> – if candidate is <i>opposed</i> and employer of judge → cannot serve in a precinct for which candidate appears on ballot.	<b>No</b> – if candidate is <i>opposed</i> and employer of clerk → cannot serve in a precinct for which candidate appears on ballot.
Can be employee of campaign?	<b>No</b> – if campaign manager or treasurer. <b>Inadvisable</b> – If serving other role within campaign.	<b>No</b> – if campaign manager or treasurer. <b>Inadvisable</b> – If serving other role within campaign.
Can be an public officeholder?	<b>No</b> – if they hold elective public office.	<b>No</b> – if they hold elective public office.

## Early Voting – Early Voting Clerk and Deputy Early Voting Clerks

The early voting clerk is designated by law under Chapter 83 of the Election Code. The early voting clerk for a county election is always the county election officer, regardless of whether that person holds a public office or is a candidate for public office.

Deputy early voting clerks are subject to many of the same eligibility requirements as election judges and clerks, with some exceptions. For example, a person’s status as an employee of the political subdivision does not affect their eligibility to be a deputy early voting clerk. Those eligibility requirements are outlined in the chart below.

[Secs. 83.002, 83.032]

	Deputy Early Voting Clerk
Qualified Voter of _____	Political Subdivision (County, City, etc.)  OR  If permanent employee of political subdivision, qualified voter of any territory.
Can be an employee of political subdivision?	<b>Yes.</b>
Can be a candidate?	<b>No</b> – if candidate for a <i>contested</i> office in election held on that day → cannot serve in a precinct for which candidate appears on ballot.
Can be a relative of candidate?	<b>No</b> – if related within the second degree of consanguinity or affinity to an <i>opposed</i> candidate → cannot serve in a precinct for which candidate appears on ballot.
Can be an employee of candidate?	<b>No</b> , unless the Early Voting Clerk is the County Clerk and the County Clerk is a candidate.
Can be employee of campaign?	<b>No</b> – if campaign manager or treasurer. <b>Inadvisable</b> – If serving other role within campaign.
Can be a public officeholder?	<b>No</b> – if they hold elective public office.

**Early Voting Ballot Board and Signature Verification Committee - Judge and Members**

The presiding judge and members of the Early Voting Ballot Board are subject to many of the same eligibility requirements and restrictions as election day judges and clerks.

Members of the Signature Verification Committee are not necessarily subject to the same restrictions, but we recommend against appointing individuals who have a conflict that would exclude them from service as an election judge or clerk.

[Secs. 87.002, 87.027]

	<b>EVBB Judge or Member</b>	<b>SVC Member</b>
Qualified Voter of _____	Territory served by the early voting clerk.	County, for countywide election ordered by governor or county authority or in a primary election.  Part of county where election is held, for less than countywide election ordered by governor or county authority.
Must meet other requirements of an election judge?	<b>Yes.</b>	<b>Yes.</b>

**Central Counting Station – Manager, Tabulation Supervisor, Presiding Judge, Assistant Tabulation Supervisor, Clerk**

Many of the positions in the Central Counting Station have the same eligibility requirements as an election judge or clerk. However, there are several specific exceptions for the individual positions, and generally an employee of the political subdivision is eligible to serve in most positions in the CCS, even if they are employed by a public officer who is also a candidate in that election. In addition, many of the positions at the CCS require some level of knowledge relating to the operation of the voting system equipment that will be used in the CCS.

[Secs. 127.002, 127.003, 127.004, 127.005, 127.006]

	<b>CCS Manager</b>	<b>Tabulation Supervisor</b>
Qualified Voter of _____	Political subdivision of authority establishing CCS, unless the person is an employee of the political subdivision or during first year of adoption of new voting system.	Political subdivision of authority establishing CCS, unless the person is an employee of the political subdivision.
Can be an employee of political subdivision?	<b>Yes.</b>	<b>Yes.</b>
Can be a candidate?	<b>Yes, if general custodian of election records.</b>	<b>No.</b>
Additional Requirements	Knowledge and experience with the conduct of elections with the voting system used in the CCS.	Training in the operation of the automatic tabulating equipment installed at the CCS.
Must meet other requirements of an election judge?	<b>Yes.</b>	<b>Yes.</b>

	<b>CCS Presiding Judge</b>	<b>Assistant Tabulation Supervisor</b>
Qualified Voter of _____	Political subdivision of authority that adopted the voting system used at the CCS.	County with population under 60K: Must be registered voter of territory served by authority establishing CCS or employee of political subdivision.  County with population over 60K: No registered voter requirement.
Can be an employee of political subdivision?	<b>Yes.</b>	<b>Yes.</b>
Can be a candidate or officeholder?	<b>Yes, but not recommended.</b>	<b>Yes, but not recommended.</b>
Additional Requirements	<b>None.</b>	Competence, training, and experience necessary to perform duties assigned by tabulation supervisor.
Must meet other requirements of an election judge?	<b>Yes.</b>	<b>Yes.</b>

	<b>CCS Clerk</b>
Qualified Voter of _____	Political subdivision of authority establishing CCS.
Can be an employee of political subdivision?	<b>Yes</b> – if there is no other legal or practical conflict, e.g. employee of candidate.
Can be a candidate or officeholder?	<b>No.</b>
Additional Requirements	<b>None.</b>
Must meet other requirements of an election judge?	<b>Yes.</b>

## **Section C – Appointment of Election Workers**

The appointment process for election workers will generally vary depending on the position being appointed and depending on the type of election that is being held. For the general election for state and county officers (in November of an even-numbered year), many election worker positions are filled through the list procedure process, where those positions are appointed from lists submitted by the county chairs for each political party. Other types of elections involve slightly different appointment procedures for different positions. This section will discuss the list procedure process and the various appointment procedures for each election worker position.

### **1. List Procedure**

Many election worker positions for certain county elections are appointed through the list procedure. Under that procedure, the county chairs of the political parties in that county will submit a list of names to the county commissioners court of individuals who will be appointed to each of those election worker positions. In an election in which an election worker is appointed through the list procedure, the commissioners court is required to appoint the first name on the list for each of those positions so long as the appointed person meets the eligibility requirements for the position. [Sec. 32.002]

The deadline for a county chair to submit their list will depend on the population size of the county. For a county with a population over 500,000, the list must be submitted no later than June 30, and the appointments will be made during the commissioners court's July term. For a county with a population of 500,000 or less, the list must be submitted no later than July 31, and the appointments will be made during the commissioners court's August term. [Sec. 32.002(a) & (b)]

By default, term-appointed election judges will serve for a one-year term. However, the commissioners court may provide by written order for a two-year term for those term-appointed election judges. For more information about the length of terms for term-appointed judges in your specific county, please contact your county election office. [Sec. 32.002(b)]

If the county chair fails to submit a list in an election where a list may be submitted or fails to submit enough names for the number of available election worker positions, then the county election officer may create their own list of individuals to be appointed to those positions by the commissioners court. The county election officer must make a reasonable effort to consult with the county chair before submitting the list, and the individuals who are appointed from that list must be affiliated or aligned with the appropriate political party, if possible. [Sec. 32.002(d)]

## **2. Appointment Procedures for the General Election for State and County Officers – Election Day**

For the general election for state and county officers, both the election day judges and the election day clerks are appointed through a list procedure. For the election day judges, that list will be submitted by the county chair to the commissioners court. For the election day clerks, those lists will be submitted by the county chair to the presiding judge of each election day polling place. [Secs. 32.002, 32.034]

### Election Day Presiding and Alternate Judges

In the general election for state and county officers, the term-appointed presiding judge and alternate judge will serve as the election judges for that specific election. The presiding judge is appointed from the list submitted by the county chair of the political party whose candidate for governor received the most votes in that specific county election precinct in the most recent gubernatorial election. [Sec. 32.002(c)]

The alternate judge is appointed from the list submitted by the county chair of the political party whose candidate for governor received the second-most votes in that specific county election precinct in the most recent gubernatorial election. The alternate judge will serve as the presiding judge in the event that the presiding judge is unable to serve; otherwise, the alternate judge will serve as one of the election day clerks for that specific polling place. [Secs. 32.002(c), 32.032]

In a county that uses the countywide polling place program, the appointment process for election day judges is slightly different. The county chairs will still submit lists of names of eligible persons to commissioners court, but the commissioners court will appoint a number of presiding judges from each county chair's list that is proportionate to the percentage of precincts of the county where that party's candidate for governor received the most votes in the most recent gubernatorial election. In this situation, the presiding judge and alternate judge are not required to reside in the same precinct where the polling place that they are serving at will be located. [Sec. 32.002(c-1)]

### Election Day Clerks

Election day clerks in the general election for state and county officers are appointed by the presiding judge of the polling place at which the clerk will serve, based on lists submitted by the county chairs. The presiding judge will appoint at least one clerk from each list submitted by a county chair. The presiding judge is required to appoint at least two clerks, but may appoint as many additional clerks as are necessary to facilitate the conduct of the election at that polling place, subject to any limitation on the maximum number of clerks set by commissioners court. [Secs. 32.033, 32.034]

A list of election clerks for the general election for state and county officers must be submitted to the presiding judge no later than the 25th day before election day. If a presiding judge has not been appointed at the time the list must be submitted, then the list must be submitted to commissioners court and to the county chair of the political party whose candidate for governor received the most votes in that specific county election precinct in the most recent gubernatorial election. That county chair will then appoint the election day clerks from those lists in the same manner as a presiding judge. [Sec. 32.034]

### **3. Appointment Procedures for the General Election for State and County Officers – Early Voting**

The county election officer is the early voting clerk for county elections, including the general election for state and county officers. In the general election for state and county officers, the deputy early voting clerks are appointed through the list procedure. [Secs. 83.002, 85.009]

The county chair of each political party that holds a primary election in the county must submit a list to the county election officer containing names of individuals who will serve as deputy early voting clerks for each early voting location in the county. The county election officer will appoint a lead deputy early voting clerk for each early voting location from the list submitted by the county chair of the political party whose candidate for governor received the most votes in the county in the most recent gubernatorial election. The county election officer will also appoint an alternate lead deputy early voting clerk for each early voting location from the list submitted by the county chair of the political party whose candidate for governor received the second most votes in the county in the most recent gubernatorial election. [Sec. 85.009]

The early voting clerk may appoint additional deputy early voting clerks from the lists submitted by the county chairs. Those additional appointments must be made in a manner that provides equal representation for each political party holding a primary election in the county, to the extent possible. [Sec. 85.009]

If the county chair fails to submit a list or fails to provide enough names on the list for the number of early voting locations in the county, then the early voting clerk must make a reasonable effort to consult with the county chair and may then may appoint lead deputy early voting clerks for each early voting location in a manner that provides equal representation for each political party holding a primary election in the county, to the extent possible. [Sec. 85.009(c)]

The deadline for the county chair to submit a list of deputy early voting clerks to the county election officer is June 30 of the year in which the general election for state and county officers will be conducted. The county chair may supplement that list with additional names in case an appointed deputy early voting clerk becomes unable to serve, and that supplemented list may be submitted up until the 30th day before election day. [Sec. 85.009(b)]



#### **4. Appointment Procedures for the General Election for State and County Officers – Early Voting Ballot Board**

In the general election for state and county officers, the presiding judge, alternate presiding judge, and members of the Early Voting Ballot Board are appointed by the county election board through the list procedure. The county chair for each political party will submit lists of names of persons to serve on the EVBB to the county elections board. [Sec. 87.002(c)]

The county election board will appoint the presiding judge from the first name on the list submitted by the county chair of the political party whose candidate for governor received the most votes in the county in the most recent gubernatorial election. The alternate presiding judge is appointed by the county election board from the first name on the list submitted by the county chair of the political party whose candidate for governor received the second most votes in the county in the most recent gubernatorial election. The county election board will then appoint at least one member from each list submitted by a county chair in order of preference, and must appoint an equal number of individuals from each of the lists submitted. The total number of individuals that will be appointed the EVBB is set by the county election board, but the EVBB must have a minimum of four (i.e., a presiding judge, an alternate presiding judge, and at least two members). [Sec. 87.002]

There is no specific statutory deadline for the county chair to submit their list of individuals to be appointed to the EVBB, but we recommend that this list be submitted to the county election board at the same time that the list of election day judges is submitted to the commissioners court for your county. For counties with a population over 500,000, that deadline would be June 30. For counties with a population of 500,000 or less, that deadline would be July 31.

#### **5. Appointment Procedures for the General Election for State and County Officers – Signature Verification Committee**

If a Signature Verification Committee is created for the general election for state and county officers, then the members of the SVC will be appointed by the county election board through the list procedure. The county chair for each political party will submit lists of names of persons to serve on the SVC to the county election board. [Sec. 87.027]

The county election board will appoint the SVC members from the lists that are submitted by the county chairs. The county election board will appoint at least two individuals from each list in order of the county chair's preference, and if any additional members are to be appointed, then an equal number will be appointed from each list. The county election board will also appoint a chair for the SVC from the first name on the list submitted by the county chair of the political party whose candidate for governor received the most votes in the county in the most recent gubernatorial election. The county election board will also appoint a vice-chair for the SVC from

the first name on the list submitted by the county chair of the political party whose candidate for governor received the second most votes in the county in the most recent gubernatorial election. The total number of individuals that will serve on the SVC is set by the early voting clerk, but the SVC must have a minimum of 6 members (i.e., the SVC chair, the vice-chair and four members). [Sec. 87.027]

There is no specific statutory deadline for the county chair to submit their list of individuals to be appointed to the SVC. Our office recommends that those lists be submitted before September of the year in which the general election for state and county officers is held, to provide adequate time for the appointments to be made and for notice requirements to be met.

## **6. Appointment Procedures for the General Election for State and County Officers – Central Counting Station**

In the general election for state and county officers, the presiding judge and alternate presiding judge of the Central Counting Station are appointed through the list procedure. However, the other positions in the CCS (Manager, Tabulation Supervisor, Assistant Tabulation Supervisors, and Clerks) are not appointed through the list procedure.

### Presiding and Alternate Presiding Judge of CCS

The county chairs of the political parties whose candidates for governor received the highest and second-highest number of votes in the county in the most recent gubernatorial election will submit to the commissioners court a list of persons who are eligible for appointment as a presiding judge or alternate presiding judge of the CCS. The commissioners court will appoint the first eligible person on the list from the party whose candidate for governor received the most votes in the county in the most recent gubernatorial election as the presiding judge, and will appoint the first eligible person on the list from the party whose candidate for governor received the second most votes in the county as the alternate presiding judge. The alternate presiding judge will serve in another role in the CCS unless the presiding judge is unable to serve, in which case the alternate presiding judge will serve as the presiding judge. [Sec. 127.005]

The deadline for the county chair to submit their list of individuals to be appointed as presiding judge or alternate presiding judge of the CCS to the commissioners will be the same as the deadline to submit the list for appointment of election day judges. For counties with a population over 500,000, that deadline would be June 30. For counties with a population of 500,000 or less, that deadline would be July 31. [Secs. 32.002(c), 127.005(e)]

### CCS Manager, Tabulation Supervisor, Assistant Tabulation Supervisors, and Clerks

The CCS manager and tabulation supervisor are appointed by the commissioners court, and are not subject to the list procedure. Those appointed persons are not required to be aligned or

affiliated with any specific political party. Either position may be filled by an employee of the county, including the county election officer. [Secs. 127.002, 127.003]

The assistant tabulation supervisors are appointed by the tabulation supervisor, but those appointments must be approved by the commissioners court. The assistant tabulation supervisors will perform the duties that are assigned by the tabulation supervisor. [Sec. 127.004]

The clerks are appointed by the manager, the presiding judge, and the alternate presiding judge of the CCS. A clerk who is appointed by the manager will perform the duties that are assigned by the manager, while a clerk who is appointed by the presiding judge or the alternate presiding judge will perform the duties that are assigned by the presiding judge. The commissioners court will set the number of clerks that may be appointed for the CCS. [Sec. 127.006]

## **7. Appointment Procedures for the Primary Election – Election Day**

The appointment process for election day workers will generally depend on whether you are conducting a joint primary election in your county or whether you are conducting a separate primary election.

### Joint Primary Election

If you are conducting a joint primary election, then the election day judges and clerks are appointed by the county election officer through the list procedure. [Sec. 172.126]

The county chair for each party involved in the joint primary election will submit a list of names of persons to be appointed as the election judges and clerks for each polling place. The county election officer will appoint a co-judge from each party's list for each polling place. The two co-judges will hold jointly hold authority over the conduct of the polling place in general, but each co-judge will be responsible for their respective party's primary election at that polling location. An equal number of election clerks will be appointed from each list, and the maximum number of clerks that may be appointed for a polling place in a joint primary election is set by the Secretary of State's Office. [Sec. 172.126(c)]

The deadline for the county chair to submit the list of election day judges and clerks for a joint primary election to the county election officer is the second Monday in December before the primary election. [Sec. 172.126(c)]

### Separate Primary Election

If you are conducting a separate primary election, then the election day judges are appointed by the county chair, and the election clerks are appointed by the election day judges. [Secs. 32.006, 32.031]

The county chair is the appointing authority for election judges in a separate primary, so the chair is responsible for issuing a writ of election to the election judge no later than the 15th day before election day, and must also issue a notice of appointment to the election judge no later than the 20th day after the appointment is made. We recommend combining these two notices and submitting them to those appointed judges as soon as practicable after the appointments are made. [Secs. 4.007, 32.009]

There is no specific statutory deadline for the appointment of election day judges in a separate primary election, but as a practical matter we recommend doing this at least 60 days before election day to provide adequate time to meet your notice requirements and to provide your judges with sufficient time to appoint their election clerks.

## **8. Appointment Procedures for the Primary Election – Early Voting**

The county election officer is the early voting clerk in a primary election, regardless of whether the primary is conducted as a joint primary or a separate primary and regardless of whether the party contracts with the county for election services for the primary election. [Sec. 83.002]

The appointment process for deputy early voting clerks in the primary election will depend on whether you are conducting a joint primary election in your county or whether you are conducting a separate primary election.

### Joint Primary Election

If you are conducting a joint primary election, then the deputy early voting clerks are appointed by the county election officer. There is no list procedure for deputy early voting clerks in a joint primary election. [Secs. 83.032, 85.0091(b)]

### Separate Primary Election

If you are conducting a separate primary election, then the deputy early voting clerks are appointed through the list procedure. [Secs. 85.009, 85.0091]

The county chair of each political party that holds a primary election in the county must submit a list to the county election officer containing names of individuals who will serve as the lead deputy early voting clerks for that party's primary election at each early voting location in the county. The county election officer will appoint a lead deputy early voting clerk for that party's primary election at each early voting location from the list submitted by the county chair of that party. [Secs. 85.009(b), 85.0091]

The early voting clerk may appoint additional deputy early voting clerks from the list provided by the county chair. [Secs. 85.009(a), 85.0091]

If the county chair fails to submit a list or fails to provide enough names on the list for the number of early voting locations in the county, then the early voting clerk must make a reasonable effort to consult with the county chair and may then may appoint lead deputy early voting clerks for each early voting location who are affiliated or aligned with the appropriate political party, if possible. [Secs. 85.009(c), 85.0091]

The deadline for submission of a list of lead deputy early voting clerks in a separate primary election is set by the county election officer. For more information on the deadline in your specific county, please reach out to your county election office. [Sec. 85.0091(a)]

## **9. Appointment Procedures for the Primary Election – Early Voting Ballot Board**

The appointment process for the presiding judge, alternate presiding judge, and members of the Early Voting Ballot Board in the primary election will depend on whether you are conducting a joint primary election in your county or whether you are conducting a separate primary election.

### Joint Primary Election

In a joint primary election, a single EVBB made up of representatives from both parties may be appointed for the joint primary election. The county election officer will appoint the co-judges for the EVBB and the members of the EVBB through the list procedure. [Sec. 172.126; 1 Tex. Admin. Code 81.148]

The county chairs will submit lists to the county election officer with names of individuals who are eligible to serve as their party's co-judge for the EVBB and members of the EVBB. The county election officer will appoint the first eligible person on each list to serve as that party's co-judge for the EVBB. The county election officer will appoint an equal number of individuals from each list to serve as the other members of the EVBB. If an odd number of individuals are appointed, then the additional individual will be appointed from the list submitted by the county chair for the party whose candidate for governor received the most votes in the county in the most recent gubernatorial election. [Sec. 172.126; 1 Tex. Admin. Code 81.148]

The co-judges of the EVBB have joint authority over the general conduct of the EVBB. However, each individual co-judge has sole authority to resolve voter intent issues on irregularly marked ballots cast in their own party's primary election. [Sec. 172.126; 1 Tex. Admin. Code 81.151]

The deadline for the county chair to submit the list of names for appointment to the EVBB in a joint primary election is the second Monday in December before the primary election. [Sec. 172.126; 1 Tex. Admin. Code 81.148]

### Separate Primary Election

In a separate primary election, each party will have a separate EVBB for each primary election. The presiding judge and alternate presiding judge of the EVBB are appointed by the county chair in a separate primary election, and the members of the EVBB are appointed by the presiding judge. [Secs. 32.006, 87.002(b)]

There is no specific statutory deadline for the appointment of the presiding judge of the EVBB in a separate primary election, but as a practical matter we recommend doing this at least 60 days before election day to provide adequate time to meet your notice requirements and to provide your presiding judge with sufficient time to appoint the other members of the EVBB.

### **10. Appointment Procedures for the Primary Election – Signature Verification Committee**

In the event that a Signature Verification Committee is established for a primary election, the appointment process for the chair, vice-chair and members of the SVC will depend on whether you are conducting a joint primary election in your county or whether you are conducting a separate primary election.

### Joint Primary Election

If an SVC is established for a joint primary election, then the co-chairs and members of the SVC will be appointed through the list procedure. [Sec. 172.126; 1 Tex. Admin. Code 81.148]

The county chairs of the political parties holding the joint primary will submit a list of individuals who are eligible for appointment to the SVC to the county election officer. The county election officer will then appoint a co-chair from each list, and will appoint an equal number of individuals from each list to serve as the other members of the SVC. The number of members that serve on the SVC is set by the county election officer. If an odd number of individuals are appointed, then the additional individual will be appointed from the list submitted by the county chair for the party whose candidate for governor received the most votes in the county in the most recent gubernatorial election. [Sec. 172.126; 1 Tex. Admin. Code 81.148]

The deadline for the county chair to submit the list of names for appointment to the SVC in a joint primary election is the second Monday in December before the primary election. [Sec. 172.126; 1 Tex. Admin. Code 81.148]

### Separate Primary Election

In a separate primary election, each party will have a separate SVC for each primary election. The chair, vice-chair and members of the SVC are appointed by the county chair in a separate primary election. The number of members that serve on the SVC is set by the county election officer. [Sec. 87.027(b)-(d)]

The members of the SVC must be appointed by the county chair no later than the 5th day after the date that the county election officer orders the creation of the SVC. [Sec. 87.027(c)]

### **11. Appointment Procedures for the Primary Election – Central Counting Station**

The appointment process for the manager, tabulation supervisor, assistant tabulation supervisors, presiding judge, alternate judge, and clerks of the Central Counting Station in the primary election will depend on whether you are conducting a joint primary election in your county or whether you are conducting a separate primary election.

#### Joint Primary Election

In a joint primary election, a single CCS made up of representatives from both parties may be appointed for the joint primary election. The county election officer will appoint the co-judges and clerks for the CCS through the list procedure. [Sec. 172.126; 1 Tex. Admin. Code 81.148]

The manager and tabulation supervisor of a central counting station in a joint primary election are appointed by the county election officer, and the assistant tabulation supervisors are appointed by the tabulation supervisor with the approval of the county election officer. [Secs. 127.002, 127.003, 127.004, 172.126(f)]

The county chair of each political party holding a primary election will submit a list of individuals to be appointed as co-judge and as clerks for the CCS to the county election officer. The county election officer will select one co-judge from each list, and will appoint clerks from each list in a manner that ensures equal representation for both parties. The total number of individuals that are appointed for the CCS will be determined by the county election officer. If an odd number of individuals are appointed, then the additional individual will be appointed from the list submitted by the county chair for the party whose candidate for governor received the most votes in the county in the most recent gubernatorial election. The clerks who are appointed through the list procedure will be assigned duties by the co-judge of the political party with whom the clerk is affiliated or aligned. [Sec. 172.126; 1 Tex. Admin. Code 81.148]

In addition to the list-appointed clerks, the CCS manager may also appoint clerks for the CCS, whose duties will be assigned by the CCS manager. There is no list procedure for clerks who are appointed by the CCS manager. [Sec. 127.006]

Each co-judge will jointly have authority to maintain order in the CCS, but each party's individual co-judge will be solely responsible for resolving voter intent issues for irregularly marked ballots counted in the CCS. If there is a conflict between the two co-judges in the CCS, then the manager is responsible for resolving that conflict based on their general authority with regard to the overall administration of the CCS and the supervision of the personnel working at the CCS. [Sec. 172.126; 1 Tex. Admin. Code 81.151]

The deadline for the county chair to submit the list of names for appointment to the CCS in a joint primary election is the second Monday in December before the primary election. [Sec. 172.126; 1 Tex. Admin. Code 81.148]

### Separate Primary Election

In a separate primary election, a single CCS made up of representatives from both parties may be appointed for the two primary elections. The county chair of each political party holding a primary election will appoint a presiding judge for the CCS. The clerks are appointed by the presiding judges of the CCS and by the manager, and there is no list procedure for the appointment of clerks for the CCS in a separate primary election. [Secs. 127.005, 127.006]

The manager and tabulation supervisor of a central counting station in a separate primary election are appointed by the county executive committee, and the assistant tabulation supervisors are appointed by the tabulation supervisor with the approval of the county executive committee. Typically, when the parties contract with the county for a joint or separate primary election, the county will arrange for the persons with the necessary expertise to serve in the role they would typically hold in a county election, and the county executive committee will appoint those individuals. [Secs. 127.002, 127.003, 127.004]

Each presiding judge will jointly have authority to maintain order in the CCS, but each party's individual presiding judge will be solely responsible for resolving voter intent issues for irregularly marked ballots counted in the CCS. If there is a conflict between the two presiding judges in the CCS, then the manager is responsible for resolving that conflict based on their general authority with regard to the overall administration of the CCS and the supervision of the personnel working at the CCS. [Secs. 127.002, 127.005]

There is no specific statutory deadline for the appointment of the presiding judge of the CCS in a separate primary election, but as a practical matter we recommend doing this at least 60 days before election day to provide adequate time to meet your notice requirements and to provide your presiding judge with sufficient time to appoint the clerks for the CCS.

## **12. Appointment Procedures for Other County Elections – Election Day**

The appointment process for many election officials is slightly different between the general election for state and county officers, the primary election, and other county elections.

### Election Day Presiding and Alternate Judge

In a county election in which the use of county election precincts is required (such as the November constitutional amendment election in odd-numbered years), the appointment process for election judges is similar to the appointment process for the general election for state



and county officers. The term-appointed election judges will serve in those elections, based on the appointments made by commissioners court through the list procedure. [Sec. 32.002]

The presiding judge is appointed from the list submitted by the county chair of the political party whose candidate for governor received the most votes in that specific county election precinct in the most recent gubernatorial election. [Sec. 32.002(c)]

The alternate judge is appointed from the list submitted by the county chair of the political party whose candidate for governor received the second-most votes in that specific county election precinct in the most recent gubernatorial election. The alternate judge will serve as the presiding judge in the event that the presiding judge is unable to serve; otherwise, the alternate judge will serve as one of the election day clerks for that specific polling place. [Secs. 32.001, 32.002(c), 32.032]

In a county that uses the countywide polling place program, the appointment process for election day judges is slightly different. The county chairs will still submit lists of names of eligible persons to the commissioners court, but the commissioners court will appoint a number of presiding judges from each county chair's list that is proportionate to the percentage of precincts of the county where that party's candidate for governor received the most votes in the most recent gubernatorial election. In this situation, the presiding judge and alternate judge are not required to reside in the same precinct where the polling place that they are serving at will be located. [Sec. 32.002(c-1)]

The deadline for a county chair to submit their list will depend on the population size of the county. For a county with a population over 500,000, the list must be submitted no later than June 30, and the appointments will be made during the commissioners court's July term. For a county with a population of 500,000 or less, the list must be submitted no later than July 31, and the appointments will be made during the commissioners court's August term. If your county has two-year appointments for your election judges, then the same judges will serve in both the general election for state and county officers and for any other elections (including the November constitutional amendment election) that occur during the two-year term. [Sec. 32.002]

### Election Day Clerks

The appointment process for election clerks in other elections where the use of county election precincts is required is different from the appointment process in the general election for state and county officers. In those types of elections, the election clerks are appointed by the presiding judge, and there is no list procedure for the appointment of election clerks. [Sec. 32.031]

### **13. Appointment Procedures for Other County Elections – Early Voting**

The county election officer will serve as the early voting clerk for county elections. In a county election other than the general election for state and county officers, the deputy early voting clerks are appointed by the early voting clerk. [Secs. 83.002, 83.032]

There is no list procedure for deputy early voting clerks in a county election other than the general election for state and county officers. For example, in the November constitutional amendment election in an odd-numbered year, there is no list procedure for the appointment of deputy early voting clerks.

### **14. Appointment Procedures for Other County Elections – Early Voting Ballot Board**

In a county election other than the general election for state and county officers, the presiding judge and alternate presiding judge of the Early Voting Ballot Board are appointed by commissioners court through the list procedure, and the other members of the EVBB are appointed by the presiding judge. [Secs. 32.002, 87.002]

The county chair of each political party will submit a list of names to the commissioners court of individuals who are eligible to serve as the presiding judge or alternate presiding judge of the EVBB. The commissioners court will appoint the presiding judge from the first name on the list submitted by the county chair of the political party whose candidate for governor received the most votes in the county in the most recent gubernatorial election. The alternate presiding judge is appointed by the commissioners court from the first name on the list submitted by the county chair of the political party whose candidate for governor received the second most votes in the county in the most recent gubernatorial election. [Secs. 32.002, 87.002]

The deadline for a county chair to submit their list will depend on the population size of the county. For a county with a population over 500,000, the list must be submitted no later than June 30, and the appointments will be made during the commissioners court's July term. For a county with a population of 500,000 or less, the list must be submitted no later than July 31, and the appointments will be made during the commissioners court's August term. The appointment of a presiding judge or alternate presiding judge of the EVBB for a county election other than the general election for state and county officers will be for a single election rather than a one-year or two-year term. [Secs. 32.002, 87.002]

The presiding judge will appoint the other members of the EVBB. There is no list procedure for the appointment of the other members of the EVBB in a county election other than the general election for state and county officers. [Secs. 32.031, 87.002]

## **15. Appointment Procedures for Other County Elections – Signature Verification Committee**

If a Signature Verification Committee is established for a county election other than the general election for state and county officers, the chair, vice-chair, and members of the SVC are appointed by the county election board. There is no list procedure for the chair, vice-chair and members of the SVC in a county election other than the general election for state and county officers. [Sec. 87.027]

The number of members on the SVC is determined by the county election officer, but a minimum of five members must be appointed (i.e., one chair, one vice-chair and three other members). [Sec. 87.027]

## **16. Appointment Procedures for Other County Elections – Central Counting Station**

In a county election other than the general election for state and county officers, the presiding judge and alternate presiding judge of the Central Counting Station are appointed by commissioners court through the list procedure. However, the other positions in the CCS (Manager, Tabulation Supervisor, Assistant Tabulation Supervisors, and Clerks) are not appointed through the list procedure. [Secs. 127.002, 127.003, 127.004, 127.005, 127.006]

### Presiding Judge and Alternate Presiding Judge of CCS

The county chairs of the political parties whose candidates for governor received the highest and second-highest number of votes in the county in the most recent gubernatorial election will submit to the commissioners court a list of persons who are eligible for appointment as a presiding judge or alternate presiding judge of the CCS. The commissioners court will appoint the first eligible person on the list from the party whose candidate for governor received the most votes in the county in the most recent gubernatorial election as the presiding judge, and will appoint the first eligible person on the list from the party whose candidate for governor received the second most votes in the county as the alternate presiding judge. The alternate presiding judge will serve in another role in the CCS unless the presiding judge is unable to serve, in which case the alternate presiding judge will serve as the presiding judge. [Secs. 32.002, 127.005]

The deadline for a county chair to submit their list will depend on the population size of the county. For a county with a population over 500,000, the list must be submitted no later than June 30, and the appointments will be made during the commissioners court's July term. For a county with a population of 500,000 or less, the list must be submitted no later than July 31, and the appointments will be made during the commissioners court's August term. The appointment of a presiding judge or alternate judge of the CCS for a county election other than the general election for state and county officers will be for a single election rather than a one-year or two-year term. [Secs. 32.002, 127.005]

## CCS Manager, Tabulation Supervisor, Assistant Tabulation Supervisors, and Clerks

The CCS manager and tabulation supervisor are appointed by the commissioners court, and are not subject to the list procedure. Those appointed persons are not required to be aligned or affiliated with any specific political party. Either position may be filled by an employee of the county, including the county election officer. [Secs. 127.002, 127.003]

The assistant tabulation supervisors are appointed by the tabulation supervisor, but those appointments must be approved by the commissioners court. The assistant tabulation supervisors will perform the duties that are assigned by the tabulation supervisor. [Sec. 127.004]

The clerks are appointed by the manager, the presiding judge, and the alternate presiding judge of the CCS. A clerk who is appointed by the manager will perform the duties that are assigned by the manager, while a clerk who is appointed by the presiding judge or alternate presiding judge will perform the duties that are assigned by the presiding judge. The commissioners court will set the number of clerks that may be appointed for the CCS. [Sec. 127.006]

### **17. Appointment Procedures for Elections by Local Political Subdivisions**

The appointment process for local elections is conducted at the local level, generally by the governing body of the authority ordering the election or the early voting clerk. Those appointments are made at the local level even if the political subdivision has entered into an election services contract with the county to have the county run its election. [Sec. 32.005]

There is no list procedure process for elections held by local political subdivisions.

## **Section C – Removal, Replacement, and Emergency Appointments**

Various issues can arise with your election workers throughout the process, which may require that they be removed or replaced. The Election Code provides specific procedures and guidelines for the removal and replacement process, and outlines the process for emergency appointments.

### **1. Failure to Submit a List**

If a county chair fails to submit a list in a situation where the workers are appointed through the list procedure, then the county election officer is authorized to submit their own list to ensure that there are enough election workers to meet the needs of that particular election. [Secs. 32.002(d), 85.009]

In those situations, the county election officer must make a reasonable effort to consult with the appropriate county chair before submitting their list. The individuals who are appointed from

that list should be affiliated or aligned with the political party whose county chair failed to submit a list, if possible. [Secs. 32.002(d), 85.009]

For more guidelines on the specific situations where the county election officer is authorized to submit a replacement list in the event of the county chair's failure to submit a list, please review the appointment procedures above.

## **2. Replacement of Election Workers**

If the appointed presiding judge is unable to serve for a given election, then the alternate presiding judge will serve in the presiding judge's place. [Sec. 32.001]

If both the presiding judge and the alternate presiding judge are unable to serve in a specific election, then the appointing authority for that election may make an emergency appointment if the inability to serve is discovered after the 20th day before a general election or the 15th day before a special election. The appointing authority must make a reasonable effort to consult with the county chair of the political party with whom the original judge was affiliated, and the replacement judge must be affiliated or aligned with the same political party, if possible. The appointed replacement judge will serve only for that single election. [Sec. 32.007]

In a county that uses the countywide polling place program, the initial list that is submitted by the county chairs can include additional names of individuals who are eligible to serve as election judges. The commissioners court can preapprove the appointment of those surplus election judges, who can then be selected by the county election officer to fill a vacancy in an election judge position that is vacated by an individual from the same political party as the replacement judge. [Sec. 32.002(c-1)]

If a presiding judge or alternate judge will be unable to serve in any future elections during their term of appointment, then the commissioners court will fill the vacancy in that position through the list procedure. The county election officer must notify the county chair of the party with which the judge was affiliated within 48 hours of the vacancy. The county chair must submit a name of an eligible replacement judge in writing to the commissioners court within 5 days of receiving the notice of the vacancy. The commissioners court may then make the replacement at any regular or special term. [Sec. 32.002(e)]

The Election Code does not outline specific replacement procedures for other types of election workers. In situations where a replacement is necessary for a different position, the replacement appointment should be made by the same appointing authority who made the original appointment using the same procedure as the initial appointment.

### **3. Removal of Election Workers**

If an election judge causes a disruption in the polling place or willfully disobeys the requirements of the Election Code, then the county election officer may follow specific procedures to initiate the removal, replacement, or reassignment of that election judge. [Sec. 32.002(g)]

In that situation, the county election officer must first issue an oral warning to the election judge. If the disruption or violations of the Election Code continue, then the county election officer must consult with the county chair that appointed the election judge. If the county election officer and county chair agree on the removal of the election judge, then the resulting vacancy will be filled as an emergency appointment under the procedures described above. [Sec. 32.002(g)]

The Election Code generally does not outline specific procedures for the removal of other types of election workers who are causing a disruption or who have violated the Election Code or other provisions of Texas law. If removal of an election worker becomes necessary, then the replacement appointment should be made by the same appointing authority who made the original appointment using the same procedure as the initial appointment.

## **Chapter 7 – Notice Requirements**

The Texas Election Code outlines various notice requirements for elections in general as well as specific notice requirements relating to the primary elections. This chapter outlines those general notice requirements as well as the requirements that are specific to the primary election.

### **Section A – General Requirements**

#### **1. Action by State Chair to Meet Deadlines for Conduct of Primary**

Notwithstanding a conflicting provision of the Election Code, the state chair, or the state chair's designee, may perform any administrative duty of the county chair, the county chair's designee, or county executive committee related to the conduct of a primary election that has not been performed in the time required by law. This includes the submission of candidate information under Section 172.029, drawing for ballot order under Section 172.082, and canvassing returns under Section 172.116 of the Election Code. [Sec. 172.130]

#### **2. Minority Language Requirements**

State and federal laws require all voting materials to be translated into Spanish statewide. Texas election law has required bilingual election materials and bilingual clerks since 1975.

Pursuant to state and federal law, all election materials prepared for voters in English must also be provided in Spanish and any other required minority languages. The bilingual requirement applies to instruction posters, ballots, official affidavits and other forms requiring a voter's signature, early voting materials, and all other election information provided to voters in English. [Sec. 272.005; 52 U.S.C. §§ 10303(f)(4), 10503]

For additional information regarding minority language requirements, please see our advisory here: [No. 2020-27](#) - Minority Language Requirements.

#### **3. County Websites**

Section 26.16 of the Texas Tax Code requires every county to maintain an Internet website or have access to a generally accessible Internet website.

#### **4. Election Results and Election Information**

Counties that hold elections or contract to provide election services for an election are required to post certain information about those elections and are required to post specific information about the results of those elections. While these postings are not strictly required for the primary election, we recommend that this information still be posted for primary elections in which the party contracts with the county for the county to provide elections services for that primary.

No later than the 21st day before election day, a county that holds or provides election services for an election and maintains an Internet website must post the following information on their website about that election:

- The date of the election;
- The location of each polling place;
- Each candidate for an elected office on the ballot; and
  - Note: If the county chooses to post this information for a primary election, then they would list each candidate for nomination for public office in that primary.
- Each measure on the ballot.

[Sec. 4.009]

As soon as practicable after the election, a county that holds or provides election services for an election and maintains an Internet website must post the following information on their website about that election:

- The results of each election;
- The total number of votes cast;
- The total number of votes cast for each candidate or for or against each measure;
- The total number of votes cast by personal appearance on election day;
- The total number of votes cast by personal appearance or mail during the early voting period; and
- The total number of counted and uncounted provisional ballots cast.

[Sec. 65.016]

## **Section B – Candidate Filings**

### **1. Authority with Whom Application Filed**

Not later than the day before the last day of the candidate filing period, the county chair shall post on the political party's website or in the location where a candidate files for a place on the ballot notice of the address at which the county chair or secretary will be available to receive applications on the last day of the filing period. If both the county chair and the secretary will be available, the notice must contain the address at which each will be available. Please note, Section 1.006 of the Code does not apply to this subsection. [Sec. 172.022]

The authority with whom an application is filed must inform the candidate that the candidate's public mailing address and, if provided on the application, the candidate's electronic mail address



will be posted by the Secretary of State on the Secretary's publicly viewable website. [Sec. 172.0221]

## **2. Public Notice of Extended Filing Deadline**

If the deadline for filing candidate applications is extended for an office, then the filing authority must post a notice of the extended filing deadline. Specifically, the authority with whom the withdrawn, deceased, or ineligible candidate's application was filed must prepare a notice identifying the candidate and the office for which the filing deadline is extended and stating the extended deadline. [Sec. 172.055]

Not later than 24 hours after the candidate withdraws or is declared ineligible or after the authority preparing the notice learns of the candidate's death, as applicable, the authority shall deliver a copy of the notice to:

- At least one daily newspaper published in the county or, if none, at least one weekly newspaper published there, if any, for a notice prepared by the county chair;
- At least three daily newspapers that regularly maintain a news representative at the State Capitol, for a notice applicable to a statewide office; or
- At least one daily newspaper published in each county wholly or partly situated in the district or, if none, at least one weekly newspaper published there, if any, for a notice prepared by the state chair for a district office.

[Sec. 172.055]

The filing authority must also post the notice on the authority's Internet website, if one is maintained. The filing authority must also send a copy of the notice to the Secretary of State to be posted on the Secretary of State's Internet website, for a candidate for an office filled by voters of more than one county; or to the county clerk/elections administrator, to be posted on the county's Internet website, for an office filled by voters of a single county. [Sec. 172.055]

Please note, a county or state chair's failure to perform a duty prescribed by Section 172.055 of the Code is cause for the officer's removal by the executive committee over which the chair presides. [Sec. 172.055(d)]

## **3. State Chair's Certification of Names for Placement on General Primary Ballot**

The state chair must certify to the Secretary of State for placement on the general primary election ballot the name of each candidate who files with the chair an application that complies with Section 172.021(b) of the Code. [Sec. 172.028]

The Secretary of State shall post a copy of the certified list on the Secretary's website, and must post for each certified candidate the public mailing address and, if provided by the candidate, the

electronic mail address at which the candidate receives correspondence relating to the candidate's campaign. [Secs. 172.028, 172.029]

Not later than the ninth day after the date of the regular filing deadline, the state chair shall notify the county chair in each county in which the candidate's name is to appear on the ballot that the certification has been posted by the Secretary of State. [Sec. 172.028(b)]

A candidate's name may not be certified if, before delivering the certification, the state chair learns that the name is to be omitted from the ballot under Section 172.057 of the Code, or if the candidate's application is invalid under Section 141.033 of the Code. [Sec. 172.028(c)]

A copy of each certification shall be made available on request, without charge, to each newspaper published in this state and to each licensed radio and television station in this state. [Sec. 172.028(d)]

#### **4. Submission and Compilation of Information Pertaining to Candidates**

For each general primary election, the state chair and each county chair shall electronically submit the following information:

- The name of each candidate who files an application for a place on the ballot with the chair, including an application for the office of a political party;
- The name of each candidate whose application meets the requirements of Section 172.021 and is accepted by the chair, as the name is to appear on the ballot;
- The candidate's address as shown on the application;
- The date on which the candidate filed the application; and
- Any additional information required by the Secretary of State.

[Sec. 172.029]

The Secretary of State shall continuously maintain an online database of this information that was submitted by the party chairs. The database must be accessible by the county and precinct chairs of the party that submitted the information. Any changes in the party's county or precinct chairs shall be reported to the Secretary of State. [Sec. 172.029]

The Secretary of State may by rule prescribe a deadline by which the state chair must deliver the chair's submission regarding a candidate to the Secretary of State, and each county chair shall deliver a copy of the chair's submission regarding a candidate to the county clerk, the state chair, and the Secretary of State when the chair accepts the application. [Sec. 172.029]

The Secretary of State may by rule prescribe a deadline for the delivery of a submission under this subsection. The Secretary of State shall be notified if a candidate withdraws, dies, or is

declared ineligible, or if the candidate's application is determined not to comply with the applicable requirements.

#### **5. Notice of Presidential Candidates to Secretary of State**

The state chair of each political party holding a presidential primary election shall submit the information to the Secretary of State for posting on the Secretary of State's website and certify the name of each presidential candidate who qualifies for a place on the presidential primary election ballot in the same manner as a candidate filing for statewide, district, and county offices not later than the ninth day after the date of the regular filing deadline for the general primary election. [Sec. 191.003]

#### **6. Implementation by Party**

For a political party to be entitled to have its nominees for president and vice-president placed on the general election ballot, the rules related to the presidential primary must be posted on the party's Internet website and filed with the Secretary of State not later than January 5th of the presidential election year. [Sec. 191.008]

#### **7. Order of Names on General Primary Ballot: Regular Drawing**

The order of the candidates' names on the general primary election ballot must be determined by a drawing. The county chair must post notice of the date, hour, and place of the drawing for at least 24 consecutive hours immediately before the drawing begins. [Sec. 172.082]

The notice must be posted on the party's Internet website, if the party maintains a website. If the party does not maintain a website, the notice shall be posted on the bulletin board used for posting notice of meetings of the commissioners court. All candidates who provide an e-mail address on their filing form shall be notified electronically. [Sec. 172.082]

Each candidate affected by a drawing is entitled to be present or have a representative present at the drawing. [Sec. 172.082]

### **Section C – Conventions and Affiliation Issues**

#### **1. Party Electoral Rules**

A rule on electoral affairs that is to become effective in a year in which the party will hold precinct conventions must be posted on the party's website, as well as filed with Secretary of State, no later than the 30th day before the date the party convenes its earliest precinct conventions. [Sec. 163.006]

Please note that the date of a party's precinct conventions is no longer fixed by statute.

## **2. List of Registered Voters for Convention**

A county clerk shall prepare a list of voters participating in a primary election for the political party unless, not later than the 90th day before the primary election, the county chair notifies the county election officer that the chair does not require a list. [Sec. 172.1141]

If a county records the acceptance of a voter electronically, the state chair or county chair may request, and the county election officer shall provide, an electronic version of the list containing the voters that voted in the primary, the voter's unique identifier (VUID), and whether the person voted early in person or by mail, or voted in person on election day. That list must be provided no later than the date of the local general primary canvass. [Sec. 172.1141]

## **3. Affiliation Procedure: Voting at Polling Place**

An election officer must stamp a voter registration certificate with a party affiliation or provide an affiliation certificate unless, not later than the 90th day before the date of the primary election, the county chair notifies the county election officer that the chair does not require a stamped voter registration certificate or affiliation certificate for verification of attendance at a precinct convention. [Sec. 162.004]

If the county chair chooses to opt out of the requirement for an affiliation stamp or affiliation certificate, then the county election official does not need to include an affiliation certificate with each early voting or limited ballot by mail. [Secs. 162.004(a-1), 162.005]

## **4. Posting Notice of Conventions**

Before the opening of the polls during the early voting period and on election day, the presiding judge must post at each outside door through which a voter may enter the building in which the polling place is located, a written notice in bold print of the date, hour, and place for each precinct, county, senatorial, or state convention that a voter in the precinct may be eligible to attend during the election year. The posted notice may include the website of the county party and state party and any other information deemed necessary by the state executive committee. [Sec. 172.1111]

The state chair must develop a form for the notice that may be used statewide. The judge is not required to use an officially prescribed form for the notice, but must include any information required by Section 172.1111 of the Code. A state chair, county chair, or precinct chair shall provide the presiding judge with the necessary information respecting the chair's associated convention. The notice must be posted continuously during the early voting period and on election day. [Sec. 172.1111]

## **5. Distribution of Notice of Conventions**

A political party may prepare a notice of convention not larger than letter-sized for distribution to each voter participating in the party's primary election at the time the voter is accepted for voting. [Sec. 172.1114]

The notice may include:

- Information describing the party's convention process;
- Information detailing the time and place of the party's first-level convention process;
- Contact information for the county and state political parties; and
- Website links for information and registration for party conventions.

[Sec. 172.1114]

The state chair of a political party must prescribe a form for a notice that may be used in any county. A county chair of a political party may prescribe a specific notice for the county chair's county. The same notice must be used in all precincts within a county. [Sec. 172.1114]

Please note that a notice prescribed by the county chair must be approved by the Secretary of State. If a county chair of a political party uses the form of notice prescribed by the state chair, only the convention location and time may be added without the Secretary of State's approval. [Sec. 172.1114]

The county chair must either supply the notice themselves or they may contract with the county election officer to supply convention notices for distribution to voters at the polling place. The preparation of copies is a necessary expense incurred in connection with a primary election pursuant to Section 173.001 of the Code. [Sec. 172.1114]

## **6. Notice of Date, Hour, and Place of Precinct Convention**

The county chair must post a notice of the date, hour, and place for convening each convention on the county or state party's website or other Internet location easily found through a search engine. If the county party does not maintain a website, the chair must post the notice on the county commissioners bulletin board. [Sec. 174.023]

The notice must remain posted continuously for the 10 days immediately preceding the date of the convention. If the county chair fails to post or deliver notice, another member of the county executive committee may post or deliver the notice. [Sec. 174.023]

## **7. Notice of Hour and Place of County and Senatorial District Conventions**

A notice of the hour and place for convening each county and senatorial district convention shall be posted electronically on the county or state party's website or on the bulletin board used for posting notice of meetings of the commissioners court. The notice must remain posted for the 10 days immediately preceding the date of the convention. [Sec. 174.064]

The county chair is required to post the notice of a county convention. However, if the county chair fails to post the notice, then another member of the county executive committee may post the notice. [Sec. 174.064]

The temporary chair of a senatorial district convention must post the notice of a senatorial district convention. If the temporary chair of a senatorial district convention fails to post the notice, then another member of the county executive committee who may participate in setting the convention's hour and place may post the notice. [Sec. 174.064]

The county chair is no longer required to deliver written notice to the county clerk of the date, time and place of each precinct convention by the 10th day before the date of the convention.

## **8. Notice of Time and Place for Biennial State Convention**

Before the date of the party's precinct conventions, the state chair shall post on the party's website the date, hour, and place for convening the biennial state convention. [Sec. 174.093]

## **9. Replacements in County Executive Committee**

The county executive committee shall fill by appointment any vacancy on the committee. The county chair must submit the replacement member's name to the Secretary of State for posting on the Secretary of State's website. [Sec. 171.024]

## **Section D – Canvass and Certification of Candidates**

### **1. Local Canvass of Primary Election**

The county chair or the county chair's designee and, if available, at least one member of the county executive committee selected by the county executive committee shall canvass the precinct election returns for the county. A designee appointed by the county chair must be a member of the county executive committee or, if no member is available, a resident of the county served by the committee who is affiliated with the same political party. [Sec. 172.116]

The county chair or the chair's designee and any selected county executive committee member shall convene to conduct the local canvass on the second Thursday after election day at the hour specified by the county chair and posted on the county party website or the commissioners court bulletin board if the county organization of the political party does not maintain a website. This notice must be posted at least 72 hours before the scheduled time of the meeting. [Sec. 172.116; Secs. 551.002, 551.041, 551.043, Tex. Gov't Code]

The final canvass is concluded when the chair digitally certifies the canvass report on the Secretary of State's website. The posting on the site that the results are final completes the canvass report. The chair is not required to file any additional notice or report with the county clerk. [Sec. 172.116(d)]

## **2. State Canvass Relating to Candidates Who Filed an Application for a Place on the Ballot in Accordance with the General Requirements**

The state chair shall canvass the accumulated county election returns. [Sec. 172.120]

The state chair shall conduct the state canvass for the general primary election not later than: (1) the second Sunday after general primary election day, for an election in which three or more candidates are seeking election to the same office; or (2) the 22nd day after general primary election day, for an election for an election with fewer than three candidates for the same office. [Sec. 172.120]

Not later than the third Saturday after runoff primary election day, the state chair shall complete the state canvass of the runoff primary election. Notice of the state canvass must be posted at least 72 hours before the scheduled time of the meeting. [Sec. 172.120; Secs. 551.002, 551.041, 551.043, Tex. Gov't Code]

The Secretary of State shall preserve and archive on the Secretary's website all of the information pertaining to candidates and the canvass results. [Sec. 172.120]

## **3. Certification of Candidates for Statewide and District Offices for Placement on Runoff Ballot**

The state chair must certify on the Secretary of State's website for placement on the runoff primary election ballot the name of each general primary candidate for a statewide or district office who is to be a candidate in the runoff. [Sec. 172.121]

The Secretary of State shall update the status of each candidate as appropriate for statewide and district office who is to be a candidate in the runoff. [Sec. 172.121]

## **4. Notice of Persons Elected as Party Officers**

Not later than the 20th day after the date the local canvass is completed, the county chair shall post on the Secretary of State's website the names of the persons elected as county chair and precinct chairs for the county. [Sec. 172.118]

The notice must include:

- each party officer's address;
- each precinct chair's precinct number;
- each precinct officer's phone number and e-mail address, if supplied by the officer.

[Sec. 172.118]

The county chair is not required to provide written notice to the state chair and county clerk of new party officers. Any appointment to fill a vacancy in the office of precinct or county chair shall be posted on the Secretary of State's website. [Sec. 172.118]

## **5. Listing of Candidates on Secretary of State's Website**

The county chair is required to update the notations regarding the status of each candidate after each general primary or primary runoff election unless the Secretary of State's Internet website automatically updates the notations based on election returns. [Sec. 172.117]

All notations must be completed and accurate on the date prescribed by the Secretary of State by rule to ensure that an authority printing general election ballots may rely on the information. [Sec. 172.117]

## **6. Certification of Nominees**

The state chair must certify on the Secretary of State's website the name and address of each primary candidate who is nominated for a statewide or district office. [Sec. 172.122]

The state chair shall execute and file digitally with the Secretary of State an affidavit certifying that the returns posted on the Secretary of State's website are the correct and complete returns. Not later than the 20th day after the date the state canvass is completed, the state chair must submit the certification to the Secretary of State for posting on the Secretary of State's website. [Sec. 172.122]

## **7. Furnishing Rules and Guidelines**

During October preceding each primary election year, the Secretary of State shall post on the Secretary's website a current set of the rules and any available guidelines adopted under Subchapter A, Chapter 173, Election Code. The Secretary of State shall e-mail each state or county chair who has provided the Secretary of State an e-mail address when the rules and guidelines have been posted. [Sec. 173.010]

If a rule or amendment of a rule is adopted after the set is posted, the Secretary shall update the posting with the new rule or amendment not later than the 10th day after the date of its adoption. [Sec. 173.010]



## **Chapter 8 – Contracts and Joint Primary Elections**

There are three basic types of agreements involved in the operation of a primary election: Contracts for Election Services, Contracts to Lease Voting System Equipment, and Joint Primary Election Agreements. While there may be some overlap between these agreements and there may be situations where multiple types of these agreements can be contained in the same document, the basic rules governing each are found in different sections of the Election Code. This chapter outlines the basic rules governing each type of agreement.

### **Section A – Contracts for Election Services**

#### **1. Contracts for Election Services Generally**

A contract for election services is a contract between the county executive committee of a political party holding a primary election in the county and the county election officer. The contract is for the county election officer to perform specific election services that the officer would perform in a countywide election. [Secs. 31.092, 31.093]

The scope of an election services contract depends on what services the party wishes to request, and what they can agree on with the county. Each election services contract may be slightly different depending on the needs of the party and the particular circumstances of that county. Please refer to our sample contract on our website for general guidance, or to contracts used by your county in previous years for more specific guidance on terms that would apply to your county's particular situation.

#### **2. Mandatory Meeting Between County Election Officer and County Chair**

The county chair and county election officer are required to hold a meeting to discuss the following issues for each primary election or general election for state and county officers:

- The lists of individuals to be appointed as deputy early voting clerks for the general election for state and county officers under Election Code Section 85.009;
- The lists of individuals to be appointed to the early voting ballot board for the general election for state and county officers under Election Code Section 87.002;
- The implementation of Chapter 87 of the Election Code and the rules governing the early voting ballot board and signature verification committee; and
- Holding a joint primary election, entering into an election services contract, and polling place locations.

[Sec. 31.124]

While the Election Code does not outline a specific statutory deadline to hold this meeting, we recommend that the meeting take place no later than the third week of November in the odd-numbered year before the primary election.

### **3. Approval Process**

A contract for election services must be approved by the county executive committee for the party and by the county elections officer. [Secs. 31.092, 31.093]

The Election Code does not identify a specific process for how the county executive committee must execute and approve this contract. Your party rules may provide more specific guidance on the approval process for this type of contract. If not, then your county executive committee must agree on a procedure for executing and approving the election services contract.

### **4. Duty to Contract**

All county election officers are required to contract for election services in a primary if the county chair requests a contract. This duty applies to elections administrators, county clerks, or tax assessor-collectors (depending on who is designated as the chief election officer for that county). [Sec. 31.093]

### **5. Contract Terms**

The county election officer is required to contract to furnish the services that are requested by the county chair for the primary election. The terms of the contract will generally vary between counties depending on the services that the county chair requests, the needs of that party in running the primary election, and the particular situation of the county. [Sec. 31.093(c)]

The contract may provide for the county election officer to perform or supervise the performance of any or all of the duties that the officer would normally perform in a countywide election. This may include general management of the election, testing and programming of election equipment, reporting results to SOS, or a number of other election-related duties. [Secs. 31.092, 31.093]

The county election officer is not required to provide for the training of election judges and clerks. The county is allowed to contract to provide those services if they choose, but the county election officer does not have a legal duty to contract to provide for the training of election judges and clerks. [Sec. 31.093(b)]

The county election officer must offer to contract on the same terms with the county executive committee of each political party that is holding a primary election in the county. The county cannot offer to provide election services to one party for the primary election that it is unwilling or unable to provide to the other party as well. [Sec. 31.093(e)]

### **6. Non-Delegable Duties**

The contract for election services may not delegate any of the following duties to the county:

- (1) The filing authority for candidate applications;

- (2) The filing authority for Title 15 documents; or
- (3) The political subdivision's requirement to maintain office hours under Election Code Section 31.122.

[Sec. 31.096]

## **7. Compensation in Contract**

The election services contract must include an itemized list of estimated election expenses. [Sec. 31.093(c)]

The county election officer cannot charge for duties that they are required to perform by law. This includes duties like running early voting, posting certain notices, or other duties that the county election officer is legally required to perform under the Election Code. [Sec. 31.100(b)]

The county election officer may not be personally paid for services performed under the contract. However, the county election officer can charge a fee for general supervision of the election. The maximum amount that the county election officer may charge as a general supervision fee is 10% of the total amount of the contract. [Sec. 31.100(d)]

## **Section B – Contracts to Lease Voting System Equipment**

### **1. Contracts to Lease Voting System Equipment Generally**

A county executive committee may contract to lease voting system equipment for a primary election from the county. If the equipment desired is not available from the county, then the county executive committee may contract to lease that equipment from any other source, i.e., the voting system vendor. [Sec. 123.033]

When leasing equipment from the county, the county must lease the equipment to the county executive committee under the terms agreed to in the contract. However, the county commissioners court may impose reasonable restrictions and conditions on its duty to lease the equipment in order to ensure the availability of that equipment for elections for which the commissioners court adopted that voting system and to protect the equipment from misuse or damage. [Sec. 123.033(c)]

The county is not required to provide the county executive committee with equipment for use in an election precinct in which fewer than 100 votes were cast in that party's most recent general or runoff primary election. [Sec. 123.033(d)]

### **2. Adoption of Voting System**

A voting system must be adopted for use in the general and/or runoff primary election by resolution, order, or other official action of the county executive committee. The adoption of a

voting system may be modified or rescinded at any time. Additionally, the county executive committee should indicate in their official adoption action whether they are adopting the system for use in early voting only, regular voting on election day, or both. [Secs. 123.001, 123.002, 123.006]

An adoption action should include the following information:

1. Name of Vendor
2. Name of Voting System (including the version number)
3. Type of Equipment
4. What part of the election process the equipment will be used for (early voting in person/by mail, election day, provisional ballots),
5. What elections it will be used for (all elections or just certain elections)

[Sec. 123.001]

### **3. Leasing From Other Sources**

If the desired equipment is not available to be leased from the county, then the county executive committee may lease the equipment from any other source, i.e., the voting system vendor. [Sec. 123.033(b)]

If the county executive committee leases the equipment from a source other than the county, then the committee must receive written approval from the Secretary of State's Office for that contract. To obtain approval of a voting system contract, the county executive committee should send a letter to the Secretary of State's Office requesting approval for the acquisition of the voting system contract. The letter must identify the name and version number of the system being acquired as well as the name and version number of any component parts that are part of the voting system. The letter may be sent via mail to the Secretary of State's Office mailing address or via email to [elections@sos.texas.gov](mailto:elections@sos.texas.gov). [Sec. 123.035]

Upon receipt of this letter, the Secretary of State's Office will verify that the system being acquired has been certified for use in Texas. Additionally, the Secretary of State's Office will verify that the equipment being purchased is to be used in a manner that is allowable under Texas law. The Secretary of State's Office will then provide to the parties to the contract a letter stating that the voting system being acquired under the contract meets the applicable requirements under state law. The Secretary of State's Office will also provide a copy of the certification order approving the voting system for use in Texas elections. [Sec. 123.035]

Any contract that is executed without the approval of the Secretary of State's Office is void and payment under the contract cannot be made. Executing a voting system contract that is not approved by the Secretary of State's Office constitutes a Class B misdemeanor. [Sec. 123.035]

#### **4. Compensation in Contract**

The maximum amount that may be charged for leasing equipment to a county executive committee for a general or runoff primary election is \$5 for each unit of electronic voting system equipment installed at a polling place and \$5 for each unit of other equipment. [Sec. 123.033(e)]

A county may also charge the county executive committee for actual expenses incurred by the county in transporting the equipment to and from the polling places, preparing the equipment for use in the election, and operating a central counting station for the primary election. [Sec. 123.033(f)]

### **Section C – Joint Primary Election Agreements**

#### **1. Joint Primary Election Agreements Generally**

A joint primary election agreement is when two political parties who are holding primary elections agree to hold the election jointly, with that joint election being run primarily by the county election officer. [Sec. 172.126]

The parties may choose to share polling places for their primary elections without necessarily entering into a joint primary election agreement. A joint primary election is run primarily by the county election officer and involves the parties sharing election workers, polling places, and voting system equipment. [Sec. 172.126]

In a joint primary election, the county officer will supervise the overall conduct of the joint primary election and is responsible for appointing election judges and clerks, determining the ballot format and type of voting system for each precinct, and procuring election equipment and supplies. [Sec. 172.126, 1 Tex. Admin. Code 81.147]

#### **2. Approval Process**

A joint primary election agreement must be by written joint resolution and approved by a majority vote of the full county commissioners court and must be unanimously approved by the county elections officer and the county chairs of both parties holding primary elections in the county. [Sec. 172.126(a)]

#### **3. Polling Places**

The polling places in a joint primary election are the regular county polling places that are used in the general election for state and county officers. [Sec. 172.126(a)]

Precincts may be consolidated in a joint primary election. The county clerk will determine whether to consolidate precincts and will designate the location of the polling place for the consolidated precincts. The county election officer must designate polling places that will accommodate the precinct conventions of each party. [Sec. 172.126(b)]

#### 4. Election Workers

One set of election workers will conduct the joint primary elections at each polling place. [Sec. 172.126(c)]

No later than the second Monday in December, the parties must provide lists of judges and clerks for the joint primary election to the county election officer. The county election officer will appoint a judge for each election precinct from each party who will serve as the co-judges for that election precinct. The county election officer will appoint the election clerks in a manner that provides equal representation for each party. [Sec. 172.126(c)]

If the total number of workers is an odd number, then the county election officer shall appoint an additional member from the party whose candidate for governor received the highest number of votes in the precinct in the most recent gubernatorial election. For consolidated precincts, then the highest number of votes is determined by adding together the total votes from the consolidated precincts. [1 Tex. Admin. Code 81.149]

The total number of election workers per precinct will be based on the following guidelines:

Number of Election Workers Per Joint-Voting Precinct  
(Includes two co-judges and two alternate judges who serve as a clerk)

<b>Estimated Turnout Per Joint-Polling Location</b>	<b>Paper Ballot / Optical Scan (primary voting method)</b>	<b>Electronic Voting System (primary voting method)</b>
200 or fewer	4	4
201-400	6	5
401-700	7	6
701-1,100	9	7
1,101 or more	13	9

[1 Tex. Admin. Code 81.149]

Each co-judge has the law enforcement duties and powers provided to a presiding judge under Section 32.075. Each co-judge has the exclusive authority to conduct challenges on the eligibility of voters, tabulate the votes, and deliver the election returns in the primary of the party with which that judge is affiliated or aligned. [Sec. 172.126(d)]

If an eligible presiding co-judge and alternate co-judge cannot be found for a particular party in a particular precinct, then a joint primary cannot be conducted in that precinct and the precinct must be consolidated with another precinct that has an eligible presiding co-judge and alternate co-judge to serve for each party. [Sec. 172.126(c)]

The early voting ballot board and central counting station will also be composed of and administered by one set of election workers that provides equal representation for each party. If the total number of individuals at the early voting ballot board or at the central counting station

is an odd number, then the county election officer shall appoint an additional member from the party whose candidate for governor received the highest number of votes in the county in the most recent gubernatorial election. [Sec. 172.126(c); 1 Tex. Admin. Code 81.148]

## **5. Voting Equipment and Polling Place Setup**

The county election officer will determine the ballot format and voting system for each election precinct and will procure the election equipment and supplies. [Sec. 172.126(f)]

Generally, a separate set of ballot boxes will be used for each party's primary. However, a single set of ballot boxes may be used in a joint primary election using an electronic voting system in which the voter's ballots are deposited directly into a unit of automatic tabulating equipment. [Sec. 172.126(g)]

In a jurisdiction using paper ballots, each co-judge shall deliver their party's ballot box and election returns. If only one ballot box is used in a precinct using an electronic voting system in which the voter's ballots are deposited directly into a unit of automatic tabulating equipment, then the co-judge from the party whose candidate for governor received the highest number of votes in the precinct or consolidated precinct in the most recent gubernatorial election shall deliver the election supplies, including the voting unit containing the vote totals. Alternatively, that party's co-judge may designate the other co-judge or a clerk to deliver the ballot box and/or device containing the vote totals. [1 Tex. Admin. Code 81.153]

If paper ballots are used in a joint primary election, then the county election officer shall prepare those ballots so that each party's ballots are easily distinguishable. The county elections officer may use different colors of paper in order to achieve this distinction. However, the color yellow may not be used because that color may only be used for sample ballots. [Sec. 172.126(g); 1 Tex. Admin. Code 81.154]

## **6. Voting Procedures**

A voter shall be allowed privacy to the extent possible when indicating the voter's choice as to which political party's primary the voter chooses to vote in. A voter may indicate, without verbalizing, the voter's choice of primary election by pointing to which party's ballot the voter chooses. A sign informing the voters of this option must be posted in the polling place beside the signature roster. [Sec. 172.126(g-1)]

The list of registered voters and the voter registration certificates shall be stamped to show the affiliation of each voter, and a separate list of registered voters shall be used for each party's primary election. [Sec. 172.126(g)]

Separate election returns shall be prepared for each party's primary and shall be canvassed separately by each party. [Sec. 172.126(h)]

## **7. Compensation in Contract**

The joint primary resolution must include an itemized list of estimated election expenses. [Sec. 31.093(c)]

The general compensation rules that apply to an election services contract for a primary election also apply to a joint primary agreement. The county election officer cannot charge for duties that they are required to perform by law. The county election officer also may not be personally paid for services performed under the contract. However, the county election officer can charge a fee for general supervision of the election. The maximum amount that the county election officer may charge as a general supervision fee is 10% of the total amount of the contract. [Sec. 31.100]



## **Chapter 9 – Precincts and Polling Places for Primary Elections**

In a primary election, the regular county election precincts must be used for that election. Each county election precinct will be served by one polling place, unless those precincts meet the requirements for consolidation. [Secs. 42.002, 43.001]

In a primary election, the procedure for selecting the location of the polling places will depend on whether you are conducting a joint primary election or whether you will be conducting separate primary elections. There is also a specific procedure for the selection of polling places in a primary election in a county that uses the countywide polling place program. This chapter will discuss those procedures as well as other considerations for polling place selection.

### **1. Polling Place Selection in Joint Primary Elections**

In a joint primary election, the polling places that are used in the general election for state and county officers will be used for the joint primary election. [Sec. 172.126(a)]

In a joint primary election, the county election officer will determine whether to consolidate any county election precincts, and will determine the location of the polling place for the consolidated precinct. [Sec. 172.126(b)]

To the extent possible, the polling place that is selected for the joint primary election should be capable of accommodating the precinct conventions of each political party. If the designated polling place is not capable of accommodating the precinct conventions of each party, then that polling place may be used for the precinct convention of the party whose candidate for governor received the most votes in the county in the most recent gubernatorial election. [Sec. 172.126(b)]

### **2. Polling Place Selection in Separate Primary Elections**

In a separate primary election, the county chair will designate the location of the polling places for the election unless the polling place is located in a consolidated precinct. [Sec. 43.003]

In a separate primary election, the county executive committee will determine whether to consolidate any county election precincts, and will determine the location of the polling place for the consolidated precinct. [Secs. 42.009, 43.003]

Please note that both parties holding a primary election may use the same polling places for their primary elections even if they are holding their primary elections separately instead of jointly.

### **3. Polling Place Selection for Primary Elections Held in Counties Using the Countywide Polling Place Program**

In a county that has implemented the countywide polling place program, those countywide polling places may be used for a primary election, regardless of whether the primary election is being conducted as a joint primary election or a separate primary election.

Countywide polling places may be used in a primary election if the county chair or county executive committee of each political party holding a primary election in the county agrees to the use of countywide polling places. If both parties do not agree to the use of countywide polling places for the primary election, then neither party may use countywide polling places for their primary. [Sec. 43.007(a)(4)]

### **4. Consolidation of Precincts**

Consolidation of precincts occurs when two or more county election precincts are consolidated into a single election precinct in order to adequately serve the needs of the voters of the consolidated precinct. Consolidation is not an available option in every election, and precincts may only be consolidated in a special election or in a primary election. [Secs. 42.008, 42.009]

The polling place in a consolidated precinct must be located in a place that adequately serves the voters of the consolidated precinct. [Secs. 42.008, 42.009]

In a joint primary election, the county election officer will determine whether to consolidate any county election precincts, and will determine the location of the polling place for the consolidated precinct. In a separate primary election, the county executive committee will determine whether to consolidate any county election precincts, and will determine the location of the polling place for the consolidated precinct. [Secs. 42.009, 43.003, 172.126(b)]

If precincts are consolidated in an election that is conducted across the whole county, then at least one consolidated precinct must be situated wholly within each commissioners precinct. [Sec. 42.008(b)]

The consolidated precinct must not contain territory from more than one of each of the following types of territorial units:

- A commissioners precinct;
- A justice precinct;
- A congressional precinct;
- A state representative precinct;
- A state senatorial precinct; or
- A State Board of Education district

This rule (often referred to as the “officer-line rule”) limits the extent to which precincts may be consolidated in a primary election, as those consolidated precincts are still required to comply with this rule. [Sec. 42.005]

In a general primary election, there will be fewer opportunities to consolidate due to the number of races on the ballot that involve one of the offices listed above. However, in a runoff primary election, there will be more opportunities to consolidate precincts due to the reduced number of races involving the offices listed above.

## **5. Combination of Precincts**

Combination of precincts may be used in certain circumstances where one county election precinct does not have a suitable building that can be used as a polling place for that precinct. Combination is only available for general elections and special elections; it is not available for primary elections. Combination is only available to counties with a population less than 1.2 million that do not participate in the countywide polling place program. [Sec. 42.0051]

In a general election or special election, a county with a population less than 1.2 million that does not participate in the countywide polling place program may combine precincts if one of the precincts does not have a suitable building in the precinct that can be used as a polling place and the location of the combined polling place adequately serves the voters of the combined precinct. [Sec. 42.0051]

Combination must be performed for each individual election in which the county intends to combine precincts. Combination is performed by the commissioners court on the recommendation of the county election board. [Sec. 42.0051]

A combined precinct may not contain more than 10,000 registered voters. {Sec. 42.0051}

## **6. Building for Polling Places**

Each polling place is required to be located in a building and shall be located in a public building, if practicable. An entity that owns or controls a public building must make it available for use as a polling place in any election that covers territory in which the building is located. [Sec. 43.031]

Each polling place must be accessible to and usable by the elderly and persons with physical disabilities. Each polling place must meet the following standards:

- The polling place must be on the ground-level floor or be accessible from the ground-level floor by an elevator with doors that provide an opening of at least 36 inches in width;
- Doors, entrances, and exits used to enter or leave the polling place must have a maximum width of 32 inches;
- Any curb adjacent to the main entrance to a polling place must have curb cuts or temporary nonslip ramps;

- Any stairs necessary to enter or leave the polling place must have a handrail on each side of the stairs and a nonslip ramp; and
- The polling place may not have a barrier that impedes the path of a person with physical disabilities to the voting station.

When selecting polling places for your election, it is important that you examine each potential polling place to ensure that your selected locations are capable of meeting these accessibility requirements. [Sec. 43.034]

Public buildings may not charge for personnel, utilities, or other expense incurred before or after regular business hours if the building is normally open for business on that day. If election day is on a day that the building is not normally open for business, then a charge may only be made for reimbursement for the actual expense resulting from the use of the building in the election. [Sec. 43.033]

If a suitable public building is unavailable, then the polling place may be located in another building. A polling place may not be located in a building unless electioneering is permitted on the building's premises outside of the zone in which electioneering is prohibited. If the building prohibits electioneering on its premises, then that building may not be used as a polling place unless it is the only building available for use as a polling place in that county election precinct. [Sec. 43.031]

A polling place may not be located at the residence of a person who is a candidate for an elective office (including an office of a political party) or at the residence of a person who is related within the third degree by consanguinity or the second degree by affinity to a candidate for an elective office. [Sec. 43.031(e)]

## **7. Changes in Polling Locations**

If the location of the polling place is different from the location used for the precinct in the preceding primary election, the county election officer shall post the notice at the entrance to the previous polling place stating that the location has changed. The notice must provide the location of the new polling place. [Sec. 43.062]

## **8. Signs at Polling Places**

The Election Code requires certain signage to be posted at each polling place, including:

- Voter Information Poster and other instruction posters
- Notice of Voting Order Priority
- Voter Complaint Poster
- List of Declared Write-In Candidates
- Notice of Prohibition of Certain Devices
- Notice of Convention (general primary elections only)
- Notice of Acceptable Identification

- Sample Ballots
- Distance Markers
- Signage relating to reserved curbside voting spaces

All polling place signage must be posted in both English and Spanish, along with any other required languages applicable to your specific county. For more information on each of these required postings, please review our Election Judges and Clerks Handbook. [Secs. 61.003, 62.010, 62.011, 62.0111, 62.0112, 62.0115, 63.0015, 64.009, 146.031, 172.1111]

The Election Code generally prohibits the posting of signage that is not specifically authorized by law. In addition, electioneering is prohibited within the polling place and within the area extending 100 feet from any open door through which a voter may enter the polling place. These provisions prohibit a person from electioneering for or against any candidate, measure, or political party, including apparel or a similar communicative device relating to a candidate, measure, or political party appearing on the ballot or to the conduct of the election. [Secs. 61.003, 61.010, 62.013, 85.036]

However, in a primary election, the presiding judge or alternate presiding judge for a precinct may post signs at a polling place for a primary election or primary runoff election that (1) identify the names or symbols representing any political parties holding an election at the polling place, and (2) do not refer to a candidate or measure on the ballot. [Sec. 172.127]

## Chapter 10 – Poll Watchers

Poll watchers serve an important role in the election process by providing transparency at each stage of the process. This chapter will address the basic rules and requirements relating to poll watchers, particularly as they relate to the county chair's role as an appointing authority for poll watchers in elections where the political party has a nominee on the ballot. For more information about poll watchers, please review our Poll Watcher's Guide.

### 1. Overview of Poll Watchers

Poll watchers are individuals who participate in the election process by observing the conduct of the election at the location where they are serving. Poll watchers can be appointed to serve at polling places, early voting locations, meetings of the early voting ballot board or signature verification committee, or the central counting station. The watcher may then observe any activity occurring at the location where they are serving, subject to certain specific restrictions discussed below. [Secs. 33.001, 33.007, 33.056, 33.057, 33.058]

Poll watchers can be appointed by a candidate, a political party with a nominee on the ballot in the election, a group of voters supporting a write-in candidate, or a specific-purpose political committee that supports or opposes a ballot measure. [Secs. 33.002, 33.003, 33.004, 33.005]

The county chair's primary role with regard to poll watchers is their role as the appointing authority for poll watchers in certain specific elections. For example, in an election where the county chair's political party has a nominee on the ballot (such as the general election for state and county officers), the county chair may appoint poll watchers. The county chair may also appoint poll watchers in a primary election where the county chair is a candidate on the ballot. However, if the county chair is not a candidate on the ballot and the county chair's political party does not have a nominee on the ballot in the election, then the county chair would be unable to appoint poll watchers for that election. [Secs. 33.002, 33.003]

### 2. Eligibility Requirements for Poll Watchers

To be eligible to serve as a poll watcher for a county election or a primary election, the person must be a registered voter of the county in which the person will serve. For county elections that only include a portion of the county, the person must be a registered voter of the portion of the county in which the election is being conducted. For an election held by a local political subdivision, the person must be a registered voter of the political subdivision. [Sec. 33.031]

The Election Code also imposes a number of eligibility restrictions on poll watchers. To be eligible to serve as a poll watcher, a person must:

- NOT be a candidate for public office in an election held on the day the watcher seeks to serve;
- NOT hold an elective public office;

- NOT be an employee of an election judge or clerk serving at the same polling place;
- NOT have been finally convicted of an offense in connection with conduct directly attributable to an election; and
- NOT be closely related (within the second degree of consanguinity or affinity) to an election judge or clerk serving at that polling place.

[Secs. 33.032, 33.033, 33.034, 33.035]

### **3. Training Requirements**

To be eligible to serve as a poll watcher, the person must complete the online training module prescribed by the Secretary of State's Office and must receive a certificate of completion demonstrating that they have completed the training. The poll watcher must present their certificate of completion along with their certificate of appointment to the presiding officer at the location they will be serving at when they report for service. [Secs. 33.008, 33.031, 33.051]

### **4. Appointment of Poll Watchers**

Poll watchers can be appointed by a candidate, a political party with a nominee on the ballot in the election, a group of voters supporting a write-in candidate, or a specific-purpose political committee that supports or opposes a ballot measure. [Secs. 33.002, 33.003, 33.004, 33.005]

When a political party appoints poll watchers for an election in which the party has a nominee on the ballot, that appointment may be made by the county chair. However, if the county chair fails to act, then any three members of the county executive committee may make the appointment. [Sec. 33.003]

When candidates appoint poll watchers, the appointment can be made by the candidate or the candidate's campaign treasurer. If the candidate is running for a federal office in more than one county, then a poll watcher may also be appointed by the candidate's principal campaign committee chair, treasurer, or designated agent of the chair or treasurer. [Sec. 33.002]

Poll watchers may also be appointed by a group of voters supporting a write-in candidate or by the campaign treasurer or assistant campaign treasurer of a specific-purpose political committee that supports or opposes a measure on the ballot in that election. [Secs. 33.004, 33.005]

When a poll watcher is appointed, the appointing authority must issue a certificate of appointment to the watcher that is signed by the appointing authority and contains the following information for the watcher:

- Name, residence address, and voter registration number of the poll watcher;
- The election and the number of the precinct where the poll watcher is to serve;
- An indication of the capacity in which the appointing authority is acting;

- In an election on a measure, an identification of the measure (if more than one is to be voted on) and a statement of which side the appointee represents;
- An affidavit to be executed by the poll watcher that the poll watcher will not have possession of any mechanical or electronic means of recording images or sound while serving as a watcher unless the poll watcher disables or deactivates the device; and
- The signature of the poll watcher.

[Sec. 33.006]

When the watcher appears to serve at their designated location, they must present their certificate of appointment and certificate of completion of the required training to the presiding officer of the location at which the poll watcher will be serving. The presiding officer may request that the poll watcher countersign the certificate of appointment at the time it is presented to the officer to verify the watcher’s identity. [Secs. 33.006, 33.051]

Before the watcher is accepted for service, the presiding officer must require the watcher to take the following oath, administered by the officer:

“I swear (or affirm) that I will not disrupt the voting process or harass voters in the discharge of my duties.”

[Sec. 33.051]

Upon presentation of the certificates, the watcher will be accepted for service unless they are ineligible to serve, they refuse to disable or deactivate an electronic device capable of recording sound or images, or the appointing authority has already had the maximum number of watchers accepted for service at that location. If the watcher is not accepted for service, then the presiding officer must return the certificates with a signed statement of the reason for the rejection of the watcher. [Sec. 33.051]

## **5. Number of Poll Watchers Per Location**

There are specific limits on the number of poll watchers that each appointing authority may appoint to serve at each type of location in the election.

For an election day polling place, meeting of the early voting ballot board or signature verification committee, or the central counting station, each appointing authority may appoint no more than two watchers for each location. [Sec. 33.007]

For an early voting location, each appointing authority may appoint a total of seven individuals to serve at each location during the entire early voting period. However, no more than two of those seven watchers may be on duty at the same time at an early voting location. [Sec. 33.007]



## **6. Rules and Restrictions for Poll Watchers**

Poll watchers are generally entitled to observe any activity that occurs at the location where the watcher is serving, including the inspection of records that are prepared at the location and the delivery of supplies, materials, and equipment from a polling place to another location such as the central counting station or early voting ballot board. [Secs. 33.007, 33.056, 33.057, 33.059, 33.060]

However, there are restrictions on certain conduct by poll watchers. For example, a poll watcher may not:

- Converse with a voter;
- Communicate in any manner with a voter regarding the election;
- Converse with an election officer regarding the election, except that a watcher may converse with an election officer to call attention to an irregularity or violation of law occurring at the location;
- Leave a location where ballots are being counted while the polls are open without the permission of the presiding officer; and
- Release information about the results of counted ballots while the polls are open.

[Secs. 33.052, 33.058]

A poll watcher may not be present in a voting station while the voter is preparing their ballot or being assisted by an assistant of their choice. A poll watcher may only be present in a voting station if the voter is being assisted by an election officer. [Sec. 33.057]

For more detailed information on the rules and restrictions for poll watcher conduct, please see our Poll Watcher's Guide.

## **7. Representatives in Recounts**

When a recount is conducted, representatives act in essentially the same capacity as a poll watcher would during the election process itself, though some of the qualifications and requirements for representatives in recounts are different from those that apply to poll watchers.

Representatives may be appointed by candidates, political parties with a nominee in the race involved in the recount, or the campaign treasurer or assistant campaign treasurer of a specific-purpose political committee that supports or opposes a measure. [Sec. 213.013]

Unlike a poll watcher, a recount representative is not required to meet any particular qualifications to serve. The representative is not required to be a registered voter of the territory in which the election was held, and there are no age or citizenship requirements. Public officials are not prohibited from serving as representative, nor is the representative's eligibility affected by the familial relationship of a watcher to a person serving on the recount committee. [Sec. 213.013]

When a person serves as a recount representative, they must deliver a certificate of appointment to the recount chair at the time the watcher reports for service. The certificate must be in writing and must contain:

- The printed name and the signature of the recount watcher;
- The election subject to the recount;
- The time and place of the recount;
- The measure, candidate, or political party being represented;
- The signature and the printed name of the person making the appointment; and
- An indication of the capacity in which the appointing authority is acting.

[Sec. 213.013]

As the recount is conducted, each authority eligible to appoint a recount watcher is permitted to have watchers present in a number equal to the number of counting teams designated for the recount; however, if there is a single counting team, two recount watchers may be present. [Sec. 213.013(b)].

A recount watcher who submits a valid appointment form to the recount chair must be admitted to the recount unless the specific authority's maximum number of watchers have already been accepted. [Sec. 213.013(e)].

## **Chapter 11 – Primary Runoff Procedures**

The runoff primary elections are generally conducted according to the same rules as the general primary election, with a few minor differences and with a few additional procedures. This chapter will discuss the runoff primary election in general as well as outlining the procedural differences between the runoff primary election and the general primary election.

### **1. Overview of Runoff Primary Elections**

The runoff primary election is the second part of the primary election process following the general primary election.

By default, most elections in Texas only require a plurality vote, meaning that the candidate who receives the most votes will win, even if they did not receive more than 50% of the vote. However, to win a race in the primary election, a candidate must receive a majority vote (i.e., 50% of the vote + 1 vote) in order to receive the party's nomination for public office or to be elected to a party office. [Sec. 172.003]

If no candidate in a particular race receives a majority of the vote in the general primary election, then the top two vote getting candidates will be placed on the ballot in the runoff primary election to determine who will receive that party's nomination or will be elected to that party office. On the other hand, if a candidate receives a majority of the vote in the general primary election, then that candidate is considered nominated or elected to that position and a runoff primary election is not held for that race. [Secs. 172.003, 172.004]

Depending on the races occurring in your county, it is possible that a runoff primary election may not be required in your county, or that only one of the two parties will be holding a runoff primary election in a given year. This will depend on the results of the federal, statewide, district, county, and precinct level races that occurred in your party's primary election in your county and if there were any races where no candidate received a majority vote.

The runoff primary election is held on the fourth Tuesday in May following the general primary election. [Sec. 41.007]

### **2. Runoff Primary Election Procedures – Early Voting**

The early voting period for the general primary election begins on the 17th day before election day and ends on the 4th day before election day. [Sec. 85.001(a)]

In contrast, the early voting period for the runoff primary election begins on the 10th day before election day and ends on the 4th day before election day. [Sec. 85.001(b)]

### **3. Runoff Primary Election Procedures – Certification of Runoff Candidates**

The state chair shall certify on the Secretary of State’s website for placement on the runoff primary election ballot the name of each general primary candidate for a statewide or district office who is to be a candidate in the runoff. [Sec. 172.121]

The order of the candidates’ names on the runoff primary election ballot for each county shall be in the same relative order as on the general primary election ballot. [Sec. 172.084]

### **4. Runoff Primary Election Procedures – List of Registered Voters**

The voter registrar is required to make a notation on the Official List of Registered Voters (OLRV) to indicate in which primary a voter voted, if any. [Sec. 172.125(a)]

### **5. Runoff Primary Election Procedures – Affidavit of Non-Participation**

When a voter presents themselves to vote in the runoff primary election, the election officer should confirm whether the voter voted in another party’s general primary election. [Sec. 172.125(b)]

If the list of registered voters indicates that the voter voted in another party’s primary, then the voter may not be accepted for voting unless the voter executes an affidavit of non-participation stating that the voter did not vote in the primary or participate in a convention of another party during the same voting year. If the voter completes that affidavit, then they may vote a regular ballot at the polling place if they are otherwise eligible. [Sec. 172.125(b)]

### **6. Runoff Primary Election Procedures – Withdrawal, Death, and Ineligibility**

There are specific deadlines and procedures outlined in the Election Code for the withdrawal, death, or ineligibility of candidates between the general primary election and the runoff primary election. This section addresses those deadlines and procedures. For more guidance on the circumstances that permit the party to select replacement nominees and the relevant procedures, please consult Chapter 5 of this handbook.

#### **Withdrawal**

A candidate for nomination may not withdraw from the runoff primary election after 5 PM of the 3rd day after the state canvass. [Sec. 172.059(a)]

A withdrawal request for the runoff primary must be filed with the state chair, for a statewide or district office, or with the county chair, for a county or precinct office. [Sec. 172.059(b)]

If a runoff candidate withdraws, the remaining runoff candidate becomes that party’s nominee for public office or is considered elected to that party office and the runoff primary election for that office is not held. [Sec. 172.059(c)]

### Death or Ineligibility

If a runoff primary candidate dies or is declared ineligible before the runoff primary election day, the candidate's name shall be placed on the ballot. [Sec. 172.060(a)]

If a deceased or ineligible candidate receives the vote required for nomination, then the appropriate executive committee may select a replacement nominee for that office. Please see Chapter 5 of this handbook for more guidance on the requirements and procedures relating to replacement nominations. [Sec. 172.060(b)]

## **7. Runoff Primary Election Procedures – Post-Election Procedures**

### Certification of Outcome

At the conclusion of the primary election and primary runoff, the chair is required to update each candidate's status on the Secretary of State's website to reflect the outcome of each race. [Sec. 172.117]

The county chair must update the notations to describe the status of each candidate (i.e., "in runoff," "lost runoff," or "nominee for general election") after each primary and runoff primary election, unless the Secretary of State's website automatically updates the notations based on election returns. [Sec. 172.117]

### Canvass

The county chair is required to complete the local canvass of the runoff primary election on the second Thursday after runoff primary election day. [Sec. 172.116(b)]

The state chair is required to complete the state canvass of the runoff primary election no later than the third Saturday after runoff primary election day. [Sec. 172.120]