

## QUALIFYING FOR PUBLIC OFFICE

1. **How can candidates qualify for public office?**  
**O.C.G.A. §§ 21-2-130; 21-2-132; 21-2-133; 21-2-153; 21-2-172**
  - 1) Nomination in political party primary
  - 2) Nomination petition by independent candidate or political body
  - 3) Statewide office by political body convention
  - 4) File Notice of Candidacy for nonpartisan office
  - 5) Write-in
  - 6) Substitute nominations by political party or body
  - 7) File Notice of Candidacy for special election
  - 8) In the case of a presidential elector, nomination by party rules
  
2. **Who sets qualifying fees? O.C.G.A § 21-2-131(a)**
  - 1) State Offices – Secretary of State
  - 2) County offices – County governing authority
  - 3) Municipal offices – Municipal governing authority
  
3. **When are qualifying fees fixed and published? O.C.G.A. § 21-2-131(a)**

Not later than February 1 of election year
  
4. **What is the qualifying fee? O.C.G.A. § 21-2-131(a)**
  1. Except as provided in O.C.G.A. § 21-2-131(B), such fee shall be 3 percent of the total gross salary of the office paid in the preceding calendar year including all supplements authorized by law if a salaried office.
  2. For the offices of Clerk of the Superior Court, Judge of the Probate Court, Sheriff, Tax Commissioner, and Magistrate, the qualifying fee shall be 3 percent of the minimum salary specified in subsection (a) of Code Section 15-6-88, paragraph (1) of subsection (a) of Code Section 15-9-63, subsection (a) of Code Section 15-10-23, paragraph (1) of subsection (a) of Code Section 15-16-20, and paragraph (1) of subsection (b) of Code Section 48-5-183, exclusive of supplements, cost-of-living increases, and longevity increases.
  3. For the office of members of the county governing authority, the qualifying fee shall be 3 percent of the base salary established by local Act of the General Assembly or by Code Section 36-5-25 as adjusted pursuant to Code Section 36-5-24, if applicable, exclusive of compensation supplements for training provided for in Code Section 36-5-27 and cost- of-living adjustments

pursuant to Code Section 36-5-28.

4. If not a salaried office, a reasonable fee shall be set by governing authority of such county or municipality, such fee not to exceed three percent (3%) of income derived from such office by the person holding office for the preceding year or more than \$35 for a municipal office.
5. **Who is paid the qualifying fees? O.C.G.A. § 21-2-131(b)**
  - 1) Primary election candidates – fees paid to county/state political party
  - 2) All others paid to either Secretary of State, county election superintendent or municipal superintendent.
6. **How are qualifying fees prorated? O.C.G.A. § 21-2-131(c)**
  1. Fees paid to county political party
    - A. 50% to county political party
    - B. 50% to county election superintendent to be transmitted along with the certified list of candidates no later than 12 noon on the third day after the deadline for qualifying in the case of a general primary and by 12 noon of the day following the closing of qualifications in the case of a special primary. The county election superintendent transmits to the county governing authority as soon as practical.
    - C. When there is no county executive committee, 75% to county and 25% to State Executive Committee.
  2. Fees paid to state political party:
    - A. 75 % to state political party
    - B. 25% to Secretary of State
      - 1) 1/3 to state treasury
      - 2) 2/3 divided among governing authorities of counties in candidate's district in proportion to population of each such county in last U. S. decennial census. These fees are transmitted to the local governing authorities as soon as practicable by the Secretary of State.
  3. Fees paid by political body candidates:
    - a. 50% transmitted to appropriate county political body and 50% retained by county election superintendent for county candidates to be transmitted to county governing authority as soon as practicable
    - b. 75% transmitted to appropriate state political body and 25% retained by the Secretary of State for Federal and State candidates
      - i. 1/3 to state treasury
      - ii. 2/3 divided among governing authority of counties in candidates district in proportion to population of each such county in last U. S. decennial census. These fees are transmitted as soon as

practicable to the local governing authorities by the Secretary of State.

4. Fees paid by independent or nonpartisan candidates:
  - A. 100% to county election superintendent for county candidates to be transmitted to county governing authority as soon as practicable.
  - B. 100% to Secretary of State for federal and state candidates
    - 1) 1/3 to state treasury
    - 2) 2/3 divided among governing authority of counties in candidate's district in proportion to population of each such county in last U.S. decennial census. These fees are transmitted as soon as practicable to the local governing authorities by the Secretary of State.
  
7. **When is qualifying held for the general primary? O.C.G.A. 21-2-153**

Qualifying shall commence no earlier than 9:00 am on the Monday of the eleventh week immediately prior to the state or county primary and shall cease qualifying at 12:00 noon on the Friday immediately following such Monday, notwithstanding the fact that any such days may be legal holidays. All qualifying for federal and state offices shall be conducted in the state capitol.
  
8. **When is qualifying held for nonpartisan candidates? O.C.G.A. 21-2-132**

Qualifying shall commence no earlier than 9:00 am on the Monday of the eleventh week immediately prior to the state or county primary and shall cease qualifying at 12:00 noon on the Friday immediately following such Monday, notwithstanding the fact that any such days may be legal holidays.
  
9. **When is qualifying held for independent and political body candidates? O.C.G.A. 21-2-132**

There are two qualifying periods for independent and political body candidates to qualify for the general election. The first is during the period beginning at 9 a.m. on the Monday of the thirty-fifth week immediately prior to the election and ending at 12:00 noon on the Friday immediately following such Monday. The second is beginning at 9:00a.m. on the fourth Monday in June and no later than noon on the Friday following the fourth Monday in June, notwithstanding any such days may be legal holidays.
  
10. **When is qualifying held for municipal candidates? O.C.G.A. 21-2-132(d)**
  1. General Election
    - A. No earlier than 8:30 am. on the last Monday in August immediately preceding the general election and shall end no later than 4:30 p.m. on the

- following Friday
2. Special Election
    - A. No earlier than the date of the call and end no later than 25 days prior to the election

NOTE: The municipal election superintendent shall designate the days of the qualifying period which shall be no less than three days and no more than five days. The days of the qualifying period shall be consecutive days. The hours of qualifying shall be from 8:30 a.m. until 4:30 p.m. with one hour allowed for the lunch break; provided, however, that municipalities who have normal business hours which cover a lesser period of time.

11. **How does the candidate's name appear on the ballot? O.C.G.A. 21-2-132(f)(1) SEB Rule 183-1-11-.02**

Each candidate required to file a notice of candidacy shall accompany his or her notice of candidacy with an affidavit stating his or her full name and the name as the candidate desires it to be listed on the ballot. The surname of the candidate shall be the surname of the candidate as it appears on the candidate's voter registration card. After such name is submitted to the Secretary of State or the election superintendent, the form of such name shall not be changed during the election for which such notice of candidacy is submitted.

12. **What is the time frame for an independent or political body candidate to file a nomination petition? O.C.G.A. §§ 21-2-132; 21-2-170**

There are two qualifying periods for independent and political body candidates to qualify for the general election. The first is during the period beginning at 9 a.m. on the Monday of the thirty-fifth week immediately prior to the election and ending at 12:00 noon on the Friday immediately following such Monday. The second is beginning at 9:00a.m. on the fourth Monday in June and no later than noon on the Friday following the fourth Monday in June, notwithstanding any such days may be legal holidays.

13. **What is the last day for a political body to hold a convention to nominate statewide candidates for the general election ballot? OCGA §21-2-172(e)**

At least 150 days prior to the date on which the general election is conducted.

14. **When can a pauper's affidavit be filed in lieu of the qualifying fee? O.C.G.A. § 21-2-132(g)**

A candidate may file a pauper's affidavit instead of paying a qualifying fee because of poverty or inability to pay the required qualifying fee and files during the

regular qualifying period.

15. **Is a qualifying petition required to be filed along with a pauper's affidavit?**

**O.C.G.A. § 21-2-132(h)**

Yes. A qualifying petition must be completed:

- 1) Statewide office - 1/4 of 1% of active voters registered at last election to fill office
- 2) 1% of active voters registered at last election for all other offices

16. **Who provides the pauper's affidavit forms and qualifying petition forms?**

**O.C.G.A. § 21-2-132(h)**

The Secretary of State provides the forms. Distribution to federal and state candidates is by the Secretary of State. Distribution to county candidates is by the county election superintendent. Distribution to municipal candidates is by municipal election superintendent.

17. **What is contained in a pauper's affidavit? O.C.G.A. § 21-2-132(h)**

- 1) Financial statement
- 2) Oath that candidate has neither assets nor income to pay qualifying fee
- 3) Warning re felony for false information
- 4) Miscellaneous residence, office information
- 5) Signature

18. **How do you qualify as a write-in candidate? O.C.G.A. § 12-2-133**

- 1) Notice of intent of candidacy must be given no earlier than January 1 and no later than the Tuesday after the first Monday in September prior to the general election for county, state, and federal elections; no later than seven days after the close of the municipal qualifying period for municipal election in the case of a general election; and for a special election, notice of intent of candidacy must be given not later than seven days after the close of the special election qualifying period.

Notice of intent of candidacy will be filed with:

- a) State candidates to Secretary of State
  - b) County candidates to county election superintendent
  - c) Municipal candidates to municipal election superintendent
- 2) Write-in candidate must also file with appropriate official not later than the 5th day after deadline for filing notice an affidavit stating that the notice has been published. The affidavit must contain the name of the newspaper and the date of the publication.

The affidavit must be made by either:

- a) Write-in candidate
- b) Publisher of newspaper
- c) Employee of newspaper designated by publisher

19. **Which elections cannot have write-in candidates? O.C.G.A. § 21-2-133(c)**

- 1) Special or general primaries
- 2) Special or general primary runoff
- 3) Special or general election runoffs

20. **Can a candidate be a write-in candidate in a general election if he was a candidate for that office in the preceding primary? O.C.G.A. § 21-2-133(d)**

No.

21. **When must the Secretary of State certify to affected county election superintendents names of all possible persons who have filed notice of intention to be write-in candidates? O.C.G.A. § 21-2-133(e)**

Within five days following the deadline for the submission by write-in candidates of the notice and documentation required to be a write-in candidate.

22. **What happens if a candidate (either political party, political body, or independent) to appear on the general election ballot withdraws from the election by filing the required affidavit (to county or municipal election superintendent or Secretary of State)? O.C.G.A. § 21-2-B4(a)**

- I. Qualifying fee shall not be returned to candidate. Note: If the candidate dies, withdraws or is disqualified prior to the close of the qualifying period, the qualifying fee shall be returned.
- 2. If ballots have been printed, they may be reprinted to omit the withdrawn candidate's name.
- 3. All votes cast for the withdrawn candidate shall be void and not counted.
- 4. Prominent notices shall be posted in all polling places in which the name of the withdrawn candidate appears on the ballot stating that the candidate has withdrawn and that all votes cast for such withdrawn candidate shall be void and not counted.
- 5. No vacancy on the ballot for a general election or for a nonpartisan election shall be filled except by reason of the death or disqualification of a candidate.

23. **What occurs on the death or disqualification of a candidate before the general election who was nominated at a primary? O.C.G.A. § 21-2-134**

Any vacancy in any party nomination filled by a primary created by reason of the death or disqualification of a candidate occurring after nomination, but before the general may be filled in the following manner:

- 1) Statewide office vacancy occurring at least 10 days prior to general -  
The vacancy may be filled by a substitute nomination made at a special party convention.  
Statewide office vacancy occurring in the 10 days preceding the general -  
The vacancy may be filled by a substitute nomination made by state executive committee.
- 2) State office other than statewide for which a candidate qualified with the state political party executive committee:
  - 1) Nomination may remain vacant; or
  - 2) May be filled at the decision of the state executive committee of the party.
- 3) County office for which a candidate qualified with the county executive committee, O.C.G.A. § 21-2-134(b)(1)(C):
  - 1) Nomination may remain vacant; or
  - 2) May be filled at the decision of the state executive committee of the party.

24. **What occurs if a vacancy is created after the primary by the withdrawal of a candidate 60 or more days prior to the election? O.C.G.A. § 21-2-134(b)(2)**

- 1) The vacancy may be filled by the person seeking nomination in such primary who received the second highest number of votes cast in the primary for that office, provided that the person received not less than 40% of the votes cast for that office; or
- 2) In the event no person received 40% of the votes cast:
  - 1) Statewide office vacancy may be filled by a substitute nomination made at a special party convention or filled by a substitute nomination made by the state executive committee.
  - 2) State office other than statewide office may remain vacant or may be filled at the decision of the state executive committee of the party;
  - 3) County officers - nomination may remain vacant or may be filled at the decision of the state executive committee of the party.

25. **What occurs if a vacancy is created after the primary by the withdrawal of a candidate less than 60 days prior to the date of the election? O.C.G.A. § 21-2-134(b)(3)**

- I. The vacancy shall not be filled.
- II. The qualifying fee shall not be returned to the candidate.
- III. If ballots have been printed, they may be reprinted to omit the withdrawn candidate's name.
- IV. All votes cast for the withdrawn candidate shall be void and not counted.
- V. Prominent notices shall be posted in all polling places in which the name of the withdrawn candidate appears on the ballot stating that the candidate has withdrawn and that all votes cast for such withdrawn candidate shall be void and not counted.

**26. What happens if the withdrawal, death or disqualification of a candidate after nomination for any public office would at the time of such event result in there being no candidate for that office on the ballot in the general election? O.C.G.A. § 21-2-134(d)**

Vacancy will be filled by a special primary which shall be open only to the party of such deceased, withdrawn, or disqualified candidate. Special primary election would be held per OCGA 21-2-540.

**26. What is required for a substitute nomination? O.C.G.A. §21-2-134(f)**

It shall be the duty of the chairperson and secretary of the convention or committee making the nomination to file with the Secretary of State or with the county election superintendent a nomination certificate which shall be signed by such chairperson and secretary. Every such certificate of nomination shall be sworn to by the chairperson and secretary before an officer qualified to administer oaths.

**27. Is there a restriction on the number of offices for which an individual may be nominated or be a candidate at any one election? O.C.G.A. 21-2-136**

Yes. No person shall be nominated, nor shall any person be a candidate in a primary or election for more than one of the following public offices to be filled at any one election: Governor, Lt. Governor, Secretary of State, Attorney General, State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, Commissioner of Labor, United States senator or representative in Congress, Public Service Commissioner, Justice of the Supreme Court, Judge of the Court of Appeals, judge of the probate court, clerk of the superior court, tax commissioner, tax collector, sheriff, judge of the superior court, district attorney, county treasurer, county school superintendent, tax receiver, and member of the Senate and House of Representatives of the General Assembly.



28. **Can a candidate qualify with two political parties for the same primary? OCGA 21-2-137**

No. No person shall qualify with any political party as a candidate for nomination to any public office when such person has qualified for the same office with another political party as a candidate for nomination by that party for any public office; nor shall a state, county, or municipal executive committee of any political party certify any person as the candidate of that party when such person has previously qualified as a candidate for nomination for any public office of the same primary with another political party.

29. **Can a candidate qualify both as an independent or political body candidate as well as a political party candidate? O.C.G.A. § 21-2-137**

No. No person shall qualify with any political party as a candidate for nomination to any public office when such person has qualified for the same primary with another political party as a candidate for nomination by that party for any public office; nor shall a state, county, or municipal executive committee of any political party certify any person as the candidate of that party when such person has previously qualified as a candidate for nomination for any public office for the same primary with another political party. No person shall file a notice of candidacy as an independent or political body candidate for any public office when such person has qualified for the same office to be filled at the same election with any political party; nor shall any person qualify with any political party when such person has filed a notice of candidacy as an independent or political body candidate for the same office to be filled at the same election.

30. **When are municipal candidates on the ballot? O.C.G.A. § 21-2-9**

All general municipal elections to fill municipal offices shall be held on the Tuesday next following the first Monday in November in each odd-numbered year.

31. **Can the General Assembly by Local Act provide for nonpartisan elections to fill county judicial offices, local school board offices, and offices of consolidated government? O.C.G.A. § 21-2-139(a)**

Yes.

32. **Is drug testing required under O.C.G.A. § 21-2-140?**

No. This provision has been repealed effective January 1, 1999.

33. **How does a state and county political party candidate qualify for office O.C.G.A. § 21-2-153**

- 1) By paying a qualifying fee, or
- 2) Submitting a pauper's affidavit and qualifying petition.

34. **How can a candidate's name appear on the ballot? O.C.G.A. § 21-2-153(e)**

The name as the candidate desires it to be listed on the ballot. The surname of the candidate shall be the surname of the candidate as it appears on the candidate's voter registration card. After such name is certified by the political party to the Secretary of State or the election superintendent, the form of such name shall not be changed during the primary and election for which such affidavit is submitted.

35. **How do Presidential Electors qualify? O.C.G.A. § 21-2-153(f)**

Candidates for the office of presidential elector or their agents who have been nominated in accordance with the rules of a political party shall qualify beginning at 9:00 A.M. on the fourth Monday in April in the year in which a presidential election shall be held and cease qualifying at 12:00 noon on the Friday following the fourth Monday in April, notwithstanding the fact that any such days may be legal holidays; provided, however, that for the presidential elections held in the even-numbered year immediately following the official release of the United States decennial census data to the states for the purpose of redistricting of the legislatures and the United States House of Representatives, candidates for the office of presidential elector who have been nominated in accordance with the rules of a political party shall commence qualifying beginning at 9:00 A.M. on the third Wednesday in June immediately prior to such election and shall cease qualifying at 12:00 noon on the Friday following the third Wednesday in June, notwithstanding the fact that any such days may be legal holidays, and shall qualify in person by their agents with the respective political party in the state capitol under rules and regulations as the Secretary of State may promulgate.

36. **How are federal, state, and county political party candidates certified? O.C.G.A. 21-2-153**

At or before 12 noon on the third day after the deadline for qualifying, the county executive committee of each political party shall certify to the superintendent and the state executive committee of each political party shall certify to the Secretary of State, on forms prescribed and furnished by the Secretary of State, all those candidates who have qualified with such committee for the succeeding primary election. Such certification shall be accompanied by the appropriate amount of the qualifying fees paid by such candidates. Such certification shall be accompanied by the appropriate amount of the qualifying fees paid by such candidates as prescribed in paragraph (1) or (2) of subsection (c) of Code Section 21-2-131 and a copy of the declaration of candidacy and affidavit of each such candidate. Such certification shall not be accepted if the political party has not registered with the Secretary of State as required in Article 3 of this chapter.

When the election superintendent qualifies candidates on behalf of a political party pursuant to subsection (c) of Code Section 21-2-153, the election superintendent shall certify at or before 12:00 Noon on the third day after the deadline for qualifying, on forms provided by the Secretary of State, all those candidates of such political party who qualified with the election superintendent. Any candidate whose name does not appear on the list of candidates posted by a county executive committee or the state executive committee pursuant to subsection (d) of Code Section 21-2-153 shall not be certified under this Code section; provided, however, that the name of a candidate who has properly qualified whose name has been left off of the list of candidates through inadvertence or clerical error may be placed upon such list upon the filing of an affidavit by the county executive committee or the state executive committee, as appropriate, attesting to such inadvertence or error. The county executive committee of each political party shall attach to its certification a copy of the affidavits required by paragraph (2) of subsection (b) of Code Section 15-6-50, paragraph (2) of subsection (a) of Code Section 15-9-2, subparagraph (c)(2)(A) of Code Section 15-16-1, paragraph (2) of subsection (b) of Code Section 45-16-1, and paragraph (2) of subsection (b) of Code Section 45-5-210.

37. **Who pays for the primary election? O.C.G.A. 21-2-156**  
Other than forms furnished by the Secretary of State, the expenses of a primary are paid by each county.
38. **How many signatures are required on a nomination petition for independent and political body candidates to appear on the general ballot? OCGA 21-2-170(b)**  
1) Statewide office - signed by a number of voters equal to 1% of the total number of active registered voters eligible to vote in last election for filling of the particular office sought.  
2) Any other office - 5% of the total number of active registered voters eligible to vote in last election for filling of the particular office sought.
39. **Can a candidate for municipal office qualify by petition? O.C.G.A. 21-2-170(h)**  
Candidates for municipal offices may be nominated by petitions only if the municipality authorizes such nominations by petitions in its charter or by ordinance.
40. **When can the nomination petitions be circulated? O.C.G.A. § 21-2-170(e)**  
No nomination petition shall be circulated prior to 180 days before the last day on which such petition may be filed, and no signature shall be counted unless it was signed within 180 days of the last day for filing the same.

41. **Who reviews the petition for compliance with O.C.G.A. § 21-2-170(e)?**  
**O.C.G.A. § 21-2-171(a)**
- 1) Federal and state offices - Secretary of State (working with county registrars on verification of signatures)
  - 2) County offices – County election superintendent
  - 3) Municipal offices, if allowed under O.C.G.A. § 21-2-170(e) – Municipal election superintendent (working with county registrars on verification of signatures)
42. **When are petitions examined? Is there a specific time frame?**  
**O.C.G.A. § 21-2-171(b)**
- There is no specific time frame, but the code requires that the filing officer, upon the filing of a nomination petition, shall begin expeditiously to determine if the petition complies with the law. Therefore, the process should begin immediately. Once the superintendent determines the number of valid signatures required, the work can begin to verify sufficient signatures. If, at any point, the remaining signatures on the petition would not meet the number required for approving the petition, the process would stop and the petition would be denied. Remember that all persons signed the petition were registered voters (either in active or inactive status) must be given credit for signing the petition.
43. **Is there a recourse for denied petitions? O.C.G.A. § 21-2-171(c)**
- Yes. The decision of the officer denying the nomination petition may be reviewed by the superior court of the county containing the office of such officer upon an application for a writ of mandamus to compel the granting of such petition. From any decision of the superior court, an appeal may be taken within 5 days after the entry thereof to the Supreme Court.
44. **How do political body candidates qualify for statewide office on the general ballot? O.C.G.A. § 21-2-180**
- 1) The political body files with the Secretary of State a petition signed by voters equal to 1% of the registered voters who were registered and eligible to vote in the preceding general election; or
  - 2) At the preceding general election, the political body nominated a candidate for statewide office and such candidate received a number of votes equal to 1% of the total number of registered voters who were registered and eligible to vote in such general election.

**NOTE:** The Libertarian Party is the only political body qualified to have

statewide candidates on the 2014 ballot without petitions.

45. **When is the last day to file a petition to qualify a political body?**  
**O.C.G.A. § 21-2-185**  
No later than 12 noon on the second Tuesday in July.
  
46. **What are the rules regarding residence for persons qualifying to run for office? O.C.G.A. § 21-2-217**  
The rules provided in O.C.G.A. § 21-2-217 refer to persons desiring to register to vote or to qualify to run for office.