

## Chapter 16

# CANDIDATE NOMINATION: DELEGATE TO THE U.S. HOUSE OF REPRESENTATIVES, MAYOR, CHAIRMAN AND MEMBERS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA, ATTORNEY GENERAL, U.S. SENATOR, U.S. REPRESENTATIVE, MEMBERS OF THE STATE BOARD OF EDUCATION, AND ADVISORY NEIGHBORHOOD COMMISSIONER

## 1600 GENERAL PROVISIONS

1600.1 This chapter governs the process by which candidates seek nomination to the offices of Delegate to the U.S. House of Representatives, Mayor, Chairman and Members of the Council of the District of Columbia, Attorney General, U.S. Senator, U.S. Representative, Members of the State Board of Education, and Advisory Neighborhood Commissioner.

1600.2 For purposes of this chapter, unless otherwise provided, the following terms shall be defined as follows:

- (a) The term “authorized political party” means a political party that was organized prior to and continuously from the passage of the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code §§ 1-1001.01 *et seq.*), or whose name has been approved by the Board pursuant to the rules of this chapter;
- (b) The term “major party” means an authorized political party which is qualified to hold a party primary for partisan offices pursuant to D.C. Official Code § 1-1001.08(h)(2);
- (c) The term “minor party” means an authorized political party which is not qualified to hold a party primary for partisan offices pursuant to D.C. Official Code § 1-1001.08(h)(2);
- (d) The term “District partisan office” means the offices of Delegate to the U.S. House of Representatives, Mayor, Chairman and Members of the Council of the District of Columbia, Attorney General, U.S. Senator, and U.S. Representative;
- (e) The term “direct nomination” (“nominated directly”) means seeking nomination during an election other than a primary pursuant to D.C. Official Code § 1-1001.08(j)(1);
- (f) The term “qualified petition circulator” means an individual who is:
  - (i) At least 18 years of age; and

(ii) Either a resident of the District of Columbia, or a resident of another jurisdiction who has registered as a petition circulator with the Board in accordance with this chapter.

(g) The term “independent” refers to an individual who is not affiliated with any authorized political party.

1600.3 Each candidate for District partisan office shall seek nomination as a candidate who is either:

(a) Registered with a major party;

(b) Registered with a minor party; or

(c) Registered as an independent.

1600.4 Any person who seeks nomination as a candidate for District partisan office and who is registered with a major party shall be required to seek nomination during such political party’s primary election. No person who is registered with a major party shall be nominated directly as a candidate for District partisan office in any general election.

1600.5 No person shall be nominated directly for District partisan office in a general election if such person’s name was printed upon a ballot of any immediately preceding primary election for that office.

1600.6 Notwithstanding Subsections 1600.4 and 1600.5, a major party may nominate an individual to fill a vacancy in the position of candidate and be placed on the ballot as that party’s candidate for a District partisan office in a general election pursuant to D.C. Official Code §§ 1-1001.10(b)(1) and (d)(1). The individual the major party nominates may appear on the general election ballot provided that:

(a) He or she meets the qualifications for holding the office sought; and

(b) The party submits the individual’s name to the Board on or before the fifty-fourth (54<sup>th</sup>) day before the general election.

1600.7 Each candidate seeking nomination of any authorized political party shall be registered with such party.

1600.8 No person who is registered with any authorized political party shall be permitted to seek direct nomination as an independent candidate.

(February 7, 1997); as amended by Final Rulemaking published at 60 DCR 5582 (April 12, 2013); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014); as amended by Final Rulemaking published at 62 DCR 14744 (November 13, 2015).

## **1601 APPROVAL OF POLITICAL PARTY NAMES**

- 1601.1 Application for approval of a political party name shall be made on a form prescribed by the Board.
- 1601.2 The application for approval of a political party name shall include the name, address, telephone number, and voter registration number of the chairperson, treasurer, other principal officers, and each member of the duly authorized local committee of such party in the District.
- 1601.3 The Board may reject any name that, in the judgment of the Board, tends to confuse or mislead the public.
- 1601.4 No nominating petition shall be issued to a person seeking nomination as a candidate affiliated with a political party unless the name of such political party has been previously approved by a majority vote of the Board.

SOURCE: Final Rulemaking published at 27 DCR 2763 (June 27, 1980), incorporating the text of Proposed Rulemaking published at 27 DCR 1929, 1947-48 (May 9, 1980); as amended by Final Rulemaking published at 36 DCR 8364, 8365-66 (December 15, 1989); as amended by Final Rulemaking published at 43 DCR 1078, 1109 (March 1, 1996); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014).

## **1602 PETITION FORM**

1602.1 A nominating petition form shall be separately prepared and issued by the Executive Director or their designee for each candidate seeking nomination to the office of Delegate, Mayor, Chairman and Members of the Council of the District of Columbia, Attorney General, U.S. Senator, U.S. Representative, Member of the State Board of Education, and Advisory Neighborhood Commissioner.

1602.2 The petition shall contain the following information:

- (a) The name and address of the candidate, registration number, and office to which the candidate seeks nomination;
- (b) In the case of a District partisan office, either the candidate's political party, or "independent";
- (c) If the candidate is running from a ward or single-member district, a statement that all signatories shall be registered and be residents of the ward or single-member district from which the candidate seeks nomination;
- (d) If the candidate is seeking nomination of a major party, a statement indicating that signers of the petition shall be of the same political party as the candidate;
- (e) If the candidate is seeking direct access nomination, a statement indicating that any registered voter, regardless of party affiliation, may sign the petition; and
- (f) A circulator's affidavit, providing space for the circulator of a nominating petition to record their name and address. By signing the affidavit, the circulator swears under oath or affirms that they:
  - (1) Are a qualified petition circulator;
  - (2) Personally circulated the petition sheet;
  - (3) Personally witnessed the signing of each signature on the petition sheet; and
  - (4) Inquired whether each signer is a registered voter in the District of Columbia, and where applicable, that the signer is a registered voter in the same political party and/or ward or single-member district as the candidate seeking nomination.

1602.3 A candidate shall be permitted to choose a paper and/or electronic nominating petition form. Unless specified, the laws and rules concerning the circulation of

petitions, including, but not limited to, the qualifications of circulators, the validity of signatures, and challenges to petitions, shall apply regardless of the format of the petition.

1602.4 No nominating petition form, whether in paper or electronic format, shall be issued to any person other than the candidate unless the Board receives written notice from the candidate which authorizes the Board to release petitions in their name. The authorization shall include the following:

- (a) Candidate's name;
- (b) Office which the candidate seeks and political party, if the office sought is partisan; and
- (c) Candidate's signature.

1602.5 Each circulator circulating an electronic petition shall register their device in-person at the Board's office. The circulator shall provide a unique and valid email address for account registration and device authentication. No circulator shall have a registered account for electronic petition circulation unless their device has been authenticated.

SOURCE: Final Rulemaking published at 36 DCR 8364, 8366 (December 15, 1989); as amended by Final Rulemaking published at 44 DCR 689 (February 7, 1997); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014); as amended by Final Rulemaking published at 65 DCR 5644 (May 18, 2018); as amended by Final Rulemaking published at 69 DCR 001132 (February 11, 2022).

## **1603 SIGNATURE REQUIREMENTS**

- 1603.1 To obtain primary election ballot access, a candidate for the office of Delegate, Mayor, Attorney General, Chairman of the Council, At-Large Member of the Council, U.S. Senator or U.S. Representative shall submit a nominating petition that contains, at a minimum, the lesser of:
- (a) Two thousand (2,000) valid signatures of registered qualified electors who are registered in the same political party as the candidate; or
  - (b) The valid signatures of one percent (1%) of registered qualified electors of the District who are registered in the same political party as the candidate as shown by the records of the Board as of the 144<sup>th</sup> day before the date of the primary election.
- 1603.2 To obtain primary election ballot access, a candidate for the office of Member of the Council elected from a ward shall submit a nominating petition that contains, at a minimum, the lesser of:
- (a) Two hundred fifty (250) valid signatures of registered qualified electors who are registered in the same political party and ward as the candidate; or
  - (b) The valid signatures of one percent (1%) of registered qualified electors of the District who are registered in the same political party and ward as the candidate as shown by the records of the Board as of the 144<sup>th</sup> day before the date of the primary election.
- 1603.3 To obtain general or special election (Direct Access Nomination) ballot access, a candidate for the office of Delegate, Mayor, Attorney General, Chairman of the Council, At-Large Member of the Council, U.S. Senator, or U.S. Representative shall submit a nominating petition that contains, at a minimum, the lesser of:
- (a) Three thousand (3,000) valid signatures of registered qualified electors in the District; or
  - (b) The valid signatures of one and one-half per cent (1.5%) of registered qualified electors of the District as shown by the records of the Board as of the 144<sup>th</sup> day before the date of the election.
- 1603.4 To obtain general or special election (Direct Access Nomination) ballot access, a candidate for the office of Member of the Council from a ward shall submit a nominating petition that contains the valid signatures of at least five hundred (500) registered qualified electors who are registered in the same ward as the candidate.

- 1603.5 To obtain ballot access, a candidate for the office of Member of the State Board of Education elected at-large shall submit a nominating petition that contains the valid signatures of at least one thousand (1,000) registered qualified electors.
- 1603.6 To obtain ballot access, a candidate for the office of Member of the State Board of Education elected from a ward shall submit a nominating petition that contains the valid signatures of at least two hundred (200) registered qualified electors who are registered in the same ward as the candidate.
- 1603.7 To obtain ballot access, a candidate for the office of Advisory Neighborhood Commissioner shall submit a nominating petition that contains the valid signatures of at least twenty-five (25) registered qualified electors who are registered in the same single-member district as the candidate.
- 1603.8 [REPEALED].
- 1603.9 Notwithstanding the signature requirements specified in subsections 1603.3 through 1603.7 of this section, to obtain ballot access for the November 3, 2020 General Election:
- (a) A candidate for the office of Delegate, At-Large Member of the Council, U.S. Senator, or U.S. Representative shall submit a nominating petition that contains the valid signatures of at least two hundred fifty (250) registered qualified electors in the District;
  - (b) A candidate for the office of Member of the Council elected by ward shall submit a nominating petition that contains the valid signatures of at least one hundred fifty (150) registered qualified electors who are registered in the same ward as the candidate;
  - (c) A candidate for the office of Member of the State Board of Education elected at-large shall submit a nominating petition that contains the valid signatures of at least one hundred fifty (150) registered qualified electors in the District;
  - (d) A candidate for the office of Member of the State Board of Education elected from a ward shall submit a nominating petition that contains the valid signatures of at least fifty (50) registered qualified electors who are registered in the same ward as the candidate; and
  - (e) A candidate for the office of Advisory Neighborhood Commissioner shall submit a nominating petition that contains the valid signatures of at least ten (10) registered qualified electors who are registered in the same single-member district from which the candidate seeks election.

SOURCE: Final Rulemaking published at 27 DCR 2763 (June 27, 1980), incorporating the text of Proposed Rulemaking published at 27 DCR 1929, 1948 (May 9, 1980); as amended by Final Rulemaking published at 35 DCR 2006, 2020-21 (March 11, 1988); as amended by Final Rulemaking published at 36 DCR 8364, 8366 (December 15, 1989); as amended by Final Rulemaking published at 44 DCR 689 (February 7, 1997); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014); as amended by Final Rulemaking published at 61 DCR 7021 (July 11, 2014); as amended by the Ballot Access Modernization Amendment Act of 2016, effective October 8, 2016 (D.C. Law 21-0160; 63 DCR 10775 (August 26, 2016)); as amended by Final Rulemaking published at 67 DCR 10944 (September 11, 2020).

## **1604 NON-RESIDENT CIRCULATORS**

1604.1 Each petition circulator who is not a resident of the District of Columbia shall, prior to circulating a petition, complete and file in-person at the Board's office a Non-Resident Petition Circulator Registration Form in which he or she:

- (a) Provides the name of (and office sought by) the candidate in support of which he or she will circulate the petition;
- (b) Provides his or her name, residential address, telephone number, and email address;
- (c) Swears under oath or affirms that he or she is at least eighteen (18) years of age;
- (d) Acknowledges that he or she has received from the Board information regarding the rules and regulations governing the applicable petition circulation process, and that he or she will adhere to such rules and regulations; and
- (e) Consents to submit to the Board's subpoena power and to the jurisdiction of the Superior Court of the District of Columbia for the enforcement of Board subpoenas.

1604.2 Each non-resident petition circulator shall present proof of residence to the Board at the time he or she files the Non-Resident Petition Circulator Registration Form. Valid proof of residence is any official document showing the circulator's name and residence address. Acceptable forms of proof of residence include:

- (a) A copy of a current and valid government-issued photo identification;
- (b) A copy of a current (the issue, bill, or statement date is no earlier than ninety (90) days before the beginning of the petition circulation period) utility bill, bank statement, government check, or paycheck;
- (c) A copy of a government-issued document; or
- (d) A copy of any other official document, including leases or residential rental agreements, occupancy statements from homeless shelters, or tuition or housing bills from colleges or universities.

SOURCE: Final Rulemaking published at 36 DCR 8364, 8366 (December 15, 1989); as amended by Final Rulemaking published at 60 DCR 5582 (April 12, 2013); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014); as amended by Final Rulemaking published at 62 DCR 14744 (November 13, 2015).

## **1605 FILING PETITIONS**

- 1605.1 Before the nominating petition is filed:
- (a) Any petition pages circulated in an electronic format shall be printed at the Board's office and signed by the individual circulator who collected the signatures; and
  - (b) All sheets which comprise the petition shall be assembled and serially numbered.
- 1605.2 The nominating petition and supporting affidavits, as well as the candidate's Declaration of Candidacy as required pursuant to Chapter 6 of this title, shall be filed in-person at the Board's office no later than 5:00 p.m. on the 90th day preceding the election ("petition filing deadline"). Any candidate may file petition supplements prior to the petition-filing deadline, provided that the supplements are accompanied by an affidavit executed by the person filing them. All petitions and supplements shall be received by the Executive Director or his or her designee if filed on or before the petition-filing deadline.
- 1605.3 Within three (3) business days following the petition-filing deadline, the Executive Director or his or her designee shall issue a preliminary determination of petition sufficiency. In order to be determined sufficient, a petition nominating a candidate shall:
- (a) Contain the minimum statutory number of signatures required to obtain ballot access for the office sought;
  - (b) Be accompanied by an affidavit executed by the person filing the petition, attesting that to the best of his or her knowledge, the petition is complete and contains the legally required number of valid signatures; and
  - (c) Be on a form issued by the Executive Director or his or her designee in accordance with the rules of this chapter.
- 1605.4 In determining whether the minimum statutory number of signatures is contained in the nominating petition, the Executive Director or his or her designee shall not count any signatures submitted on petition pages that fail to include a completed circulator's affidavit or any signatures of registered voters who submitted a written notarized request to disallow the voter's signature from being counted on the petition; provided, that the request shall be received prior to the time the petition is filed.
- 1605.5 Notice of the Executive Director's preliminary determination of petition sufficiency shall be served immediately by email or first-class mail upon each candidate.

- 1605.6 In the event that it is determined that a candidate's nominating petition is insufficient, the candidate's nominating petition shall nevertheless be posted for the challenge period specified in D.C. Official Code § 1-1001.08 (o) (2011 Repl.), along with the Executive Director's preliminary determination.
- 1605.7 Within three (3) days of issuing a notice of an adverse determination, a candidate aggrieved by the decision may file a written notice of appeal with the Board, duly signed by the candidate and specifying concisely the grounds for appeal.
- 1605.8 The Board shall hold a hearing on the appeal within three (3) days after receipt of the appeal notice.
- 1605.9 The hearing shall be conducted in accordance with the procedures provided in the District of Columbia Administrative Procedure Act, (D.C. Official Code §§ 2-501 *et seq.* (2011 Repl.)), and may be heard by a one-member panel (D.C. Official Code § 1-1001.05 (g) (2011 Repl.)).
- 1605.10 Any appeal from a decision of a one-member panel to the full Board shall be taken in the manner prescribed by D.C. Official Code § 1-1001.05 (g) (2011 Repl.); however, in no case shall the time allowed for the appeal exceed fourteen (14) calendar days from the date of decision of the one-member panel.

SOURCE: Final Rulemaking published at 36 DCR 8364, 8366 (December 15, 1989); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014); as amended by Emergency and Proposed Rulemaking published at 65 DCR 2736 (March 16, 2018)(Expires July 5, 2018); as amended by Final Rulemaking published at 65 DCR 5644 (May 18, 2018).

## **1606 PETITION CHALLENGES**

- 1606.1 The Executive Director or his or her designee shall post nominating petitions, or facsimiles thereof, in the Board's office for public inspection and opportunity for challenge for ten (10) days, including Saturdays, Sundays, and holidays, beginning on the third (3rd) calendar day after the petition-filing deadline required by law.
- 1606.2 Except as provided in this section, the Board shall adjudicate the validity of each properly filed challenge in accordance with the procedures prescribed in chapter 4 of this title. A challenge is properly filed if it:
- (a) Cites the alleged signature or circulator requirement defects, as set forth in the signature validity rules of this chapter, by line and page;
  - (b) Is signed and submitted in-person at the Board's office by a qualified elector within the ten (10)-day posting period; and
  - (c) Alleges the minimum number of signature defects which, if valid, would render the prospective candidate ineligible for ballot access.
- 1606.3 Within three (3) working days of receipt of a properly filed challenge, the General Counsel or his or her designee shall serve a copy of the challenge upon the candidate in-person, by first-class mail, or email.
- 1606.4 After the receipt of a properly filed challenge, the Board's staff shall search the Board's registration records to prepare a recommendation to the Board as to the validity of the challenge. The scope of the search shall be limited to matters raised in the challenge. In the event Board staff discovers a fatal defect either on the face of a petition or pursuant to a record search concerning a specific allegation or challenge, the Board may, on its own motion, declare any signature(s) invalid, notwithstanding the defect was not alleged or challenged; alternatively, the Board, in its discretion, may waive any formal error.
- 1606.5 The Board shall receive evidence in support of and in opposition to the challenge and shall rule on the validity of the challenge no more than twenty (20) days after the challenge has been filed. The Board shall consider any other evidence as may be submitted, including but not limited to, documentary evidence, affidavits, and oral testimony.
- 1606.6 The Board, in view of the fact that it shall hear and determine the validity of the challenge within a limited time, may limit examination and cross-examination of witnesses to the following:
- (a) Objections and specifications of such objections, if any, to the nominating petition; and

- (b) Objections and specifications of such objections, if any, to the petition challenge.

- 1606.7 Based upon the evidence received, the Board shall either reject or uphold the challenge, and accordingly grant or deny ballot access to the candidate whose petition was challenged.
- 1606.8 If a one (1)-member Board panel makes a determination on the validity of a challenge, either the challenger or any person named in the challenged petition as a nominee may apply to either the full Board or the District of Columbia Court of Appeals for a review of such determination within three (3) days after the announcement of the one (1)-member panel determination; provided that any appeal to the full Board must be made in time to permit the Board to resolve the matter by no later than twenty (20) days after the challenge has been filed. An appeal from a full Board determination to the Court of Appeals shall be made within three (3) days.
- 1606.9 If at the expiration of the challenge period referred to in this section, no challenge has been filed with respect to a nominating petition, the Executive Director, or his or her designee, shall certify the candidate, and the candidate's name shall be printed on the ballot.

SOURCE: Final Rulemaking published at 27 DCR 2763 (June 27, 1980), incorporating the text of Proposed Rulemaking published at 27 DCR 1929, 1949-50 (May 9, 1980); as amended by Final Rulemaking published at 36 DCR 8364, 8366 (December 15, 1989); as amended by Final Rulemaking published at 48 DCR 11722 (December 28, 2001); as amended by Final Rulemaking published at 49 DCR 2737 (March 22, 2002); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014).

## 1607

## VALIDITY OF SIGNATURES

### 1607.1

Once a nominating petition has been challenged pursuant to this chapter, a signature shall not be counted as valid in any of the following circumstances:

- (a) The signer's voter registration was designated as inactive on the voter roll at the time the petition was signed;
- (b) The signer, according to the Board's records, is not registered to vote at the address listed on the petition at the time the petition was signed; provided that an address on a petition which is different than the address which appears on the Board's records shall be deemed valid if the signer's current address is within boundary from which the candidate seeks nomination, and the signer files a change of address form with the Board during the first 10 days following the date on which a challenge to the nominating petition is filed.
- (c) The signature is a duplicate of a valid signature;
- (d) The signature is not dated;
- (e) The petition does not include the address of the signer;
- (f) The petition does not include the name of the signer where the signature is not sufficiently legible for identification;
- (g) The circulator of the petition sheet was not a qualified petition circulator at the time the petition was signed;
- (h) The circulator of the petition failed to complete all required information in the circulator's affidavit;
- (i) The signature is not made by the person whose signature it purports to be, provided that registered voters who are unable to sign their names may make their marks in the space for signature. These marks shall not be counted as valid signatures unless the persons witnessing the marks shall attach to the petition affidavits that they explained the contents of the petitions to the signatories and witnessed their marks;
- (j) Reserved;
- (k) Reserved;
- (l) Reserved;

- (m) The signer is not a registered voter in the ward or Single-Member District from which the candidate seeks nomination at the time the petition was signed; or
- (n) On a petition to nominate a candidate in a primary election, the signer is not registered to vote in the same party as the candidate at the time the petition is signed.

SOURCE: Final Rulemaking published at 36 DCR 8364, 8368 (December 15, 1989); as amended by Final Rulemaking published at 39 DCR 2467, 2511 (April 10, 1992); as amended by Final Rulemaking published at 43 DCR 1078, 1109 (March 1, 1996); as amended by Final Rulemaking published at 48 DCR 11725 (December 28, 2001); as amended by Final Rulemaking published at 49 DCR 2740 (March 22, 2002); as amended by Final Rulemaking published at 51 DCR 5072 (May 14, 2004); as amended by Final Rulemaking published at 51 DCR 7434 (July 30, 2004); as amended by Final Rulemaking published at 60 DCR 5582 (April 12, 2013); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014).

## **1608 WRITE-IN NOMINATION**

1608.1 Write-in nominations for any of the offices described in this chapter shall be permitted for any election. Affirmation of the write-in nominee's candidacy shall proceed in accordance with the provisions of Chapter 6 of this title.

SOURCE: Final Rulemaking published at 27 DCR 2763 (June 27, 1980), incorporating the text of Proposed Rulemaking published at 27 DCR 1929, 1950-51 (May 9, 1980); as amended by Final Rulemaking published at 29 DCR 2581-82 (June 18, 1982); as amended by Final Rulemaking published at 36 DCR 8364, 8368 (December 15, 1989); as amended by Final Rulemaking published at 61 DCR 625 (January 24, 2014).