

# Candidate Qualifying



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# IMPORTANT REMINDER

The responsibility of the qualifying officer is ministerial in nature. Such an official merely examines the face of the qualifying papers presented for completeness. The qualifying officer may not determine whether the contents of the qualifying papers are accurate.

- ❑ Section 99.061(7)(c). F.S.
- ❑ Op. Atty Gen. Fla 76-130 (June 10, 1976)
- ❑ State ex rel Shevin v. Stone, 279 So.2d 17 (Fla. 1972)

# **Effect of Ministerial Duty**

**Effect of s. 99.061(7)(c), F.S. on Candidate Oath's designation of name: (Statute amended in 2011.)**

The statute alleviates any obligation on the part of the filing officer to determine the accuracy or validity of a listed nickname on the Candidate Oath form since the statute provides:

**A “filing officer may not determine whether the contents of the qualifying papers are accurate.”**

## Resign-to-Run Law (s. 99.012(3), F.S.): Current officer seeking another public office --

- ❑ If current term will overlap with term of another state, district, county, or municipal public office term being sought, officer must resign IAW law.
- ❑ **NOTE:** Resign-to-run law does not apply if person is running for federal office.

# Resign-to-Run Law (s. 99.012(3)): Cont'd

- ❑ Qualifying officer is not responsible for enforcing the resign-to-run law:
  - ❑ Best practice is to inform your candidates of the law's requirements
  - ❑ Filing officer cannot refuse to qualify a candidate who has not complied.
  - ❑ Filing officer cannot remove a candidate's name from the ballot. Takes court action to remedy.



# Resign-to-Run Law (s. 99.012(3)): Cont'd

## Questions regarding the resign to run?

- ❑ Chapter 2 – SOE Qualifying Handbook
- ❑ Contact the DOE General Counsel's office at 850-245-6536 or email question to [generalcounsel@dos.state.fl.us](mailto:generalcounsel@dos.state.fl.us)
- ❑ Speak with your county attorney

# Qualifying for More Than One Office (s. 99.012(2), F.S.)

- ❑ No person may qualify as a candidate for more than one public office, whether federal, state, district, county, or municipal public if the terms or any part thereof run concurrently with each other.
- ❑ **NOTE:** Does not preclude a candidate from prefilming and campaigning for more than one office at a time (requires separate campaign accounts), but precludes qualifying for more than one if the terms of office would overlap.

# Residency Requirements

## How is residency determined?

- DE Opinions 80-27 and 93-05:
  - **Key element of residency is the intent of the individual.**



## When does the candidate have to meet the residency requirements?

- At the commencement of the term unless otherwise provided by law or judicially. **See DE Reference Guide 0008 (07/2014).**



# Residency Requirements

## Residency of Write-in Candidates:

□ Section 99.0615, F.S., says must exist at the time of qualifying; but, **statute held to be unconstitutional.**



- *Brinkman v. Francois*, No. SC14-1899, (Fla. Feb. 4, 2016).
- Write-in residency requirements no different than normal residency requirements for office being sought by any type of candidate.

# Residency

## Failure to comply with Residency Requirements

- ❑ It takes a court order to remove the person's name from the ballot – a qualifying officer has no independent authority to remove the candidate's name from the ballot.



# Candidate Petition Process

(ss. 99.095 & 105.035, F.S.)



# Candidate Petition Advantage

- ❑ A person seeking to qualify for nomination to any office may qualify to have his or her name placed on the ballot by means of the petition process.
- ❑ **A person qualifying by this method is not required to pay the qualifying fee or party assessment.**
- ❑ Petition process only waives the fees – candidate must still submit other qualifying papers.

# Forms for Petition Process

**Form DS-DE 9**, Appointment of Campaign Treasurer and Designation of Campaign Depository – must first be filed before obtaining signatures on candidate petition.

- ❑ Exception: federal and special district candidates

## **Form DS-DE 104**, Candidate Petition

- ❑ Signatures on petitions that are not on the current form (eff. 09/11) are not valid.
- ❑ Candidates are responsible for reproducing the petition.
- ❑ Forms cannot be altered in text or format.

# Verifying Petitions -- Where Are Petitions Submitted?

- ❑ Submitted for verification to the SOE in the county in which the voter is registered
- ❑ Candidate's responsibility to ensure that petitions are submitted to correct county
- ❑ Rule 1S-2.045 requires Supervisor of Elections to notify candidates of misfiled petitions.

# Deadlines

- ❑ Deadline for SOE certifying petitions to the Division:
  - ❑ NLT 11:59 pm Eastern time on the 7<sup>th</sup> day before the first day of the qualifying period.
  - ❑ Certification is done electronically via the SOE Portal (Guide available in portal)
  - ❑ Certifications entered after the deadline are not accepted.

# Oath of Undue Burden

Reimbursement to SOE for verification of signatures at no charge



- ❑ SOE submits request to DOE by December 1 after the election
- ❑ DOE will forward request to CFO



# Candidate Qualifying



# Time for Submission

- ❑ Section 99.061(8), FS - May accept and hold qualifying papers not earlier than 14 days prior to qualifying period.
- ❑ If done within the 14-day period – the papers are to be processed and filed during the qualifying period.



# Instructional Sign When Entering the Building



# “Individuals” Seeking Political Party Executive Positions

- ❑ The only qualifying document is the Candidate Oath form (DS-DE 24C, 24D, or 24E for Precinct, District, or State Committeemen/women, respectively).
- ❑ Such individuals do not file a DS-DE 9 (Appointment of Campaign Treasurer and Designation of Campaign Depository).
- ❑ If such an individual receives a contribution or makes an expenditure, must file a one-time campaign finance report – due on 4<sup>th</sup> day before Primary Election; a waiver report is not required (s. 106.0702, F.S.)

# Qualifying Documents Required for Candidates (s. 99.061(7), F.S.)

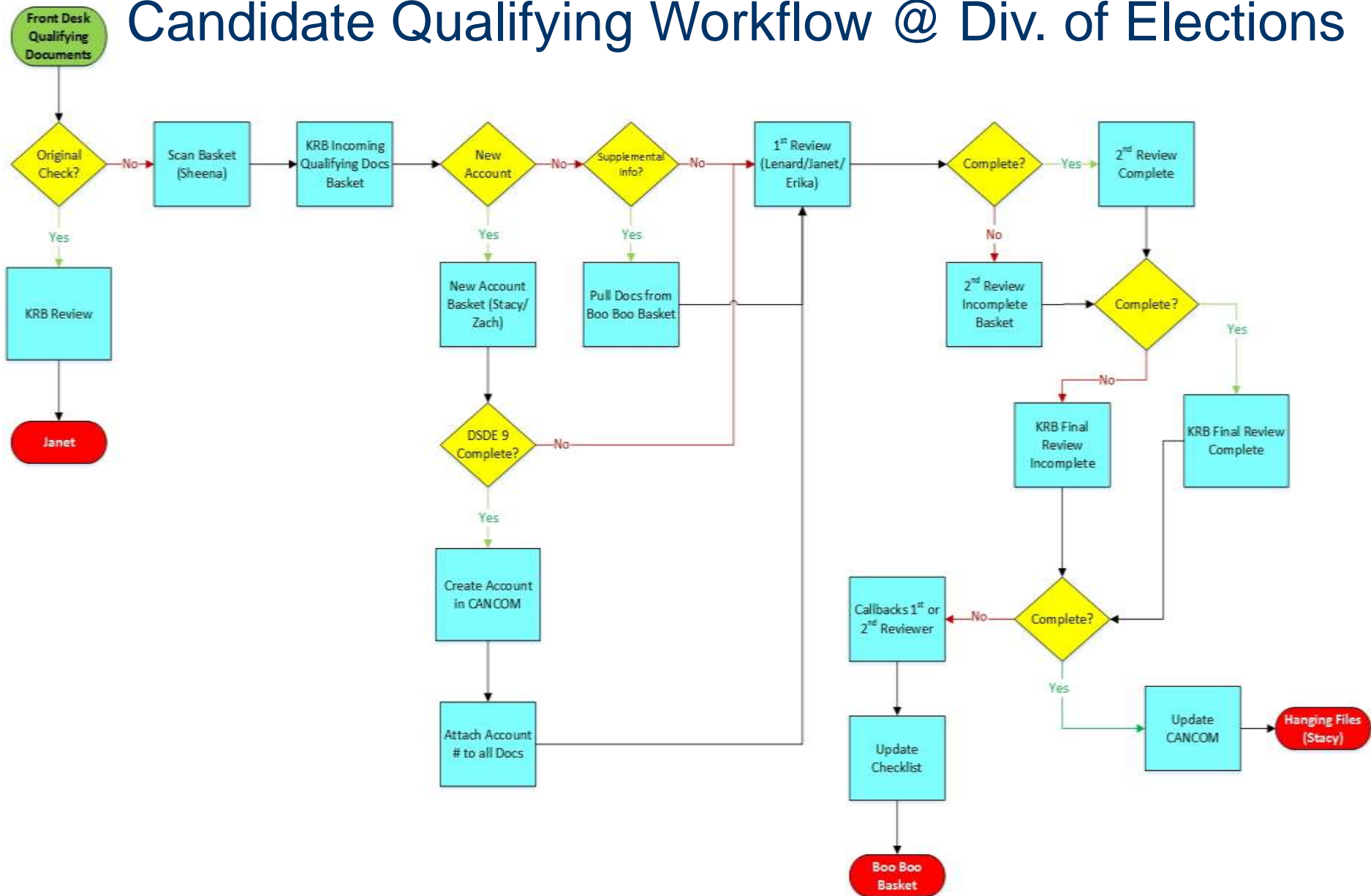
1. DS-DE 9 - Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates
2. Financial Disclosure Form 1 or 6 (Ethics Form)\*
3. Candidate Oath and if partisan candidate, Statement of Party (= 1 form)
4. Fee or alternative:
  - Pay qualifying fee by properly executed campaign check; or
  - Qualify by the petition method (no fee); or
  - Qualify as a write-in candidate (no fee).

Directional  
Sign to  
Qualifying  
Desk





# Candidate Qualifying Workflow @ Div. of Elections





# Candidate Oath – Partisan Candidates

**The 365-day law** (s. 99.021(1)(b)2., F.S.):

A person ***seeking to qualify*** for nomination ***as a candidate of any political party*** cannot have been a registered member of ***another*** political party for 365 days before the beginning of qualifying.

- ✓ Will not apply if person is running as NPA

# Candidate Oath – Partisan Candidates

## **The 365-day law** (s. 99.021(1)(b)2., F.S.):

- Does not apply if person is running as NPA candidate
- Does not apply if office is nonpartisan
- Would not apply if person was NPA and changes to run as a political party candidate *if* the person was not a member of another political party during the 365-day period.

# Candidate Oath – Partisan Candidates

## **The 365-day law** (s. 99.021(1)(b)2., F.S.) – **QUIZ:**

- 1. On Sep 1, 2015, the candidate changed from REP to NPA. 30 days before qualifying on June 20, 2016, she changed from NPA to REP and was seeking to run as REP. Permissible?
- 2. Same facts as above, but instead of NPA to REP, she went from NPA to DEM and was seeking to run as DEM. Permissible?

# Candidate Oath – Partisan Candidates

**The 365-day law** (s. 99.021(1)(b)2., F.S.):

Quiz answers:

- 1. Permissible, as candidate was not a member of “any other” political party.
- 2. **Not permissible**, as DEM candidate was a member of another political party (REP) during the 365-day period

Bonus Quiz: Facts: The person was a registered DEM *in another state*, moved to Florida, and registered as REP all within the 365-day period? Permissible?

# Candidate Oath – Partisan Candidates

**The 365-day law** (s. 99.021(1)(b)2., F.S.):

- Bonus Quiz answer:

- **Not permissible**, as statute does not limit being “a registered member of any other political party” to Florida political parties.

- Final question:

A candidate is a member of a minor political party which was terminated within the 365-day period. Can the candidate now run as a candidate for another major or minor political party? **No – see DE 12-01.**

# Qualifying Fee

The qualifying fee must be:

- Not less than the fee required
- Paid by a properly executed check
- Drawn on the campaign account



# What Is the Required Fee?

- ❑ **Partisan candidate:** 6% of salary
- ❑ **NPA & Non-partisan:** 4% of salary
- ❑ Based on salary “authorized” as of preceding July 1st: 12 x monthly salary (excluding any special qualification pay)

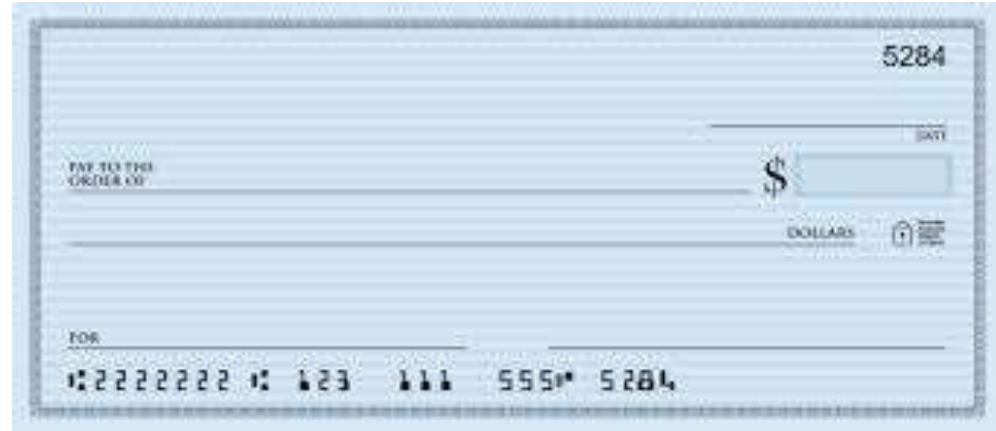


# What Is the “Authorized” Salary?

- Look to “Salaries of Elected County Constitutional Officers and School District Officials” on website of The Florida Legislature’s ***Office of Economic and Demographic Research*** for the authorized salary.
- Authorized salary is as of July 1<sup>st</sup> of the preceding year; therefore, even if the county is on the Oct – Sep fiscal year and even though the new salary will not be paid by the county until its the new fiscal year starts on October 1st, the salary is “authorized” by the state legislature to be paid as of July 1, 2015, if the county so choose to pay it.



# Properly Executed Qualifying Check



- Dated
- Numerical amount
- Written amount
- Signature
- Drawn on campaign account
- Paid to the order of \_\_\_\_\_.

# Signature on Qualifying Check

- ❑ Must be signed by duly appointed treasurer or deputy treasurer
- ❑ Candidate may not sign the check unless he has been appointed as a treasurer or deputy treasurer



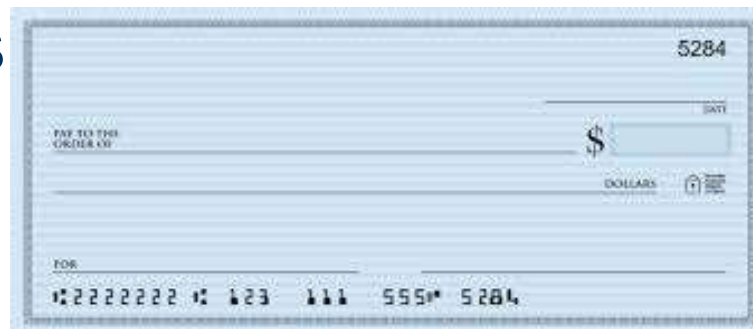
# Drawn on the Campaign Account?

- Cashier checks, *personal* checks and money orders are not acceptable.
- Cashier's checks paid for by funds from the campaign account are not acceptable
- Exception for Special Districts



# Qualifying Check Misc.

- Not dated: Accept (date is date of delivery)
- Starter Checks: Accept if indication exists that it is written on campaign account
- Amount more than qualifying fee: OK
- Amount less: Ask for new check
- Numerical amount and written amounts differ:  
Written amount controls



# Bounced Qualifying Check (s. 99.061(7)(a), F.S.)

- ❑ Immediately notify candidate
- ❑ Candidate has until the end of the qualifying period to pay the fee with a cashier's check purchased with funds of the campaign account
- ❑ Failure to timely provide cashier's check will disqualify candidate
- ❑ **Difference exists for school board and judicial candidates** — given 48 hours after notice to to pay with cashier's check paid from campaign account (s. 105.031(5), F.S.)



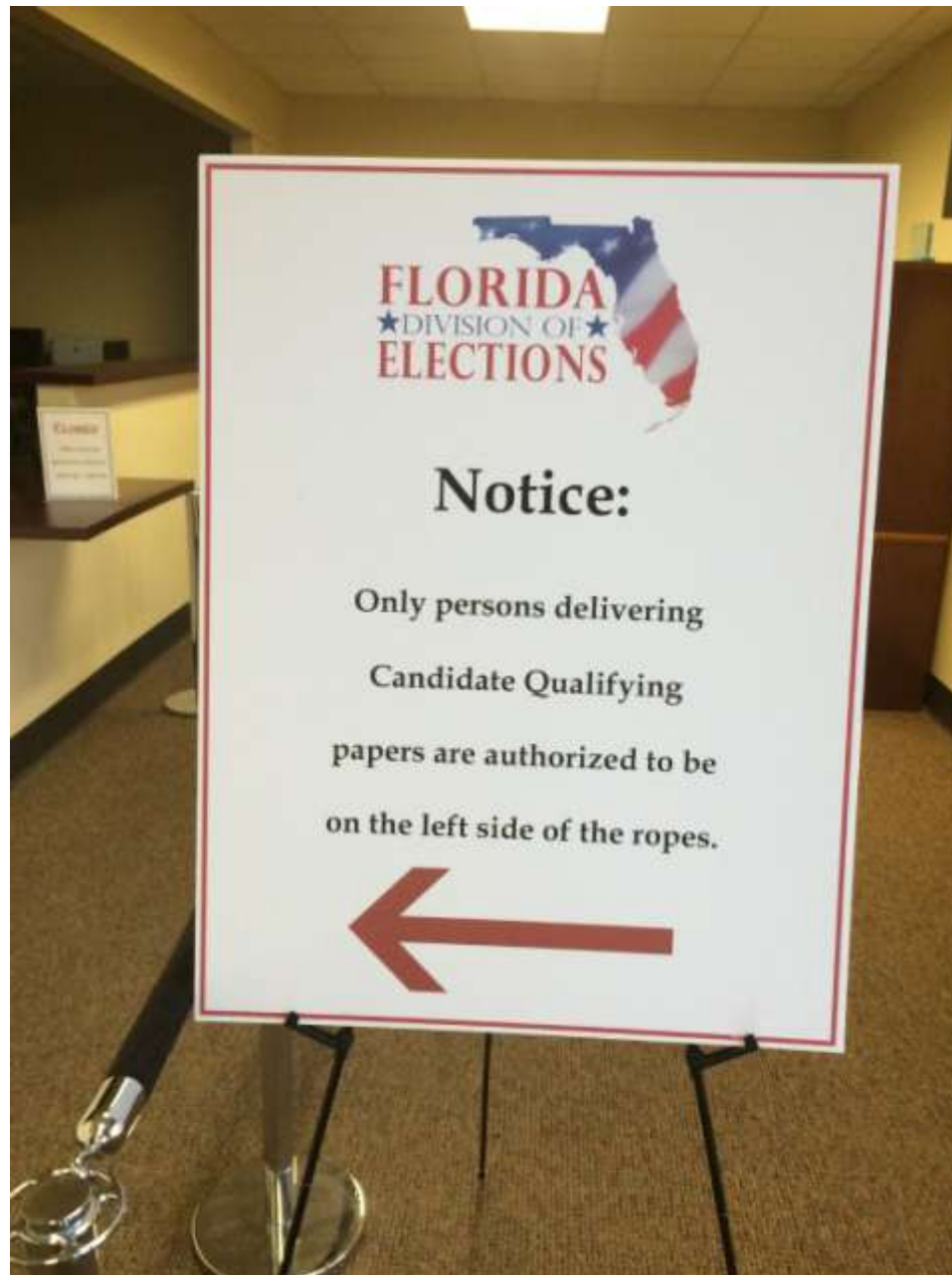
# Error in Qualifying Papers (s. 99.061(7)(b), F.S.)

Qualifying officer must make reasonable effort to notify candidate of mistakes in paperwork ***prior to the last day of qualifying.***

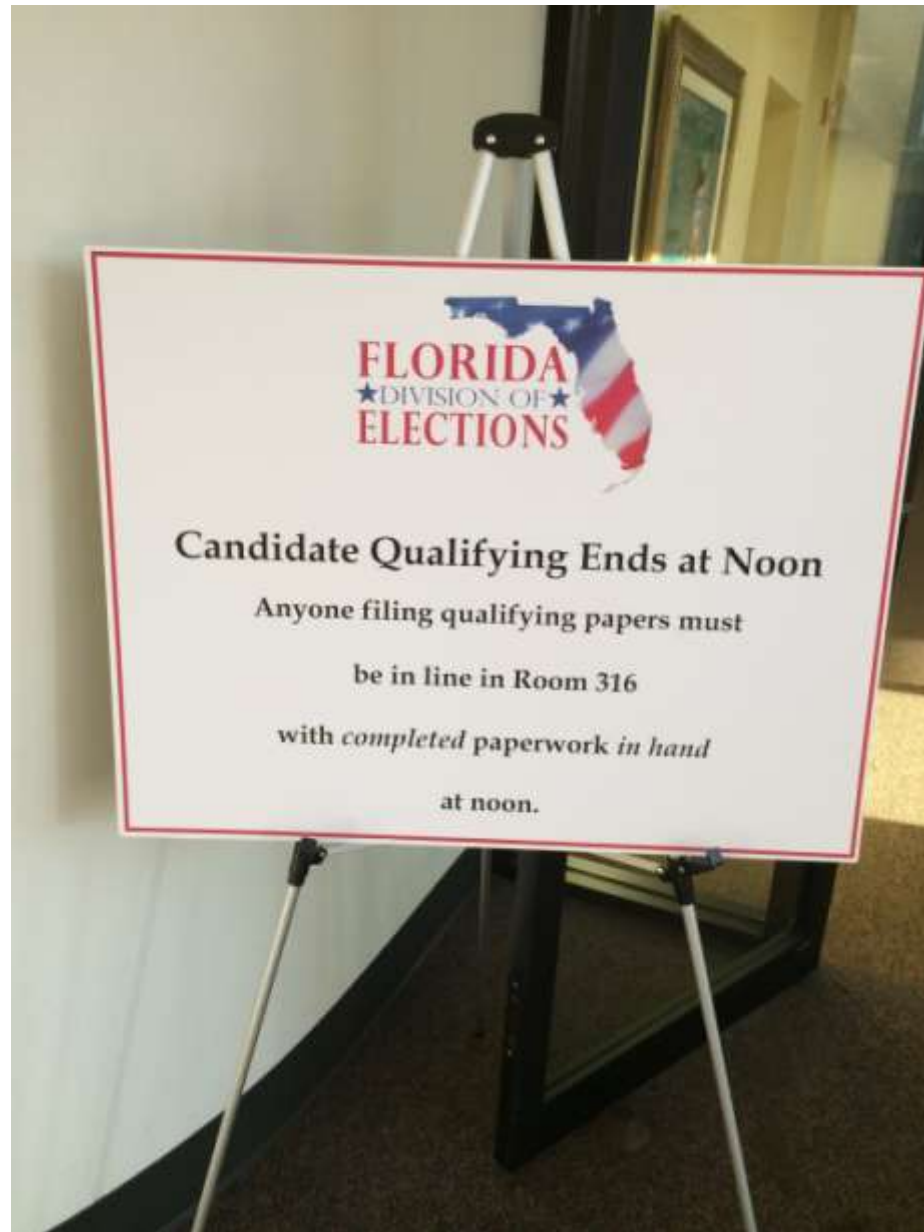
May be helpful to create checklists to aid in determining if paperwork is complete. (See handout)



Sign to help control the masses at the front desk



Sign  
placed on  
last day of  
Qualifying  
Period





# End of Qualifying

- ❑ Anyone in line at 12 noon should be allowed to qualify.
- ❑ No corrections to qualifying papers after the close of qualifying.



# Instructional Sign for finding out if candidate has Qualified



## HOW TO FIND OUT IF A CANDIDATE HAS QUALIFIED:

- Check the Division of Elections website at: [dos.elections.myflorida.com/candidates/](https://dos.elections.myflorida.com/candidates/)
- Click on "view list" for 2016 General Election.
- The listing is updated throughout the day as qualifying paperwork is received and reviewed.
- Final information for all candidates will be available on the afternoon of the last day of qualifying.

# Return of Qualifying Fee



- Candidate Withdraws** - must withdraw in writing prior to the last date to qualify to have fee returned
- Deceased Candidate**
  - If the candidate dies prior to the election, the candidate's beneficiary is entitled to the return of the qualifying fee.
- Candidate Fails to Qualify**
  - Return check with letter indicating that the person did not qualify.

# Qualifying FAQs

- ❑ Do I ever refuse to accept qualifying papers?
  - ❑ No. Always accept the documents. Notify the candidate after qualifying is over why he or she did not qualify.
- ❑ Notary questions
  - ❑ Is an out-of-state notary or oath administered in a foreign country acceptable? Yes
  - ❑ Is a document properly notarized if it contains the notary stamp but not the notary signature ? No.
  - ❑ Is a document properly notarized if it the notary does fails to designate the name of the person who the oath is being executed? No.

# Qualifying FAQs

- ❑ Is there a minimum age to be a candidate?
  - ❑ Yes. Some offices specify a minimum age (e.g., Governor = 30; state legislature = 21). If not specified, the minimum age is 18 because the candidate must be a qualified elector.
  - ❑ The Candidate Oath is prospective in nature, so unless otherwise stated in law, the person can be 17 at qualifying and only need to turn 18 and be a registered voter by the time he or she assumes office, if elected.
- ❑ Is there a deadline for a candidate to withdraw his/her candidacy?
  - ❑ No. However, if it is too late to have the candidate's name removed from the ballot, notices must be placed in vote-by-mail ballot envelopes and in each polling place and booth. See DE Reference Guide 0007 for notice templates.

# Qualifying FAQs

- ❑ Must qualifying documents be executed during the qualifying period or the 14 day pre-qualifying period?
  - ❑ No. The documents are only required to be submitted during that time period.
- ❑ Names on Ballots
  - ❑ Nicknames? – Yes, remember s. 99.061(7)(c), F.S. – you accept what's on the qualifying paperwork.
  - ❑ Descriptive information? – No. A candidate may not use Dr., Reverend, Colonel, *etc.*, unless two persons of the same name or so similar as to cause confusion see the same office.

# Qualifying FAQs

## Names on Ballots (continued)

Can a married woman use her maiden name? –  
**Yes.**

Can misspelled name be corrected after qualifying? – **No. See section 99.061(7)(b), F.S.**

May a candidate use just a first or just a last name? – **No. A name consists of one Christian or given name and one surname. See Opinion DE 86-06.**

# Clerk of the Circuit Court

- ❑ What is the proper ballot title for the Clerk of the Circuit Court?
  - ❑ Except as noted below, the title should be: “Clerk of the Circuit Court and Comptroller.”
  - ❑ For counties where the county charter or a special law has separated the duties of Comptroller from the Clerk, the office title on the ballot should read: “Clerk of the Circuit Court.” (Eight counties have separated the duties - Broward, Clay, DeSoto, Duval, Miami-Dade, Orange, Osceola, and Volusia counties.)



# Notifying DOE of Qualified Candidates (s. 99.092, F.S.)

- ❑ Immediately after the last day of qualifying, the SOE must submit a list of candidates containing names, party affiliations, and addresses\*.
  - ❑ Done via the SOE Portal based upon Notice of General Election (Guide available in portal).
  - ❑ Municipal candidates and persons running for a political party committee are **NOT** reported to DOE.
  - ❑ System is locked 10 days after the close of second qualifying period (i.e., the one in June).

# Notifying DOE of Candidate List Changes

- ❑ After system is locked, all changes must be reported to DOE
  - ❑ Candidate withdraws or dies prior to election
  - ❑ Corrections – name, office, address, etc.
  - ❑ Additions or deletions
  - ❑ Contact Kristi Bronson by email
    - ❑ [Kristi.Bronson@DOS.MyFlorida.com](mailto:Kristi.Bronson@DOS.MyFlorida.com)
- ❑ After primary and general, system is updated based upon official results. Manual updating is no longer required.



# Distribution of Qualifying Fees

## ❑ **County Judge and School Board Candidates**

- ❑ 4% qualifying fees (1% election assessment and 3% filing fee) - forwarded to Florida Election Commission (FEC)

## ❑ **Partisan Candidates**

- ❑ 1% election assessment - forward to FEC
- ❑ 5% (3% filing fee and 2% party assessment) – forward to the state executive committee of the political party of the candidate (the state executive committee will remit the 2% for county candidates to the county executive committee upon compliance with s. 103.121(5), F.S.)

## ❑ **NPA Candidates**

- ❑ 1% election assessment - forward to FEC
- ❑ 3% filing fee – deposit in county general revenue fund

## ❑ **Special District Candidates**

- ❑ \$25 filing fee - deposited in the general revenue fund of the county

# Qualifying Questions



Contact Division of Elections  
Bureau of Elections Records  
Phone: 850-245-6280

