

# Supervisor's Handbook on Candidate Qualifying



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Division of Elections  
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## Chapter 1: Background

This handbook is for use by supervisors of elections and other qualifying officers, and explains the process for them to qualify candidates.

**Attention:** This handbook serves only as a reference guide. It is not a substitute for governing laws and rules. To the extent that this handbook covers material beyond that contained in law or rule, applicable provisions of the Florida Election Code ([Chapters 97-106](#), Florida Statutes), the [Constitution of the State of Florida](#), and Division of Elections' [advisory opinions](#) and [rules](#), the texts of which control, should be reviewed in their entirety for complete information regarding qualifying.

If further assistance is necessary, supervisors may request an advisory opinion from the Division of Elections (Division) under Section [106.23\(2\)](#), Florida Statutes.

Please direct any procedural questions to the Bureau of Election Records at **850.245.6280**. Any legal questions about your role as a qualifying officer may be directed to the General Counsel's Office at **850.245.6536**.

This publication is available at [soe.dos.state.fl.us](http://soe.dos.state.fl.us).

All other applicable forms and publications are available on the Division of Elections' website at <https://dos.fl.gov/elections/forms-publications/publicationsreports/>.

### Other Resources and Websites

**Florida Attorney General**  
[myfloridalegal.com/opinions](http://myfloridalegal.com/opinions)

**Florida Commission on Ethics**  
[www.ethics.state.fl.us](http://www.ethics.state.fl.us)

**Florida Elections Commission**  
[www.fec.state.fl.us](http://www.fec.state.fl.us)

## Chapter 2: Responsibilities of a Qualifying officer

### What is the scope of my responsibility as a qualifying officer?

The qualifying officer's duties are ministerial in nature. This means that the qualifying officer may not determine whether the contents of the qualifying papers are true or accurate.

Any question as to the truth or accuracy of matters stated in a candidate's qualifying papers becomes a judicial question if and when an appropriate challenge is made in the courts.

In determining whether a candidate is qualified, the qualifying officer shall review the qualifying papers to determine whether all items required have been properly filed and whether each item is complete on its face, including whether items that must be verified have been properly verified pursuant to Section [92.525\(1\)\(a\)](#), Florida Statutes.

*(See Section [99.061\(7\)\(c\)](#), Fla. Stat.;  
State ex rel. Shevin v. Stone, 279 So.2d 17 (Fla. 1972))*

A qualifying officer **cannot**:

- Refuse to qualify a candidate even when the officer knows that the person has not complied with the requirements of the law; or
- Remove a candidate's name from the ballot if the qualifying officer becomes aware, after the close of qualifying, that the candidate has not complied with the "resign-to-run" law.

Once a candidate is qualified to be on the ballot, their name cannot be removed from the ballot without a court order.

### As a qualifying officer, am I responsible for enforcing the "resign-to-run" law?

No. It is not the responsibility of the qualifying officer to ensure compliance with the "resign-to-run" law.

### As a qualifying officer, am I responsible for enforcing eligibility criteria?

No. It is not the responsibility of the qualifying officer to ensure compliance with age, residency, party or non-party affiliation, or any other eligibility criteria.

## Chapter 3: Qualifying Documents

### General Information

In order to qualify a candidate:

- All of the required documents must have been timely received;
- Each of the required documents must be “complete on its face;”
- Each of the required documents that must be verified must have been “properly verified” pursuant to Section [92.525\(1\)\(a\)](#), Florida Statutes, *i.e.*, by an authorized officer who affixed their official seal and signature.

For example, if a required document is missing an entry, then it is not “complete on its face.” For example, if [DS-DE 301A](#) is missing the signature of the notary, then it is not “complete on its face” or “properly verified.” A qualifying officer does not and should not determine whether the contents of any of the documents are true or accurate; it is essentially assumed that the contents are true.

### When can a qualifying officer begin accepting qualifying documents?

A qualifying officer may accept and hold qualifying papers beginning 14 days prior to the first day of qualifying period.

*(See Section [99.061\(8\)](#), Fla. Stat.)*

Qualifying documents can be postmarked prior to these dates; however, they cannot be used for qualifying purposes if **received** prior to the above referenced dates.

Upon receiving the documents, qualifying officers must review them for completeness and immediately notify the candidate of any problems or discrepancies. If there are no problems, put the documents aside and on the first day of qualifying, process and update the candidate as “qualified.”

### If I receive documents by mail after the close of qualifying that are postmarked prior to the last day of qualifying, do I qualify the candidate if all the paperwork is correct?

No. In order for a candidate to be qualified, all qualifying documents must be **received** by the qualifying officer by the end of the qualifying period.

*(See Section [99.061\(7\)\(a\)](#), Fla. Stat.)*

## What documents must a candidate submit in order to be properly qualified?

See Rule [1S-2.0001](#), F.A.C., for a listing of applicable qualifying forms.

Current [forms](#) are available on the Division of Elections' website.

[CE Form 1](#) and [CE Form 6](#) are adopted by the Florida Commission on Ethics, not the Division of Elections. The forms and requirements for filing these forms can be found at the Commission's website: <https://ethics.state.fl.us/>.

**Note:** Candidates should not be using older versions of forms. Check to be sure that they have used the most current version of a form. Use of old forms may delay qualifying or prevent a person from qualifying.

## Partisan Office

1. [Form DS-DE 9](#), Appointment of Campaign Treasurer and Designation of Campaign Depository. (If the original [DS-DE 9](#) was previously filed with the SOE, a copy is not required to be filed during the qualifying period.)
2. As applies:
  - [DS-DE 301A](#), Candidate Oath – State and Local Partisan Office - Party Affiliation
  - [DS-DE 301B](#), Candidate Oath – State and Local Partisan Office – No Party Affiliation
  - [DS-DE 301C](#), Candidate Oath – State and Local Partisan Office – Write-In Candidate
3. Financial Disclosure (one of the following, as applicable):
  - [CE Form 6](#), Full and Public Disclosure of Financial Interests for the year 2023. Visit the [Florida Commission on Ethics](#) (COE) for information on the current Form 6. The Full and Public Disclosure is required to be filed electronically. A copy of the electronically filed Form 6 must be provided to the filing officer during qualifying.
  - [CE Form 1](#), Statement of Financial Interests for the previous year. Visit the [Florida Commission on Ethics](#) (COE) for information on the current Form 1. As of January 1, 2024, the Statement of Financial Interests is required to be filed electronically. A copy of the electronically filed Form 1 must be provided to the filing officer during qualifying.
4. Qualifying Fee (except a person certified to qualify by the petition method or seeking to qualify as a write-in candidate.)

### Non-Partisan Office (Other than School Board and Judicial)

1. [Form DS-DE 9](#), Appointment of Campaign Treasurer and Designation of Campaign Depository. (If the original [DS-DE 9](#) was previously filed with the SOE, a copy is not required to be filed during the qualifying period.)
2. [Form DS-DE 302NP](#), Candidate Oath – Nonpartisan Office
3. Financial Disclosure (one of the following, as applicable):
  - [CE Form 6](#), Full and Public Disclosure of Financial Interests for the year 2023. Visit the [Florida Commission on Ethics](#) (COE) for information on the current form. The 2023 Full and Public Disclosure is required to be filed electronically. A copy of the electronically filed Form 6 must be provided to the filing officer during qualifying.
  - [CE Form 1](#), Statement of Financial Interests for the previous year. Visit the [Florida Commission on Ethics](#) (COE) for information on the current Form 1. As of January 1, 2024, the Statement of Financial Interests is required to be filed electronically. A copy of the electronically filed Form 1 must be provided to the filing officer during qualifying.
4. Qualifying Fee (except a person certified to qualify by the petition method or seeking to qualify as a write-in candidate.)

### School Board

1. [Form DS-DE 9](#), Appointment of Campaign Treasurer and Designation of Campaign Depository. (If the original [DS-DE 9](#) was previously filed with the SOE, a copy is not required to be filed during the qualifying period.)
2. [Form DSDE 304SB](#), Candidate Oath – School Board Nonpartisan Office
3. Financial Disclosure (one of the following, as applicable):
  - [CE Form 6](#), Full and Public Disclosure of Financial Interests for the year 2023. Visit the [Florida Commission on Ethics](#) (COE) for information on the current form. The 2023 Full and Public Disclosure is required to be filed electronically. A copy of the electronically filed Form 6 must be provided to the filing officer during qualifying.
  - [CE Form 1](#), Statement of Financial Interests for the previous year. Visit the [Florida Commission on Ethics](#) (COE) for information on the current Form 1. As of January 1, 2024, the Statement of Financial Interests is required to be filed electronically. A copy of the electronically filed Form 1 must be provided to the filing officer during qualifying.
4. Qualifying Fee (except a person certified to qualify by the petition method or seeking

to qualify as a write-in candidate.)

### **Judicial Office**

1. [Form DS-DE 9](#), Appointment of Campaign Treasurer and Designation of Campaign Depository. (If the original [DS-DE 9](#) was previously filed with the SOE, a copy is not required to be filed during the qualifying period.)
2. [Form DS-DE 303JU](#), Candidate Oath – Judicial Office
3. [CE Form 6](#), Full and Public Disclosure of Financial Interests for the year 2023. Visit the [Florida Commission on Ethics](#) (COE) for information on the current form. The 2023 Full and Public Disclosure is required to be filed electronically. A copy of the electronically filed Form 6 must be provided to the filing officer during qualifying.
4. Qualifying Fee (except a person certified to qualify by the petition method or seeking to qualify as a write-in candidate.)

### **Are faxed or emailed copies of the qualifying documents acceptable?**

Not for the Department of State. All qualifying items required to be filed with the Department of State shall be filed in hardcopy form with the Division of Election at its official physical location and not via email or fax. Other qualifying officers must designate one or more specific official locations that will serve as a qualifying office and publish the address of each office on the qualifying officer's website.

(See [Florida Administrative Code, Rule 1S-2.0001\(1\)](#))

### **Is the Statement of Candidate required to be filed in order to be properly qualified?**

No. Although not required for qualifying, each candidate must file a Statement of Candidate ([DS-DE 84](#)) with the qualifying officer within 10 days after filing the Appointment of Campaign Treasurer and Designation of Campaign Depository ([DS-DE 9](#)). Willful failure to file this form is a violation of [Chapter 106](#), Florida Statutes.

### **Is the Statement of Judicial Candidate required to be filed in order for a judicial candidate to be properly qualified?**

No. Although not required for qualifying, each judicial candidate must file a Statement of Judicial Candidate ([DS-DE 83](#)) with the qualifying officer within 10 days after filing the



Appointment of Campaign Treasurer and Designation of Campaign Depository ([DS-DE 9](#)). Willful failure to file this form is a violation of [Chapter 105](#), Florida Statutes.

**What do I do if a candidate does not submit all of the required documents or the documents are incomplete?**

The qualifying officer shall make a reasonable effort to notify the candidate of the missing or incomplete items and to inform the candidate that all required items must be received by the close of qualifying.

*(See Section [99.061\(7\)\(b\)](#), Fla. Stat.)*

Candidates should be providing a telephone number and email address on the applicable Candidate Oath where they can be reached during the day and after normal working hours. The filing officer should make every effort to contact the candidate if there is a problem with the paperwork.

Document all of your efforts to contact the candidate and any conversations with the candidate.

If the complete or correct documents are not submitted prior to the end of qualifying, the candidate should not be qualified.

**If a candidate is standing in line to qualify at noon, but the papers have not been accepted, do I still accept the paperwork after the end of qualifying?**

Yes. If the candidate is in line prior to the end of qualifying, accept the paperwork. Note in the file that although the documents were time-stamped after the end of qualifying, the candidate was waiting to have the documents processed prior to the close of qualifying.

**Best Practice:** Have someone announce a countdown to the noon closing time for qualifying. At noon, announce that qualifying is closed and do not let anyone else come into the line after the announcement.

**If a candidate comes in right before the end of qualifying and has not opened a campaign account and insists on paying the qualifying fee with something other than a campaign check, do I accept the qualifying papers?**

Yes. A qualifying officer must put on file the documents that are submitted. However, you should not qualify the candidate. The qualifying fee must be paid with a check drawn on the candidate's campaign account, unless the candidate is a special district candidate.

(See Section [99.061\(7\)\(a\)](#), Fla. Stat.)

## Chapter 4: Candidate/Party Oath

### May a candidate use a nickname on the ballot?

Yes, if the nickname affidavit portion of the Oath is completed and properly verified. Any nickname designated by a candidate may not be used to mislead voters.

(See section [99.0215](#), Fla.Stat.)

### May a candidate use an educational or professional title or degree on the ballot?

No. A candidate may not use descriptive information such as Dr., Reverend, Colonel, Esquire, M.D., etc., *unless* the candidate has the same name as, or a name similar to, one or more candidates for the same office.

(See section [99.0215\(3\)](#), Fla.Stat.)

### On the Candidate Oath, may a candidate just indicate a first or last name?

No. The name must include the candidate's legal given name or names, a shortened form of the candidate's legal given name or names, an initial or initials of the candidate's legal given name or names, or a bona fide nickname customarily related to the candidate and by which the candidate is commonly known (if the affidavit is also complete and verified), immediately followed by the candidate's legal surname. If applicable, a candidate may place one of the following designations after the legal surname: "Sr.," "Jr.," or a numerical designation such as "II."

(See Section [99.0215](#), Fla.Stat.)

### Can a married woman use her maiden name on the ballot?

Yes. In Florida, a woman does not lose her birth given name upon marriage.

(See *Levey v. Dijols*, 990 So.2d 688 (Fla. 4<sup>th</sup> DCA 2008))

**If a candidate misspells their name on the Oath or changes their mind about how the name should appear on the ballot after qualifying closes, can the candidate submit something to change the name on the ballot?**

No. A candidate's name as it is to appear on the ballot may not be changed after the end of qualifying.

*(See Section [99.061\(7\)\(b\)](#), Fla. Stat.)*

## Chapter 5: DS-DE 9 - Appointment of Campaign Treasurer and Designation of Campaign Depository

**If box 7 of the Form [DS-DE 9](#) does not include the district, circuit, or group number, is it acceptable for qualifying?**

No. If the candidate is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate must indicate for which group or district they are running.

Examples:

- County Court Judge, **Group 3**
- County Commissioner, **District 2**

*(See Section [106.021\(1\)\(a\)](#), Fla. Stat.)*

## Chapter 6: Financial Disclosure Forms

### **Can I accept a copy of an incumbent's financial disclosure documents from two years ago, or older?**

No. Since qualifying occurs prior to the deadline for office holders to file their financial disclosure documents for the previous year, a candidate must file the financial disclosure statement that covers the candidate's taxable year immediately preceding the qualifying date.

For example, a candidate must file the 2023 financial disclosure documents for the 2024 qualifying period.

(See [Appendix C: Commission on Ethics Opinion 82-72](#))

### **Is a copy of the [CE Form 6](#) Financial Disclosure acceptable?**

Candidates must file their 2023 CE Form 6 Full and Public Disclosure electronically with the Florida Commission on Ethics. A copy of the electronically filed Form 6 or receipt of electronic filing can be provided during qualifying. Visit the [Florida Commission on Ethics](#) (COE) for information on the current Form 6.

### **Is a copy of the [CE Form 1](#) Statement of Financial Interests acceptable?**

As of January 1, 2024, the Statement of Financial Interests Form 1 is required to be filed electronically. A copy of the electronically filed Form 1 must be provided to the filing officer during qualifying.

### **If a candidate has a question about how to fill out the financial disclosure forms, should my staff or I try to assist the candidate?**

No. Questions regarding how to complete [CE Form 6](#) or [CE Form 1](#) financial disclosure forms should be directed to the Florida Commission on Ethics at 850.488.7864 or you can direct the candidate to the Commission's website: <https://ethics.state.fl.us/Index.aspx>.

## Chapter 7: Qualifying Fees/Checks

### May I accept cash, a money order, cashier's check, or a personal check from a candidate to pay the qualifying fee?

No. The qualifying fee must be paid by a check drawn on the campaign account. As qualifying officer, you can't determine whether the check presented was in fact drawn upon the campaign account, only that it appears to have been so drawn by looking at the face of it.

**Exception:** A special district candidate may pay the \$25 qualifying fee using any of the above methods.

### May I accept a cashier's check if it is drawn on the campaign account to pay the qualifying fee?

No. The candidate must pay the qualifying fee using a regular check drawn on the campaign account.

### If the amount of the qualifying check is less than the amount of the qualifying fee, may I accept a second check that equals the difference?

No. The qualifying fee must be paid with one check that is not less than the fee required. Have the candidate submit one new check for the total amount.

### If the amount of the qualifying check is more than the qualifying fee, may I accept the check?

Yes. The qualifying fee has to be **not less than** the fee required. Therefore, a check in an amount that is more than the qualifying fee is acceptable.

### If the qualifying check has different amounts in the numeric and written portions, may I accept the check?

Under Florida's Uniform Commercial Code, the amount in the written portion controls the check's value. Therefore, if the amount in the written portion is not less than the qualifying fee, you may accept the check even though the written and the numeric amounts differ.

(See Section [673.1141](#), Fla. Stat.)

**Best Practice:** If there is time, have the candidate provide a new check.

**If the qualifying check is signed by the candidate, but the candidate has not designated themselves as a treasurer or deputy treasurer, may I accept the check?**

No. A campaign check must contain the signature of a treasurer or deputy treasurer.

*(See Section [106.11\(1\)\(b\)4](#), Fla. Stat.)*

**If the qualifying check is not dated, may I accept the check?**

Yes. Under Florida's Uniform Commercial Code, if an instrument is undated, its date is the date of its issue. The term "issue" means the first delivery of an instrument by the maker for the purpose of giving rights on the instrument to any person. Therefore, for purposes of qualifying, an undated check is a negotiable instrument with its date being the date it is delivered to the qualifying officer.

*(See Section [673.1131](#), Fla. Stat.)*

**Best Practice:** Even though the check is acceptable, if there is time, it is best to have the candidate provide a new check.

**If the qualifying check is a starter or other check and the candidate has not typed or handwritten "Campaign Account" (or words to that effect) on the check, may I accept the check?**

Yes. You have no authority to determine whether the account is a campaign account.

*(See Section [99.061\(7\)\(c\)](#), Fla. Stat.)*

**Best Practice:** If the check is hand delivered by the candidate or treasurer, ask the person if the check is a campaign check. If the person indicates that it is a campaign check, have the person write "campaign account" on the check.

If the candidate or treasurer is not on hand to verify that it is a campaign check, call and request a written statement from the candidate or treasurer indicating that the qualifying check is drawn on the campaign account. The Division of Elections accepts this information by fax or email as long as it contains a signature from the candidate or treasurer.

**The qualifying fee is based upon the annual salary of the office as of July 1, immediately preceding the first day of qualifying. If there is a salary change in the interval before qualifying, does this change the qualifying fee?**

No. Regardless of whether the salary is increased or decreased, the qualifying fee is based upon what it was as of July 1.

**Exception:** If a salary change is made retroactive, and is therefore, in effect as of July 1,

the salary would be based upon the new amount.

**What are my responsibilities as a qualifying officer if the qualifying check is returned by the bank?**

If a candidate's check is returned by the bank for any reason, the qualifying officer shall immediately notify the candidate. The candidate shall, the end of qualifying notwithstanding, have 48 hours from the time such notification is received, excluding Saturdays, Sundays, and legal holidays, to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

*(See Section [105.031\(5\)\(a\)1](#), Fla. Stat.; Wright v. City of Miami Gardens, 200 So.3d 765 (Fla. 2016))*

**If the candidate withdraws after submitting complete qualifying papers, do I return their qualifying fee?**

The qualifying fee cannot be returned to a candidate unless the candidate withdraws, in writing, **before** the close of qualifying. The withdrawal statement must contain the candidate's signature. A fax withdrawal is acceptable (the Division's fax: 850-245-6260).

*(See Section [99.092\(1\)](#), Fla. Stat.; Rule [1S-2.0001](#), F.A.C.)*

**If the candidate submits the qualifying fee but for other reasons fails to qualify, do I return the qualifying fee to the candidate?**

Yes. Return the check to the candidate along with a letter explaining why the candidate did not qualify.

**If a candidate pays the qualifying fee with a check drawn on a campaign account that was opened prior to filing the [DS-DE 9](#), does this mean that the check is not a "properly executed campaign check" as required by Chapter [99](#) and [105](#), Florida Statutes?**

No. It is a violation of Florida Statute, but it does not disqualify the candidate.

*(See Section [106.021](#), Fla. Stat.)*

**If a special district candidate has opened a campaign depository and is collecting and spending money, is the special district candidate required to pay the qualifying fee with a check drawn on the campaign account?**

No. The filing fee for a special district candidate is not required to be drawn upon the



candidate's campaign account.

(See Section [99.061\(7\)\(a\)](#), Fla. Stat.)

## Chapter 8: Reporting Qualified Candidates to the Division of Elections

### How do I report the names of the candidates who qualified to the Division?

“The Supervisor of Elections shall, immediately after the last day for qualifying, submit to the Department of State a list containing the names, party affiliations, and addresses of all candidates and the office for which they qualified.”

(See Section [99.092\(2\)](#), Fla. Stat.)

This information is reported using the Electronic DS-DE 80 system accessible through the SOE Administrative Services Portal. Once in the portal, click on the **Local Candidates** menu item under Application Links.



Please contact your County Security Manager for any questions on how to access the portal.

## Chapter 9: Distribution of Qualifying Fees

### Where do I distribute the fees that I collect from candidates?

#### County Judge and School Board Candidates:

- 4% qualifying fees (1% election assessment and 3% filing fee), forward to the Florida Elections Commission.

*(See Section [105.031\(3\)](#), Fla. Stat.)*

#### Partisan Candidates:

- 1% election assessment, forward to the Florida Elections Commission.
- 5% (3% filing fee and 2% party assessment), forward to the state executive committee of the political party of the candidate.

*(See Section [99.061\(2\)](#), Fla. Stat.)*

#### NPA Candidates Filing for a Partisan Office:

- 1% election assessment, forward to the Florida Elections Commission.
- 3% filing fee, deposit in the general revenue fund of the county.

*(See Section [99.0955\(2\)](#), Fla. Stat.)*

#### Special District Candidates:

- \$25 filing fee, deposit in the general revenue fund of the county.

*(See Section [189.04\(1\)\(c\)](#), Fla. Stat.;*

*[Appendix D: DOS Memo RE: Filing Fee for Community Development District](#))*

### What address do I use when submitting fees to the Florida Elections Commission?

Florida Elections Commission  
107 West Gaines Street  
The Collins Building, Suite 224  
Tallahassee, Florida 32399-1050

**Are there forms to use for transmitting the various types of fees to the Florida Elections Commission?**

Forms are available on the Florida Elections Commission's website: <https://www.fec.state.fl.us>.

There are three types of county fee remittance [Florida Elections Commission Forms](#):

- [County Candidate One Percent Remittance Fee Form](#)
- [County Judicial Candidate Fee Remittance Form](#)
- [School Board Candidate Remittance Fee Form](#)

**If I have questions regarding the forms or fees that are forwarded to the Florida Elections Commission, whom should I call?**

Business Manager  
Florida Elections Commission  
850.922.4539  
[fec@myfloridalegal.com](mailto:fec@myfloridalegal.com)

# Appendices

## Appendix A: Legal References and Rules Cited

### Florida Statutes

- [34.021](#) Qualifications of county court judges.
- [92.50](#) Oaths, affidavits, and acknowledgments; who may take or administer; requirements.
- [92.51](#) Oaths, affidavits, and acknowledgments; taken or administered by commissioned officer of United States Armed Forces.
- [92.525](#) Verification of documents; perjury by false written declaration, penalty.
- [99.012](#) Restrictions on individuals qualifying for public office.
- [99.021](#) Form of candidate oath.
- [99.061](#) Method of qualifying for nomination or election to federal, state, county, or district office.
- [99.092](#) Qualifying fee of candidate; notification of Department of State.
- [99.0955](#) Candidates with no party affiliation; name on general election ballot.
- [99.096](#) Minor political party candidates; names on ballot.
- [100.041](#) Officers chosen at general election.
- [105.031](#) Qualification; filing fee; candidate's oath; items required to be filed.
- [105.035](#) Petition process of qualifying for certain judicial offices and the office of school board member.
- [106.021](#) Campaign treasurers; deputies; primary and secondary depositories.
- [106.11](#) Expenses of and expenditures by candidates and political committees.
- [106.141](#) Disposition of surplus funds by candidates.
- [106.23](#) Powers of the Division of Elections.
- [112.3144](#) Full and public disclosure of financial interests.
- [189.04](#) Elections; general requirements and procedures.
- [673.1131](#) Date of instrument.
- [673.1141](#) Contradictory terms of instrument.

### Florida Election Code

[Chapters 97 – 106, Florida Statutes](#)

### Florida Case Law

- *Advisory Opinion to the Governor*, 192 So.2d 757 (Fla. 1966)
- *Browning v. Young*, 993 So.2d 64 (Fla. 1<sup>st</sup> DCA 2008)
- *Carlton v. Phalan*, 100 Fla. 1164, 131 So. 117 (Fla. 1930)
- *Davis ex rel. Taylor v. Crawford*, 116 So. 41 (Fla. 1928)
- *Levey v. Dijols*, 990 So.2d 688 (Fla. 4<sup>th</sup> DCA 2008)
- *Newman v. State*, 602 So.2d 1351 (Fla. 3d DCA 1992)
- *State ex rel. Fair v. Adams*, 139 So.2d 879 (Fla. 1962)
- *State ex rel. Knott v. Haskell*, 72 So. 651 (Fla. 1916)
- *State ex rel. Shevin v. Stone*, 279 So.2d 17 (Fla. 1972)
- *Wright v. City of Miami Gardens*, 200 So.3d 765 (Fla. 2016)

### Constitutions

- [United States Constitution](#)
- [Constitution of the State of Florida; Art. V, § 8](#)

### Florida Administrative Code

Rule [1S-2.0001](#) Designation of Division of Elections as Filing Office for Department of State; Requirements for Candidate Qualifying Papers; Withdrawal of Candidacy

### Forms

- [DS-DE 9](#) Appointment of Campaign Treasurer and Designation of Campaign Depository
- [DS-DE 301A](#) State and Local Partisan Office – With Party Affiliation
- [DS-DE 301B](#) State and Local Partisan Office - No Party Affiliation
- [DS-DE 301C](#) State and Local Partisan Office – Write-In Candidate
- [DS-DE 302NP](#) Candidate Oath – Nonpartisan Office
- [DS-DE 303JU](#) Candidate Oath – Judicial Office
- [DS-DE 304SB](#) Candidate Oath – School Board Nonpartisan Office
- [DS-DE 83](#) Statement of Candidate for Judicial Office
- [DS-DE 84](#) Statement of Candidate
- [Form 1](#) Statement of Financial Interests for the calendar year 2021
- [Form 6](#) Full and Public Disclosure of Financial Interests for the year 2021
- [County Candidate One Percent Remittance Fee Form](#)
- [County Judicial Candidate Fee Remittance Form](#)
- [School Board Candidate Remittance Fee Form](#)

### Division of Elections

- [Advisory Opinions](#)
  - DE 80-27 Residence Requirement for a County Commission Candidate
  - DE 92-10 Preregistration and Subsequent Qualification for Office
  - DE 93-05 Residency
  - DE 94-04 When Qualifications for Selected Offices Must Be Met; Residency
  - DE 09-01 Qualifying - City Council Candidate; Mistaken Group Number Designation §99.061, Fla. Stat.
- DE Reference Guides
  - DE 0008 (01/2024) Guidelines for Determining When Residency Qualifications for Elected Office Must be Met
  - DE 0016 (08/2023) Resign-to-Run Law
- Supervisor of Elections' (SOE) Portal – Please contact your County Security Manager for link.
- Division of Elections – Forms & Publications: <https://dos.fl.gov/elections/forms-publications/>

### The Federal Hatch Act

- [Hatch Act Overview \(osc.gov\)](#)
- [5 U.S.C. §§ 1501- 1508](#)

## Appendix B: DE Reference Guide 0016 Resign-to-Run Law



### Resign-to-Run Law

DE Reference Guide 0016 (Updated 08/17/2023)

*These guidelines are for reference only. They are not to be construed as legal advice or representation. For any particular set of facts or circumstances, refer to the applicable state, federal law, and case law, and/or consult a private attorney before drawing any legal conclusions or relying upon this information.*

#### RESIGN-TO-RUN LAW – GENERAL OVERVIEW

##### • Governing law<sup>1</sup>

- An “officer” may not qualify as a candidate for another state, district, county, or municipal public office if the terms or any part of the terms would overlap with each other if the person were to be elected and did not resign from the office the person presently holds.
- An officer who qualifies for federal public office must resign from his or her presently-held office if the terms, or any part, thereof, would overlap with each other. (See below “What is “qualify” and “Exceptions to the resign-to-run law”)

##### • Who is an “officer”?

An “officer” is any elected or appointed person who has the authority to exercise the sovereign powers pertaining to an office recognized under the State Constitution or state laws. With respect to a municipality, an “officer” means a person, whether elected or appointed, who has the authority to exercise municipal power as provided by the State Constitution, state laws, or municipal charter. (s. 99.012(1), F.S.)<sup>2</sup> “Officers” include, but are not limited to: mayors, city and county commissioners, state legislators, supervisors of elections, sheriffs, property appraisers, judges, school board members, superintendents of school, state attorneys and public defenders, municipal fire chiefs, medical examiners, and elected hospital board and airport authority members.

##### • What is “qualify”?<sup>3</sup>

“Qualify” means to fulfill the requirements set forth in s. 99.061(7)(a) or s. 105.031(5)(a). Candidates for President and Vice President are not required to fulfill such requirements and therefore do not “qualify” for purposes of the resign-to-run law.

##### • Exceptions to the resign-to-run law<sup>4</sup>

- Political party offices.
- Persons serving without salary on an appointed board or authority.
- Persons holding federal office.
- An elected officer running for federal office if the term of office presently held is scheduled to expire and be filled by election in the same primary and general election period as the federal office the officer is seeking.
- Persons running for President and Vice President of the United States

##### • Resignation process<sup>5</sup>

- In writing at least 10 days prior to the first day of qualifying for the office the officer seeks.
  - For elected district, county, or municipal officers, submit:
    - To the officer before whom he or she qualified for the office he or she holds,

<sup>1</sup> s. 99.012, F.S. (2023)

<sup>2</sup> See also *State ex rel. Holloway v. Sheats*, 83 So. 508, 509 (Fla. 1919). And see *State ex rel. Clyatt v. Hocker*, 22 So. 721 (Fla. 1897)(an “officer” is someone who exercises sovereign power, in part or wholly, either in making, executing or administering the laws and who derives his or her position from a duly and legally authorized election or appointment, whose duties are continuous in nature and defined by law, not contract.)

<sup>3</sup> s. 99.012(1), F.S.

<sup>4</sup> ss. 99.012(7), F.S.

<sup>5</sup> ss. 99.012(3) - (5), F.S.

- Copy to the Governor and the Department of State.
- *For appointed district, county, or municipal officers, submit:*
  - To the officer or authority which appointed him or her to the office he or she holds
  - Copy to the Governor and the Department of State.
- *For all other officers, submit:*
  - To the Governor
  - Copy to the Department of State.<sup>6</sup>

Contact Information	
Address for Governor's office	Address for Department of State
Governor Ron DeSantis The Capitol 400 S. Monroe St. Tallahassee, FL 32399-0001 Email: Ron.DeSantis@eog.myflorida.com Fax: (850) 921-0733	Donna Brown Chief, Bureau of Election Records Department of State R.A. Gray Building, Room 316, 500 S. Bronough Street Tallahassee, Florida 32399-0250 Email: <a href="mailto:ElecRecords@dos.myflorida.com">ElecRecords@dos.myflorida.com</a> Fax: 850-245-6259 or -6260

- **What is the effective date of the resignation?<sup>7</sup>**  
The resignation must take effect no later than the earlier of the following dates:
  - The date the officer would take office, if elected; or
  - The date the officer's successor is required to take office.
- **Is the resignation irrevocable?<sup>8</sup>**  
Yes. Once submitted, the resignation is irrevocable.
- **What is an automatic resignation?<sup>9</sup>**  
An automatic irrevocable resignation occurs when an officer who qualifies for **federal** public office fails to submit a resignation pursuant to the resign-to-run law. The automatic resignation from the office he or she presently holds is effective immediately. The Department of State is then required to send a notice of the automatic resignation to the Governor. In the case of a district, county or municipal officer, a copy also is sent to the officer before the person qualified if officer held an elective office or the office or authority who appointed the officer.

**FREQUENTLY ASKED QUESTIONS – RESIGN-TO-RUN LAW:**

- **If someone is a school board member and will not seek re-election at the next general election but intends to qualify to run for state representative, will the person have to submit a resignation under the resign-to-run law?**
  - Yes. Section [100.041](#), F.S., reflects that the two-year term of office for a state representative begins upon election and the four-year term of office for a school board member begins on the second Tuesday following the general election. Therefore, if elected as a state representative, the term as a school board member, would not expire until two weeks after taking office as a state representative. This two-week overlap requires

<sup>6</sup> ss. [99.012\(3\)\(e\)](#) and [\(4\)\(e\)](#), F.S.

<sup>7</sup> s. [99.012\(3\)\(d\)](#) and [\(4\)\(d\)](#), F.S.

<sup>8</sup> s. [99.012\(3\)\(b\)](#) and [\(4\)\(b\)](#), F.S.

<sup>9</sup> s. [99.012\(4\)\(f\)](#), F.S.



the school board member to submit a resignation under the resign-to-run law at least 10 days prior to qualifying as a candidate as a state representative.

- **What can an officer do if he or she missed the deadline for submitting the resignation 10 days prior to the beginning of the qualifying period for a state, county, district, or municipal office?**
  - If the officer still wishes to run for office, the officer may submit a resignation to take effect immediately or to take effect on a date prior to qualifying for office. In this situation, the officer qualifies as a non-officeholder and the resign-to-run law does not apply. (s. [99.012](#)(3)(g), F.S.) Note: If the officer is a candidate for **federal** office, the failure to satisfy the 10-day deadline operates as an automatic, immediate and irrevocable resignation from office. (s. [99.012](#)(4)(f)1., F.S.)
- **Does the resign-to-run law apply to subordinate officers, deputy sheriffs, or police officers?**
  - Generally, no, but the law will apply in a limited situation. A subordinate officer, deputy sheriff, or police officer is exempt from the resign-to-run law unless the person is seeking to qualify for a public office which is currently held by "an officer who has authority to appoint, employ, promote or otherwise supervise that person and who has qualified as a candidate for reelection to that office." If the subordinate officer, deputy sheriff, or police officer must resign, the resignation must be effective upon qualifying for the office, not the later times specified above for an officer.
  - So, a deputy sheriff wishing to run for sheriff against an incumbent sheriff would have to resign, but if the incumbent sheriff is not seeking reelection, the deputy sheriff would not have to resign. Also, if a deputy sheriff wishes to run for a non-sheriff office (for example, state representative or city council), he or she would not have to resign under the resign-to-run law.
  - If a subordinate officer, deputy sheriff, or police officer must resign under this provision, he or she may not take an unpaid leave of absence instead of resigning.
  - Subordinate officers would include, among others: assistant public defenders, assistant state attorneys, and deputy supervisors of elections. (s. [99.012](#)(4), F.S; visit the Division of Elections' [Advisory Opinions webpage for relevant resign to run](#) opinions DE 08-04, 07-08, 99-01, 17-02, 17-03, 17-04, 18-07, 18-08 )
- **Does a city's Chief of Police have to resign to run for another public office?**
  - It depends. The exemption mentioned in the answer to the question immediately above applies to a police officer. A chief of police is a police officer; therefore, the chief of police need only resign to run for public office if the chief is seeking to qualify for a public office which is currently held by "an officer who has authority to appoint, employ, promote or otherwise supervise that person and who has qualified as a candidate for reelection to that office." For example, a city's chief of police would not have to resign to run for county sheriff unless the sheriff has the authority to appoint, employ, promote or otherwise supervise the chief of police and the incumbent sheriff has also qualified as a candidate for reelection. In the typical county-city relationship, the sheriff does not have the authority to appoint, employ, promote or otherwise supervise a city's chief of police. However, for example, if a city mayor has the authority to hire and fire the chief of police, the chief of police could not run for city mayor without resigning as chief of police if the incumbent mayor is seeking re-election. (s. [99.012](#)(5), F.S.)
- **What happens if an officer does not comply with the resign-to-run law?**
  - A filing officer performs a ministerial duty in reviewing qualifying documents such that if a candidate files an oath stating that he or she has resigned from office, the filing office cannot look beyond the contents of the oath to determine if it is accurate. (s. [99.061](#)(7)(c), F. S.)
  - It takes a court order to determine if a person did not comply with the resign-to-run law, and to deem the person not qualified as a candidate or be removed from the ballot. (s. [99.012](#)(6), F.S.)

- Notwithstanding the above, an officer who qualifies for **federal** public office who fails to submit a resignation pursuant to the resign-to-run law will result in an automatic irrevocable resignation, effective immediately, from the office he or she presently holds. (s. 99.012(4)(f)1. F.S.) The Department of State is required to notify

the Governor and the appropriate qualifying officer or appointing authority of the automatic resignation. (s. 99.012(4)(f)2., F.S.)

- **How are district officers treated under the resign-to-run law versus the dual office- holding constitutional provision?**

- The Attorney General has opined that district offices are not within the purview of the dual office-holding provisions of the Constitution. However, district offices, by express statutory provision, are subject to the provisions of the resign-to-run law. For example, an elected state or county officer can be appointed also to a district office. However, if the state or county officer later seeks reelection to the state or county office while occupying the district office, he or she would have to submit a resignation under the resign-to-run law from the district office before qualifying and running for reelection if the terms of office overlap, unless the district office consists of being a member on an appointed board or authority and the county or state officer receives no salary for being on the board or authority.

- **How does the resign-to-run law relate to the federal Hatch Act?**

- The state resign-to-run law is entirely separate from the federal Hatch Act. (5 U.S.C. §§ 1501- 1508)
- The federal Hatch Act applies to executive branch state and local employees who are principally employed in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency. The Act prohibits a state, county, or municipal employee from being a candidate for public office in a partisan election if the employee’s salary is completely funded with federal dollars. It is only when the covered employee’s entire salary is paid from federal funds that the employee would have to resign under the Hatch Act before becoming a candidate for partisan office. See 5 U.S.C. § 1502 (Hatch Act Modernization Act of 2012 (eff. 1.27.2013)).
  - Governors, Lieutenant Governors, mayors, elected executive department heads, and elected officers are specifically exempt from the Hatch Act prohibition against being a candidate for public office.
  - A partisan election means one in which any candidate will be listed on the ballot as a party candidate.
- An employee’s conduct is also subject to state and local laws and the regulations of the employing agency. An employee should consult with his or her supervisor, personnel office, or the agency’s general counsel.

- **Who to contact for questions or requests for advisory opinions on Hatch Act or Resign-to-Run law:**

HATCH Act	Resign-to Run Law
Hatch Act Unit U.S. Office of Special Counsel 1730 M Street, N.W., Suite 218 Washington, D.C. 20036-4505 Tel: (800) 85-HATCH; (800) 854-2824;(202) 804-7002; Email: <a href="mailto:hatchact@osc.gov">hatchact@osc.gov</a> Website: <a href="https://osc.gov/Services/Pages/HatchAct-Federal.aspx">https://osc.gov/Services/Pages/HatchAct-Federal.aspx</a>	Office of General Counsel Florida Department of State R.A. Gray Building 500 S. Bronough Street Tallahassee, Florida 32399-0250 Telephone: (850) 245-6536 Email: <a href="mailto:DOS.GeneralCounsel@DOS.MyFlorida.com">DOS.GeneralCounsel@DOS.MyFlorida.com</a>

## Appendix C: CEO 82-72 Financial Disclosure

CEO 82-72 -- September 20, 1982

### FINANCIAL DISCLOSURE

#### DISCLOSURE PERIOD TO BE USED BY A MUNICIPAL CANDIDATE IN FILING FINANCIAL DISCLOSURE

To: *Mr. David M. Carr, Attorney for Tampa City Council*

#### SUMMARY:

A candidate for a 1983 city election who qualifies after January 1, 1983 is required to file Form 1, Part 1, Statement of Financial Interests, as reflecting his financial interests for the tax year ending December 31, 1982, rather than for the tax year ending December 31, 1981. The disclosure period for which a statement of financial interests is to be filed is defined in Section 112.312(8), Florida Statutes, to mean the taxable year immediately preceding the date on which the disclosure statement is required to be filed. As most individuals' taxable year is the calendar year, a candidate's statement of financial interests should be based on the most recently completed calendar year. Similarly, an incumbent who qualifies as a candidate for a 1983 city election after January 1, 1983 should file a new disclosure form reflecting his financial interests for the year ending December 31, 1982, rather than a copy of the disclosure form previously filed for the tax year ending December 31, 1981.

#### QUESTION 1:

Is a candidate for the 1983 City of Tampa election who qualifies after January 1, 1983 required to file Form 1, Part 1, Statement of Financial Interests, as reflecting his financial interests for the tax year ending December 31, 1982 or for the tax year ending December 31, 1981?

The financial disclosure law applicable to elected municipal officials and candidates for elective municipal office, Section 112.3145, Florida Statutes, is based upon the concept of a "disclosure period." That term is defined in Section 112.312(8), Florida Statutes, as follows:

'Disclosure period' means the taxable year for the person or business entity, whether based on a calendar or fiscal year, immediately preceding the date on which, or the last day of the period during which, the financial disclosure statement required by this part is required to be filed.

For the vast majority of individuals, the taxable year will be the calendar year ending on December 31. Section 441, U.S. Internal Revenue Code. Therefore, when a statement of financial interests is filed, the statement should include the most recently completed calendar year.

Accordingly, when a candidate files a statement of financial interests (Form 1, Part 1) as part of his qualifying papers after January 1, 1983, the statement should reflect the candidate's financial interests for the calendar year ending December 31, 1982 -- the most recently completed calendar year.

#### QUESTION 2:

May an incumbent who qualifies as a candidate for the 1983 City of Tampa election after

January 1, 1983 file a copy of the disclosure form previously filed for the tax year ending December 31, 1981, or must the incumbent file a new disclosure form reflecting his financial interests for the year ending December 31, 1982?

In our view, this question is substantially the same as the first question you have posed. Since the "disclosure period" for which the candidate will be filing will be the most recently completed calendar year, a new financial disclosure form reflecting financial interests for the tax year ending December 31, 1982 should be filed with the candidate's qualifying papers.


**Appendix D: Department of State Memo RE: Filing Fee for Community Development District**



*Department of State  
Memorandum*

*Office of the General Counsel*

**TO:** Kristi Bronson  
Chief, Bureau of Election Records

**FROM:**  Gary J. Holland  
Assistant General Counsel

**DATE:** April 22, 2010

**RE:** Filing Fee for Community Development District

You have inquired about the proper disposition of the \$25 filing fee for candidates seeking to be elected to the Board of Supervisors for a Community Development District (CDD).

Section 190.003(6), Florida Statutes (2009), defines Community Development District as "a local unit of special-purpose government which is created pursuant to [chapter 190] and limited to the performance of those specialized functions authorized by [chapter 190]. . . ." Candidates for a CCD board qualify under s. 99.061. § 190.006(3)(c), Fla. Stat. (2009). Thus, a CDD candidate qualifies as a special district candidate by either paying the \$25 election fee or qualify by the petition process. § 99.061(3), Florida Statutes (2009).

Section 189.405(1)(c), Florida Statutes (2009), provides that a special district candidate's \$25 filing fee is to be paid "to the general revenue fund of the qualifying officer to help defray the cost of the election." However, s. 189.405(6), Florida Statutes (2009), expressly states that the provisions of section 189.405 do not apply to CDDs. Chapter 190, Florida Statutes, entitled "Community Development Districts," contains specific differences in the election procedures for a CDD as opposed to other special district elections; therefore, it is understandable why s. 189.405, Florida Statutes does not apply to CDDs. However, chapter 190, Florida Statutes, contains no provision about where the CDD candidate's filing fee is to go. This appears to be an inadvertent omission.

Because the Florida statutes are silent on the issue and in the absence of other specific applicable directives, it is appropriate to apply the general qualifying fee disposition provisions for special districts to CDD candidates. Therefore, the CDD candidate qualifying fee should be treated like that of any other special district candidate, i.e., it is to be paid "to the general revenue fund of the qualifying officer to help defray the cost of the election."