



# **How to Run for Judicial Office: A Campaign Manual for Pennsylvania Candidates**

*The Committee of Seventy  
Eight Penn Center, Suite 1002  
Philadelphia, Pennsylvania 19103  
215-557-3600 (phone); 215-557-3608 (fax)  
[www.seventy.org](http://www.seventy.org)*

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# CHAPTER 1 - OVERVIEW OF THE PENNSYLVANIA COURT SYSTEM

## THE JUDICIARY

The judicial power of the Commonwealth of Pennsylvania is vested in a unified judicial system.<sup>1</sup> With the exception of the Philadelphia Traffic Court, all the courts discussed herein are courts of record.<sup>2</sup> Unless otherwise prescribed by general rule or rule of court, each court is in session as often as its judges deem necessary or proper, there being no fixed terms of court. Though a judge will determine the term of court,, courts are always open for the transaction of judicial business, and the judges possess the same powers away from the bench--to issue injunctions, grant stays and enter orders--as they possess while the courts are in session. Stated another way, whether or not a court is in session in no way affects the power of a court to issue rulings.<sup>3</sup>

Commonwealth Judges and Supreme Court Justices must be citizens of the Commonwealth of Pennsylvania. Judges, with the exception of judges of the Traffic Court of Philadelphia, must be members of the bar of the Supreme Court (*i.e.*, attorneys licensed to practice law in Pennsylvania).<sup>4</sup> Judges of statewide courts must reside within Pennsylvania for a period of one year preceding their election or appointment and continue to reside in Pennsylvania throughout their term of office.<sup>5</sup> Other judges must reside within their respective districts, except in the case of any temporary assignments, for a period of one year preceding their election or appointment and throughout their term of office.<sup>6</sup> Judges must retire upon reaching seventy years of age.<sup>7</sup> Judges must devote full time to their judicial duties, and may not engage in the practice of law, hold office in a political party or political organization, or hold an office or position of profit in the government of the United States, Commonwealth of Pennsylvania or any municipal corporation or political subdivision thereof, except in the armed service of the United States or Commonwealth of Pennsylvania.<sup>8</sup> Judges are elected in municipal election years (*e.g.*, 2003, 2005, 2007, etc.) and commence their terms of office in January of the year following their election (*e.g.*, January 2004 for the 2003 election), except when special elections are required.<sup>9</sup>

The Justice with the longest continuous service on the Pennsylvania Supreme Court serves as The Chief Justice.<sup>10</sup> For all other courts with seven or fewer judges, the President Judge is the judge longest in continuous service on his or her respective court. In the event of a resignation from office, the judge next longest in continuous service becomes the Chief Justice or the President Judge.<sup>11</sup> If two or more judges of the same court assume office at the same time, they must cast lots for priority of commission and certify the results to the Governor who issues their commissions accordingly.<sup>12</sup> The President Judges of all courts with eight or more judges are selected for five-year terms by the members of their respective courts. In the event of a tie vote, the Supreme Court appoints one of the judges receiving the highest number of votes as President Judge.<sup>13</sup> Notwithstanding the foregoing, the Governor appoints the President Judge of the Traffic Court of Philadelphia to a five-year term or to sit at the Governor's pleasure.<sup>14</sup> The Chief Justice and President Judges are the executive and administrative heads of their respective courts; they supervise the judicial business of the courts, promulgate all administrative rules and regulations, make all judicial assignments, and assign and reassign among the personnel of the

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<sup>1</sup> PA. CONST. art. 5, § 1.

<sup>2</sup> 42 Pa.C.S. § 321, 1321.

<sup>3</sup> 42 Pa.C.S. § 324.

<sup>4</sup> 42 Pa.C.S. § 3101

<sup>5</sup> 42 Pa.C.S. § 3101

<sup>6</sup> PA. CONST. art. 5, § 12(a).

<sup>7</sup> PA. CONST. art. 5, § 16(b).

<sup>8</sup> PA. CONST. art. 5, § 17(a).

<sup>9</sup> PA. CONST. art. 5, § 13(a).

<sup>10</sup> PA. CONST. art. 5 § 10(d).

<sup>11</sup> 42 Pa.C.S. § 325 (a).

<sup>12</sup> Pa. Const. Art. 5 § 10(e).

<sup>13</sup> 42 Pa.C.S. § 325(b).

<sup>14</sup> 42 Pa.C.S. § 325(c).

courts available chambers and other physical facilities.<sup>15</sup> The Chief Justice or a President Judge may resign his position and still serve as a member of the court.<sup>16</sup>

## **THE MINOR JUDICIARY**

### **Traffic Court**

The Traffic Court of Philadelphia consists of seven judges.<sup>17</sup> The regular term of office is six years.<sup>18</sup> The Traffic Court has jurisdiction of all prosecutions for summary offenses arising under the Vehicle Code.<sup>19</sup> Judges of the Traffic Court must be members of the bar of the Supreme Court or must have completed a course of training and instruction in the duties of their office and pass an examination prior to assuming office.<sup>20</sup> The Minor Judiciary Education Board prescribes and approves the subject matter and the examination for the course of training and instruction. The Administrative Office, subject to the direction of the board, administers the course and conducts the examination. The Administrative Office conducts the course and examination at such times, at such places and in such manner as the board may prescribe. The board must make the course of instruction available at such times so as to insure that any traffic judge elected or appointed can qualify to assume office as soon as possible.<sup>21</sup> The course does not exceed four weeks in duration and consists of a minimum of forty hours of class instruction in summary proceedings and laws relating to motor vehicles.<sup>22</sup> Upon successful completion of the course and examination, the Administrative Office issues to a person elected or appointed as a traffic judge a certificate in the form prescribed by the board, certifying that such person is qualified to perform his duties. Such certificate must be filed in the office of the clerk of the court of common pleas of the judicial district embracing the district to be served by the traffic judge.<sup>23</sup> In the event that any traffic judge fails to file the certificate in the aforementioned manner within nine months after his or her election or appointment, the office will become vacant.<sup>24</sup> The course of the training and instruction is provided at the expense of Pennsylvania.<sup>25</sup>

### **Municipal Court**

In Philadelphia, the Municipal Court consists of twenty-five judges.<sup>26</sup> The regular term of office is six years.<sup>27</sup> The regular sessions of the Court are held at such locations within Philadelphia as may be approved by the President Judge in compliance with general rules.<sup>28</sup>

*The Court has jurisdiction over the following matters:*

1. summary offenses, except those within the jurisdiction of Philadelphia Traffic Court;
2. criminal offenses by any person (other than a juvenile) for which no prison term may be imposed or which are punishable by imprisonment for a term of not more than five years, including indictable offenses under the Vehicle Code (in these matters, the defendant has no right of trial by jury in the Municipal Court, but will have the right of appeal for trial de novo, including the right of trial by jury, to the Court of Common Pleas;
3. matters arising under the Landlord and Tenant Act of 1951;
4. civil actions, except actions by or against a Commonwealth party, where the sum demanded does not exceed Five thousand dollars (\$5,000), exclusive of interest and costs, in the following classes of

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<sup>15</sup> 42 Pa.C.S. § 325(e).

<sup>16</sup> 42 Pa.C.S. § 325(d).

<sup>17</sup> 42 Pa.C.S. § 1321.

<sup>18</sup> PA. CONST. art. 5, § 15(a).

<sup>19</sup> 42 Pa.C.S. § 1302.

<sup>20</sup> PA. CONST. art. 5, § 12(b).

<sup>21</sup> 42 Pa.C.S. § 3113(a).

<sup>22</sup> 42 Pa.C.S. § 3113(b).

<sup>23</sup> 42 Pa.C.S. § 3115.

<sup>24</sup> 42 Pa.C.S. § 3116.

<sup>25</sup> 42 Pa.C.S. § 3117.

<sup>26</sup> 42 Pa.C.S. § 1121.

<sup>27</sup> PA. CONST. art. 5, § 15(a).

<sup>28</sup> 42 Pa.C.S. § 1122.

actions--in assumpsit, in trespass (including all forms of trespass and trespass on the case), and for fines and penalties by any government agency (a plaintiff may waive a portion of his claim of more than or more than Five thousand dollars (\$5,000) so as to bring the matter within the monetary jurisdiction of the Municipal Court, but such a waiver will be revoked automatically if the defendant appeals the final order of the Municipal Court) (in these matters, the defendant has no right of trial by jury in the Municipal Court, but will have the right to appeal for trial de novo, including the right of trial by jury, to the court of common pleas, it being the purpose here to establish an expeditious small claims procedure where it will not be necessary for the litigants to obtain counsel; judgments by confession are not entered in the Municipal Court);

5. as commissioners to preside at arraignments, fix and accept bail, issue warrants and perform duties of a similar nature, including the jurisdiction of a committing magistrate in all criminal proceedings; in addition, the court, through the President judge and a majority of the judges of the court, will have the power to appoint for four-year terms, six bail commissioners (the method of selection and appointment and removal of bail commissioners and establishing standards of conduct and the rights, responsibilities and authority of the bail commissioners and the procedures for appealing from their decisions will be provided by local rules adopted by the Municipal Court);

6. civil actions where the sum demanded does not exceed Fifteen thousand dollars (\$15,000) in matters involving judgments of real estate taxes and school taxes levied by Philadelphia.<sup>29</sup>

There is a right to appeal to the Court of Common Pleas of Philadelphia any contempt citation issued by a Municipal Court judge, but the appeal is limited to a review of the record.<sup>30</sup>

## **CITY OF PHILADELPHIA JUDICIAL OFFICE**

### ***Court of Common Pleas***

There is one Court of Common Pleas for each judicial district. The City and County of Philadelphia is designated as the First Judicial District.<sup>31</sup> The Court of Common Pleas of Philadelphia consists of ninety-three judges.<sup>32</sup> The regular term of office is ten years.<sup>33</sup> The Court of Common Pleas of Philadelphia consists of three divisions: the Trial division, the Orphans' Court division and the Family Court division.<sup>34</sup> The divisions of the court are administrative units composed of those judges of the court responsible for the transaction of specified classes of the business of the court. In Philadelphia, each division of the court is vested with full jurisdiction of the whole court, but the business of the court may be allocated among the divisions of the court by or pursuant to general rules.<sup>35</sup> Each division is presided over by an administrative judge who assists the President judge of the court in supervising and administering the business of the court and who is responsible to the President judge.<sup>36</sup>

The Court of Common Pleas has unlimited original jurisdiction except as otherwise provided by law.<sup>37</sup> Each Court of Common Pleas has exclusive jurisdiction of appeals from final orders of the minor judiciary established within the judicial district.<sup>38</sup> These courts also have jurisdiction of appeals from final orders of those Commonwealth agencies that handle birth records, certain Vehicle Codes, non statewide elections, occupational diseases, certain Liquor Codes, inheritance and estate taxes, local Public Employee Relations Acts and certain Health Care Service Malpractice Act matters.<sup>39</sup> They also have jurisdiction of

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<sup>29</sup> 42 Pa.C.S. § 1123(a).

<sup>30</sup> 42 Pa.C.S. § 1123(A.1).

<sup>31</sup> 42 Pa.C.S. § 901(a).

<sup>32</sup> 42 Pa.C.S. § 911.

<sup>33</sup> PA. CONST. art. 5, § 15(a).

<sup>34</sup> 42 Pa.C.S. § 951(a).

<sup>35</sup> 42 Pa.C.S. § 952.

<sup>36</sup> 42 Pa.C.S. § 953.

<sup>37</sup> 42 Pa.C.S. § 931.

<sup>38</sup> 42 Pa.C.S. § 932.

<sup>39</sup> 42 Pa.C.S. § 933(a)(1).

appeals from final orders of local administrative agencies.<sup>40</sup> The judges of the Courts of Common Pleas, within their respective judicial districts, have the power to issue writs of certiorari to the minor judiciary.<sup>41</sup>

## **STATE JUDICIAL OFFICES – THE APPELLATE COURTS**

### **(1) Commonwealth Court**

The Commonwealth Court is a statewide court consisting of nine judges.<sup>56</sup> The regular term of office is ten years.<sup>57</sup> Whenever two or more judges of the Commonwealth Court are to be elected for a regular term at the same election, each qualified elector votes for no more than one-half the number of judges to be elected, rounding up if the total number of judges to be elected is an odd number. For example, if four judges are up for election, an elector may vote for up to and including two of the judges; if five judges are up for election, an elector may vote for up to and including three judges.<sup>58</sup> The regular sessions of the Commonwealth Court are held in Harrisburg, Philadelphia and Pittsburgh. Within the limits of available appropriations, special sessions of the Court may be held for the convenience of parties or witnesses in judicial districts of Pennsylvania.<sup>59</sup>

The Commonwealth Court has original jurisdiction of all civil actions against Commonwealth entities except in cases involving eminent domain, habeas corpus and post-conviction relief and tort claims. It has concurrent jurisdiction of actions by Commonwealth entities except with regard to eminent domain, and it has original jurisdiction over cases involving insurance receiverships and ancillary matters.<sup>60</sup> The Commonwealth Court has exclusive jurisdiction of all petitions for review of arbitration between the Commonwealth and any of its employees.<sup>61</sup> The Commonwealth Court has exclusive original jurisdiction of certain statewide election matters.<sup>62</sup> It also has jurisdiction over confidential data matters.<sup>63</sup> The Commonwealth Court has exclusive jurisdiction of appeals from any order of a Commonwealth agency which is not appealable to the Supreme Court or Court of Common Pleas.<sup>64</sup>

### **The Commonwealth Court has exclusive jurisdiction of appeals from final orders of the courts of common pleas in the following cases:**

1. actions involving the Commonwealth, including estate and fiduciary actions;
2. violations of rules of orders or regulatory statutes administered by Commonwealth agencies;
3. appeals from Commonwealth agencies;
4. local government cases;

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<sup>40</sup> 42 Pa.C.S. § 933(a)(2)

<sup>41</sup> 42 Pa.C.S. § 934.

<sup>56</sup> 42 Pa.C.S. § 561.

<sup>57</sup> PA. CONST. art. 5, § 15(a).

<sup>58</sup> 42 Pa.C.S. § 3133.

<sup>59</sup> 42 Pa.C.S. § 563.

<sup>60</sup> 42 Pa.C.S. § 761.

<sup>61</sup> 42 Pa.C.S. § 763(b).

<sup>62</sup> 42 Pa.C.S. § 764.

<sup>63</sup> 42 Pa.C.S. § 8722.

<sup>64</sup> 42 Pa.C.S. § 763.

5. nonprofit corporation matters;
6. eminent domain.<sup>65</sup>

### **(2) Superior Court**

The Superior Court consists of fifteen judges.<sup>66</sup> The regular term of office is ten years.<sup>67</sup> Regular sessions of the Superior Court are held in Harrisburg, Philadelphia, Pittsburgh and elsewhere as prescribed by general rule or rule of court.<sup>68</sup> The Superior Court has no original jurisdiction, except in cases of ancillary mandamus or prohibition to inferior courts and ancillary habeas corpus.<sup>69</sup> The Superior Court has exclusive appellate jurisdiction of all appeals from final orders of the Courts of Common Pleas except such classes of appeals which fall within the exclusive jurisdiction of the Supreme or Commonwealth Courts.<sup>70</sup>

### **(3) Supreme Court**

The Supreme Court, consisting of seven Justices, is the highest court in the Commonwealth of Pennsylvania.<sup>71</sup> The Supreme Court exercises general supervisory and administrative authority over all the other courts, including the authority to temporarily assign judges from one court or district to another.<sup>72</sup> The regular term of office for a Supreme Court Justice is ten years.<sup>73</sup>

The Supreme Court has original but not exclusive jurisdiction of all cases of habeas corpus, mandamus or prohibition to courts of inferior jurisdiction and quo warranto as to any officer of statewide jurisdiction.<sup>74</sup>

### **The Supreme Court has exclusive jurisdiction of appeals from final orders of the Courts of Common Pleas in the following classes of cases:**

1. matters prescribed by general rule (*i.e.* enforcement of certain subpoenas, appeals in conservatorship proceedings);
2. the right to public office;
3. matters affecting members of the judiciary;
4. automatic review of death sentences;
5. supersession of a district attorney, or matters relating to an investigating grand jury;
6. the right to issue public debt;
7. judgment declaring unconstitutional any law except a local ordinance or resolution;
8. the right to practice law.<sup>75</sup>

The Supreme Court has exclusive jurisdiction of appeals arising in the Board of Finance and Revenue and in matters originally commenced in Commonwealth Court.<sup>76</sup> The Supreme Court upon allowance by any two justices may review the appeals from final orders of the Superior and Commonwealth Courts.<sup>77</sup> The Supreme Court also has exclusive jurisdiction of appeals from the final orders of the Legislative Reapportionment Commission, Judicial Inquiry and Review Board, Minor Judiciary Education Board, Pennsylvania Board of Law Examiners and Disciplinary Board of the Supreme Court of Pennsylvania.<sup>78</sup> The Supreme Court has the power to assume plenary jurisdiction at any stage of the proceedings over any matter pending before a district judge involving an issue of immediate public importance.<sup>79</sup>

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<sup>65</sup> 42 Pa.C.S. § 762(a).

<sup>66</sup> 42 Pa.C.S. § 541.

<sup>67</sup> PA. CONST. art. 5, § 15(a)

<sup>68</sup> 42 Pa.C.S. § 543.

<sup>69</sup> 42. Pa.C.S. § 741.

<sup>70</sup> 42 Pa.C.S. § 742.

<sup>71</sup> PA. CONST. art. 5, § 2.

<sup>72</sup> PA. CONST. art. 5, § 10(a).

<sup>73</sup> PA. CONST. art. 5, § 15(a).

<sup>74</sup> 42 Pa.C.S. § 721.

<sup>75</sup> 42 Pa.C.S. § 722.

<sup>76</sup> 42 Pa.C.S. § 723.

<sup>77</sup> 42 Pa.C.S. § 724.

<sup>78</sup> 42 Pa.C.S. § 725.

<sup>79</sup> 42 Pa.C.S. § 726.

## **CHAPTER 2 - GETTING ON THE BALLOT: MAJORITY PARTY PRIMARY ELECTIONS**

### **POLITICAL PARTIES AND POLITICAL BODIES**

Under the Election Code, a political group which receives not less than two percent (2%) of the votes cast in the prior general or municipal election in at least ten counties in the State is deemed a "political party" within the State and is permitted to select its candidates at the primary election; any other political group is deemed a "political body" and may select its candidates at the next general (rather than primary) election.<sup>94</sup> Any party or political body, one of whose candidates at either the general or municipal election preceding the primary polled at least five percent (5%) of the largest entire vote cast for any elected candidate in any county, is also recognized as a political party within that county and can nominate candidates for offices in that county.<sup>95</sup> Any political body which is not a political party as defined above can nominate candidates for general and municipal elections as political parties do, but the political body cannot nominate its candidates or elect party officers at primaries.<sup>96</sup> No person who is not registered and enrolled as a member of a political party is entitled to vote at any primary of such party or to be elected or serve as any sort of party officer.<sup>97</sup>

### **GETTING ON THE BALLOT**

All candidates for elective judicial offices within Pennsylvania are nominated.<sup>98</sup> Not earlier than twelve weeks, nor later than eleven weeks before any general or municipal primary, the county board of each county must publish in newspapers a notice setting forth the names of all public offices for which nominations are to be made. The notice must contain the date of the primary and must be published once each week for two successive weeks in Philadelphia.<sup>99</sup> The names of the candidates for party nominations must be printed upon the official primary ballots or ballot labels of a designated party, upon the filing of separate nomination petitions on their behalf, in the form prescribed by the Secretary of the Commonwealth, signed by the duly registered and enrolled members of such party who are qualified electors of the State, or of the political district within which the nomination is to be made or the election is to be held. No candidate's name may be placed on the ballots of a political party to be used at any primary, unless a petition was filed on the candidate's behalf. Normally no person's name can be printed upon the ballots of any party unless the person is a duly registered member of that party,<sup>100</sup> but judicial candidates for local offices may cross-file, that is, they may run simultaneously as both Democrats and Republicans.<sup>101</sup>

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<sup>94</sup> 25 P.S. § 2831(a).

<sup>95</sup> 25 P.S. § 2831(b).

<sup>96</sup> 25 P.S. § 2831(c).

<sup>97</sup> 25 P.S. § 2832.

<sup>98</sup> 25 P.S. § 2862.

<sup>99</sup> 25 P.S. § 2866.

<sup>100</sup> 25 P.S. § 2867.

<sup>101</sup> 25 P.S. § 2870(f).

An elector who signs a nomination petition may sign only one such petition for each office to be filled and must be a registered and enrolled member of the party designated in such petition. Where there are two or more persons to be elected for the same office, each signer may sign petitions for as many candidates as he or she can vote for in the upcoming election. In addition to declaring that the signer is a qualified elector, the signer must indicate his or her printed name and residence, giving city, borough or township, with street and number, if any, and the date the elector signed the petition. No nomination petition can be circulated prior to the thirteenth Tuesday before the primary, and no signature is valid unless it bears a date between the thirteenth Tuesday and the tenth Tuesday prior to the primary.<sup>102</sup> The nomination petitions may be on more than one sheet, and different sheets must be used for signers residing in different counties. If more than one sheet is used, they must be bound together when offered for filing if they are intended to constitute one petition, and each sheet must be numbered consecutively beginning with number one at the foot of each page.

**Each sheet must have appended to itself the affidavit of the circulator setting forth:**

1. that he or she is a qualified elector duly registered and enrolled as a member of the designated party of the State, or of the political district referred to in the petition, unless the petition relates to the nomination of a candidate for a Court of Common Pleas, for the Philadelphia Municipal Court or for the Traffic Court of Philadelphia, in which case the circulator need not be a duly registered and enrolled member of the designated party;
2. his or her residence, giving city, borough, or township, with street and number, if any;
3. a statement that the signers of the petition signed with full knowledge of the contents of the petition;
4. that the signers residences are correctly stated on the petition;
5. that the signers all reside in the county named in the affidavit;
6. that each signed on the date opposite his or her name;
7. that to the best of the affiant's knowledge, the signers are qualified electors and duly registered and enrolled members of the designated party of the State or of the political district.<sup>103</sup>

**Each candidate must file with his or her nomination petition an affidavit stating:**

1. his or her residence, with street and number, if any, and post-office address;
2. his or her election district, giving city, borough, town or township;
3. the name of the office for which he or she consents to be a candidate;
4. that he or she is eligible for such office;
5. that he or she will not knowingly violate any law regulating and limiting nomination and election expenses and prohibiting corrupt practices;
6. that he or she is not a candidate for nomination for the same office of any party other than the one designated in the petition unless he or she is a candidate for judge of a Court of Common Pleas, the Philadelphia Municipal Court or the Traffic Court of Philadelphia;
7. that he or she is aware of the laws requiring pre-election and post-election reporting of campaign contributions and expenditures.
8. that he or she is not a candidate for an office which he or she already holds, the term for which does not expire in the same year as the office subject to the affidavit.<sup>104</sup>

**The nominating petition must contain the following number of valid signatures:**

- Justice of the Supreme Court--One thousand (1000) including at least one hundred (100) from each of at least five counties;
- Judge of the Superior Court--One thousand (1000) including at least one hundred (100) from each of at least five counties;
- Judge of the Commonwealth Court--One thousand (1000) including at least one hundred (100) from each of at least five counties;
- Common Pleas Court Judge--One thousand (1000);

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<sup>102</sup> 25 P.S. § 2868.

<sup>103</sup> 25 P.S. § 2869.

<sup>104</sup> 25 P.S. § 2870.

Municipal Court Judge--One thousand (1000);  
Traffic Court Judge--One thousand (1000).<sup>105</sup>

Nomination petitions for Supreme Court Justice, Superior Court Judge and Commonwealth Court Judge must be filed with the Secretary of the Commonwealth. Nomination petitions for Common Pleas Court Judge, Municipal Court Judge and Traffic Court Judge must be filed with the County Board of Elections.<sup>106</sup> Each person filing a nomination petition must pay at the time of filing for each petition with a certified check or money order or cash when filing with the County Board. Certified checks or money orders are to be made payable to the Commonwealth of Pennsylvania or to the county, if the nomination is for a Statewide office or local office respectively. The candidates for state judicial offices must pay a two hundred dollar (\$200) filing fee. The candidates for Philadelphia judicial offices must pay one hundred dollars (\$100) each.<sup>107</sup> All nomination petitions must be filed on or before the tenth Tuesday prior to the primary.<sup>108</sup> The petitions must be received by the last day for filing before 5:00 P.M. in the office of the Secretary of the Commonwealth or before the ordinary closing hour at the County Board of Elections.

Each person filing any nomination petition will be given a statement composed by the Secretary of the Commonwealth setting forth his or her duties under law to file pre-election and post-election campaign finance reports, and the penalties for non-filing. Each person filing will also be given a form to file expenses if the amount received or expended or liabilities incurred will exceed two hundred fifty dollars (\$250), and a form containing a sworn statement that the amount received or expended or liabilities incurred do not exceed two hundred fifty dollars (\$250), with written instructions prepared by the Secretary. Within three weeks after such candidate has filed, the appropriate supervisor will mail the same forms and instructions to the candidates.<sup>109</sup>

Immediately after the last day fixed for filing of such nomination petitions with them, the Secretary of the Commonwealth or the County Board will fix a day for the casting of lots for the position of names upon the primary ballots or ballot labels. The Secretary of the Commonwealth must give at least two days notice by mail to all the candidates, and the County Board also must give at least two days notice to all the candidates by a posting in a conspicuous place in its office and by publication once in at least two newspapers of general circulation published in the county. The candidates can appear in person, send an agent duly authorized by letter of attorney, or the Secretary or the County Board can appoint someone to represent the absentee candidate. After the lots are cast, the Secretary or the County Board will establish the order in which the names are to appear on the primary ballots.<sup>110</sup>

The candidates of the various political parties for nomination who receive a plurality of votes of their party electors in the State, or in the political district, at the primary election will be the candidates of their respective parties. It is the duty of the County Board to print their names upon the official ballots and ballot labels at the succeeding election.<sup>111</sup> In the case of a tie, the candidates receiving the tie vote must cast lots before the County Board or the Secretary of the Commonwealth at twelve o'clock noon on the third Friday following the primary, and the one to whom the lot will fall will be entitled to the nomination. In any case where the fact of a tie vote is not authoritatively determined until after the third Wednesday following the primary, the time for casting lots will be at twelve o'clock noon on the second day after the fact of such tie vote is authoritatively determined. If any candidate(s) receiving a tie vote fail appear, the County Board or Secretary will cast lots for the person(s). The candidate(s) can appear in person or by proxy appointed in writing.<sup>112</sup>

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<sup>105</sup> 25 P.S. § 2872.1. (Note: Local judicial candidates in counties not of the first or second class only need 250 valid signatures to get on the ballot.)

<sup>106</sup> 25 P.S. § 2873(a).

<sup>107</sup> 25 P.S. § 2873(b.1).

<sup>108</sup> 25 P.S. § 2873(d).

<sup>109</sup> 25 P.S. § 2873(f).

<sup>110</sup> 25 P.S. § 2875.

<sup>111</sup> 25 P.S. § 2882.

<sup>112</sup> 25 P.S. § 2883.

## **CHAPTER 3 - GETTING ON THE BALLOT: INDEPENDENT AND MINOR PARTY NOMINATIONS**

In addition to the party nominations made at primaries, independent candidates may also run for office by filing nomination papers signed by the qualified electors of the State or of the electoral district for which the nomination is made.<sup>113</sup> Where the nomination is for any office to be filled by the electors of the State at large, the number of qualified electors signing such nomination papers must be equal to at least two percent of the largest entire vote cast for any elected candidate in the State at large at the last preceding election at which Statewide candidates were elected. In the case of all other nominations, the number of qualified electors of the electoral district signing such nomination papers must be at least equal to two percent of the largest entire vote cast for any officer, except a judge of a court of record, elected at the last preceding election in that particular electoral district for which the nomination papers are to be filed, but not be less than the number of signers required for nomination petitions for party candidates for the same office.<sup>114</sup>

Each person signing a nomination paper must declare that he or she is a qualified elector of the State or district, and must include with his or her (1) signature (2) the elector's printed name and (3) residence, giving city, borough or township, with street and number, if any, and (4) date of signing. No elector may sign more than one nomination paper for each office to be filled, unless there are two or more persons to be elected to the same office, in which case the elector may sign nomination papers for as many candidates for such office as the elector can vote for in the upcoming election. More than one candidate may be nominated by one nomination paper and candidates for more than one office may be nominated by one nomination paper provided that each political body nominating does not nominate more candidates than there are offices to be voted for at the ensuing election.<sup>115</sup>

Nomination papers may be on one or more sheets, but different sheets must be used for signers residing in different counties. If more than one sheet is used, they must be bound together when offered for filing if they are intended to constitute one nomination paper, and each sheet must be numbered consecutively beginning with number one at the foot of each page.

**Each sheet must have appended to it the affidavit of some person, not necessarily a signer, and not necessarily the same person on each sheet, setting forth:**

1. that the affiant is a qualified elector of the State or electoral district referred to in the nomination paper;
2. the affiant's residence, giving city, borough or township with street and number, if any;
3. that the signers signed with full knowledge of the contents of the nomination paper;
4. that the electors residences are correctly stated;
5. that all of the signers reside in the county named in the affidavit;
6. that each elector signed on the date set opposite his or her name;
7. that to the best of the affiant's knowledge and belief, the signers are qualified electors of the State or electoral district.<sup>116</sup>

**There also must be appended to each nomination paper offered for filing an affidavit of each candidate nominated stating:**

1. the election district in which he or she resides;
2. the name of the office for which he or she consents to be a candidate;
3. that the candidate is eligible for such office;
4. that the candidate will not knowingly violate any provision of the Election Code or of any law regulating and limiting election expenses and prohibiting corrupt practices;
5. that the candidate's name has not been presented as a candidate by nomination petitions for any

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<sup>113</sup> 25 P.S. § 2911(a).

<sup>114</sup> 25 P.S. § 2911(b).

<sup>115</sup> 25 P.S. § 2911(c).

<sup>116</sup> 25 P.S. § 2911(d).

public office to be voted for at the ensuing primary election, nor has the candidate been nominated by any other nomination papers filed for any such office;

6. that in the case where he or she is an independent candidate for election at a general or municipal election, he or she was not a registered and enrolled member of a party thirty days before the primary held prior to the general or municipal elections in that same year;

7. that in the case where he or she is a candidate for election at a special election, the candidate is not a registered and enrolled party member.

8. that he or she is not a candidate for an office which he or she already holds, the term for which does not expire in the same year as the office subject to the affidavit.<sup>117</sup>

Any person who is a registered and enrolled party member during any period of time beginning thirty days before the primary and extending through the general or municipal election of that same year is ineligible to be the candidate of a political body i.e. an independent candidate, in the general election.<sup>118</sup>

**All nomination papers must specify:**

1. The name of the political body which the candidates nominated represent, expressed in not more than three words;
2. the name of each candidate nominated, his or her profession, business or occupation, if any; and his or her place of residence with street and number;
3. the office for which the candidate has been nominated;
4. the names and addresses of the committee, not to be less than three nor more than five persons, authorized to fill vacancies, if any should occur.

No words can be used in any nomination paper to designate the name of the political body represented by the candidates named in the nomination papers which are identical with or deceptively similar to the words used for a like purpose by any existing political party or body. Any petition to set aside a nomination paper on account of the name, or involving the right of the signers to use such name is decided in the same manner or other positions to set aside nomination papers.

Each person filing nomination papers for public office must be given a statement composed by the Secretary of the Commonwealth setting forth the candidate's duties under law to file pre-election and post-election campaign finance reports, and the penalties for non-filing. Each person filing will also be given a form to file expenses if the amount received or expended or liabilities incurred exceeds two hundred fifty dollars (\$250), and a form containing a sworn statement that the amount received or expended or liabilities incurred do not exceed the sum of two hundred fifty dollars (\$250), with written instructions prepared by the Secretary. Within three weeks after a candidate has filed, the appropriate supervisor will mail the same forms and instructions to the candidate by first class mail.<sup>119</sup> Financial disclosure requirements are discussed further in Chapter 5.

Nomination papers for judges of courts of record must be filed with the Secretary of the Commonwealth. All other candidates (*i.e.*, traffic judge) file their nomination papers with the county boards.<sup>120</sup> No nomination paper may be circulated prior to the tenth Wednesday prior to the primary, and no signature will be counted unless it bears a date affixed no earlier than the tenth Wednesday prior to the primary nor later than the second Friday subsequent to the primary.<sup>121</sup> The purpose here is to require candidates to choose between the primary route and the nomination route to the general election ballot and to prevent losing primary candidates from filing nomination papers as independent candidates. All nomination papers must be filed on or before August 1, or in the event that it falls on a Saturday or Sunday, the first Monday in August (candidates should check specific deadlines with local county boards).<sup>122</sup> The office in

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<sup>117</sup> 25 P.S. § 2911(e).

<sup>118</sup> 25 P.S. § 2911(e).

<sup>119</sup> 25 P.S. § 2912.

<sup>120</sup> 25 P.S. § 2913(a).

<sup>121</sup> 25 P.S. § 2913(b).

<sup>122</sup> 25 P.S. § 2913(c). Contrary to the language of this subsection which requires filing of nomination papers on or before the second Friday subsequent to the primary, this more generous deadline is the result of two consent decrees entered into in the cases of *The Libertarian Party of Pennsylvania v. Davis* (M.D.Pa., 1984) and *Hall v. Davis*

which a nomination paper is filled will issue to the person filing the nomination paper a receipt containing the date and time of filing, the name of the candidate and the office for which he or she is a candidate.<sup>123</sup> The same filing fee must be paid for each candidate nominated by a nomination paper as for the filing of a nomination petition. Each nomination paper nominating a candidate or a group of candidates for office must be accompanied by a certified check or money order drawn in the proper amount to cover the filing fees for each candidate nominated, but in no case less than the sum of five dollars (\$5), and payable to the Commonwealth of Pennsylvania or the county.<sup>124</sup>

Note that on the Thursday preceding each primary, the county board, upon request made at its office, is to deliver to the candidate three sample ballots of the party for the entire district in which the candidate will run. The candidate may, at his or her own expense, have printed on different colored paper as many copies as the candidate requires for conducting the campaign. In the case of a November election, the county board delivers to the county chairman or other authorized representative of each political party and political body in the county, without charge, two sample ballots for each election district within the county in which the candidates of the party or political body will run, and the political party or body may, at its own expense, have printed on a different colored paper as many copies as it requires for conducting its campaign.<sup>125</sup>

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(E.D.Pa., 1984), whereby the Secretary of the Commonwealth agreed to accept nomination papers on August 1st for that election and future elections.

<sup>123</sup> 25 P.S. § 2913(d).

<sup>124</sup> 25 P.S. § 2914.

<sup>125</sup> 25 P.S. § 2968(b), (c).

## **CHAPTER 4 - CAMPAIGNING**

### **THE POLITICAL COMMITTEE**

Every political committee must have a treasurer and a chairman. No contribution can be received, nor can any expenditure be made, when there is a vacancy in either one of these offices. All moneys received and disbursed by the political committee must be done through the treasurer of the committee.<sup>126</sup> Every candidate who authorizes a committee (or committees) to receive and disburse funds on his or her behalf must name a sole treasurer, irrespective of the number of committees authorized. A sole treasurer may delegate authority, in writing, to any number of assistant treasurers to receive and distribute moneys collected for the candidate. Authorized individuals may solicit funds for deposit in the candidate's campaign account.<sup>127</sup> Each candidate and committee must keep records of the names and addresses of each person from whom a contribution of over ten dollars (\$10) has been received and a record of all other information required to be reported by law. All such records must be retained by the candidate or treasurer for three years after the information is reported.<sup>128</sup> Any person receiving any contribution on behalf of political committee or candidate must turn over the contribution to the treasurer of that committee or candidate within ten days of its receipt.<sup>129</sup> No treasurer of any political committee may receive money on behalf of a candidate until the committee has been so authorized in writing by the candidate on a form designed by the Secretary of the Commonwealth. A copy of the written authorization must be filed with the appropriate supervisor (in the case of the Supreme Court, Superior Court and Commonwealth Court, the appropriate supervisor is the Secretary of the Commonwealth, and for the Court of Common Pleas, the Municipal Court and the Traffic Court, the appropriate supervisor is the County Board of Elections). However, the treasurer of any state, county, city or other regularly constituted party committee of any political party or body may receive money on behalf of its candidates without special authorization.<sup>130</sup>

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<sup>126</sup> 25 P.S. § 3242(a).

<sup>127</sup> 25 P.S. § 3242(b).

<sup>128</sup> 25 P.S. § 3242(c).

<sup>129</sup> 25 P.S. § 3242(d).

<sup>130</sup> 25 P.S. § 3243.

## **CHAPTER 5 - FINANCES**

### **STATEMENT OF FINANCIAL INTERESTS**

The Supreme Court has held that the financial disclosure provisions of the State Ethics Act, insofar as they are applied to judges (and judicial candidates), infringe on the Supreme Court's power to supervise the courts as provided in Article 10(c) of the Pennsylvania Constitution, and are thus unconstitutional.<sup>131</sup> It is important to note that candidates for judicial officer are still subject to the State Election Code provisions pertaining to campaign finance.

### **REGISTRATION OF POLITICAL COMMITTEES**

At the state level, any political committee which receives contributions in an aggregate amount of two hundred and fifty dollars (\$250) or more must file a registration statement, designed by the Secretary of the Commonwealth, with the appropriate supervisor, within twenty days after the date on which it receives the amount.<sup>132</sup>

#### **Each registration statement must contain the following information:**

1. the name, addresses and phone numbers of the political committee;
2. the name, address and phone number of the committee's treasurer and chairman;
3. the names, addresses and relationships of other affiliated organizations;
4. the candidate's name and address;
5. the banks, safety deposit boxes or other repositories and their addresses used by the committee;
6. the proposed period of operation of the committee.<sup>133</sup>

The committee must inform the appropriate supervisor of any changes in the information contained in the statement within thirty days of that change.<sup>134</sup>

No political committee which receives an aggregate amount of contributions of two hundred and fifty dollars (\$250) or more may make a contribution to any candidate or political committee unless it has registered with the appropriate supervisor.<sup>135</sup> Any lobbyist who has given a contribution or pledge, regardless of the amount, is subject to the same registration and reporting provisions as are the political committees.<sup>136</sup>

### **REPORTING REQUIREMENTS**

Pre-election reports by candidates for Statewide offices and all political committees which have expended money for the purpose of influencing the election of such a candidate must be filed no later than the sixth Tuesday before and the second Friday before an election, provided that the initial pre-election report is complete as of fifty days before the election and the subsequent pre-election report is complete as of fifteen days prior to the election. Pre-election reports by all other candidates and political committees must be filed no later than the second Friday before an election, provided that such a report is complete as of fifteen days prior to the election.<sup>137</sup>

Candidates and political committees must also file a post-election report not later than thirty days after an election which must be completed as of twenty days after the election.<sup>138</sup> Each report must also contain a summary, on a separate page, of the information required.<sup>139</sup> All reports and statements should detail the

<sup>131</sup> *Kremer v. State Ethics Commission*, 469 A.2d 593 (1983).

<sup>132</sup> 25 P.S. § 3244(a).

<sup>133</sup> 25 P.S. § 3244(b).

<sup>134</sup> 25 P.S. § 3244(c).

<sup>135</sup> 25 P.S. § 3244(d).

<sup>136</sup> 25 P.S. § 3245.

<sup>137</sup> 25 P.S. § 3246(d).

<sup>138</sup> 25 P.S. § 3246(e).

<sup>139</sup> 25 P.S. § 3246(f).

campaign activity of a candidate since the last prior report or statement.<sup>140</sup> An expenditure from a candidate's political committee to another political committee must be reported as a contribution by the political committee receiving it, but need not be reported by the contributor until the time required by law. However, if the amount of the contribution exceeds two hundred and fifty dollars (\$250) to a single political committee or one thousand dollars (\$1,000) in aggregate contributions to more than one political committee, then the receipts and expenditures must be reported by the contributing committee at the same time as required by law for the committee receiving the same.<sup>141</sup> All Political Action Committees (PACs) must report expenditures in the same manner as a candidate's political committee.<sup>142</sup>

All political committees and candidates must file an annual report on January 31 of each year which must be completed as of December 31 of the prior year. Such reports are filed annually until there is no balance or debt in the report. The reports must be cumulative. However, if there has been no change in the account, then the candidate or political committee may file a statement to that effect with the appropriate supervisor. Each form designated by the Secretary of the Commonwealth for filing a report or statement will contain a block which may be marked to designate a termination report or statement. If such report or statement is so designated, or if an authorized candidate does not need to file a report or statement, no annual report need be filed unless contributions were received or expenditures made subsequent to the time period for filing such a termination report. No candidate or political committee may terminate with a statement where the unpaid balance indicated in the previous report was greater than Two hundred and fifty dollars (\$250). Annual reports must cover the campaigning activity from the last prior report or statement.<sup>143</sup>

Any candidate or political committee which receives a contribution or pledge of five hundred dollars (\$500) or more and any person making an independent expenditure of five hundred dollars (\$500) or more after the final pre-election report is completed must report such contribution, pledge or expenditure to the appropriate supervisor by within twenty-four hours of receipt of the contribution.<sup>144</sup>

Under State law, each treasurer and candidate must file with the appropriate supervisor reports of receipts and expenditures on forms designed by the Secretary of the Commonwealth if the amount received or expended or liabilities incurred exceed Two hundred and fifty dollars (\$250). If this amount is not exceeded, the candidate or treasurer must file a sworn statement to that effect with the appropriate supervisor.<sup>145</sup>

**Each report must include the following:**

1. the full name, mailing address, occupation and name of employer, if any, or the principal place of business, if self-employed, of each person who has made one or more contributions in excess of Two hundred and fifty dollars (\$250), with the amount and date of the contributions (the accuracy of this information is the responsibility of the contributor);
2. the full name and mailing address of each person who has made one or more contributions in an aggregate amount or value in excess of Fifty dollars (\$50), with the amount and date of the contributions (the accuracy of this information is the responsibility of the contributor);
3. the total sum of individual contributions not reported under the first two items;
4. each and every expenditure, the date made, the full name and address of the person to whom made and the purpose for which the expenditure was made;
5. any unpaid debts and liabilities, with the nature and amount of each, the date incurred and the full name and address of the person owed;
6. the account must include any unexpended balance of contributions or other receipts appearing from the last account filed.<sup>146</sup>

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<sup>140</sup> 25 P.S. § 3246(h).

<sup>141</sup> 25 P.S. § 3246(i).

<sup>142</sup> 25 P.S. § 3246(j).

<sup>143</sup> 25 P.S. § 3247(a).

<sup>144</sup> 25 P.S. § 3248.

<sup>145</sup> 25 P.S. § 3246(a).

<sup>146</sup> 25 P.S. § 3246(b).

Vouchers or copies of vouchers for all sums expended amounting to more than Twenty-five dollars (\$25) must be retained and available for public inspection and copying. Any person may inspect or copy such vouchers or copies by filing a written request with the appropriate supervisory office which will then notify the candidate or political committee. The candidate or political committee has the option of either forwarding such vouchers to the supervisor or sending them directly to the party which made the request. The costs of copying and delivery is borne by the party making the request.<sup>147</sup>

**In lieu of filing the reports or statements, a candidate for local office who does not form a political committee must file an additional affidavit with his or her nomination petition or papers attesting to the following:**

1. the candidate does not intend to receive contributions or make expenditures in excess of Two hundred and fifty dollars (\$250) during any reporting period;
2. the candidate will keep records of contributions and expenditures as required by law;
3. the candidate will file reports for any reporting period during which he or she receives contributions or makes expenditures in excess of Two hundred and fifty dollars (\$250).<sup>148</sup>

Any such candidate who exceeds two hundred and fifty dollars (\$250) during a reporting period must file a report which must be cumulative from the beginning of the reporting period.<sup>149</sup>

Under Pennsylvania law, every report must be subscribed and sworn to by the individual submitting the report. Any report filed by a political committee, authorized by a candidate and created solely to influence an election on the candidate's behalf, must be accompanied by an affidavit from the candidate which provides that, to the best of his or her knowledge, the political committee has not violated any election laws.<sup>150</sup>

Any candidate, individual or committee required to file a report concerning a candidate must file that statement or report in the office of the supervisor with whom the candidate filed a nomination paper or petitions. All candidates and political committees who must file reports with the Secretary of the Commonwealth must also file copies of their reports within the county in which the candidate resides. If any report of any political committee concerns both candidates who file for nomination with the Secretary of the Commonwealth and a County Board of Elections, then such a report must be filed with the Secretary.<sup>151</sup>

In the event that a candidate or political committee terminates its financial activities, the disbursement of any residual funds may be used for any appropriate expenditure provided for by the Election Code or may be returned, pro rata, to the contributors. A final report must be made by the next January 31.<sup>152</sup>

In Pennsylvania, a late filing fee for each report or statement which is not filed within the prescribed period is imposed. The fee is ten dollars (\$10) for each day or part of a day excluding Saturdays, Sundays and holidays. An additional fee of ten dollars (\$10) is due for each of the first six days that a report is overdue. The maximum penalty fee for a single report is Two hundred and fifty dollars (\$250). A supervisor will receive an overdue report or statement even if any late filing fee due has not been paid, but the report or statement is not considered filed until all fees have been paid. No further late filing fees will be incurred notwithstanding the fact that the report or statement is not considered filed. The late filing fee is a personal liability of the candidate or treasurer of a political committee and cannot be paid from contributions, nor may such a fee be considered an expenditure. A report or statement of expenditures and contributions is deemed to have been filed within the prescribed time if the letter transmitting it is sent by first class mail and postmarked on the day prior to the final day on which the report is to be

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<sup>147</sup> 25 P.S. § 3246(c).

<sup>148</sup> 25 P.S. § 3246.1(a).

<sup>149</sup> 25 P.S. § 3246.1(b).

<sup>150</sup> 25 P.S. § 3249(a).

<sup>151</sup> 25 P.S. § 3251.

<sup>152</sup> 25 P.S. § 3250.

received.<sup>153</sup> No person can be deemed elected to office, enter upon its duties, or receive any salary until all reports have been filed.<sup>154</sup>

Forty days after every election, the Secretary of the Commonwealth selects for independent audit, three percent of all public offices for which candidates were required to file nominating papers and petitions with the Secretary. The results of the primary audit are made public, although they are not released until after the November election.<sup>155</sup> Within ninety days after the last day for filing any report or affidavit, any five electors of Pennsylvania or of a political division of the State may petition the Commonwealth Court or the Court of Common Pleas of a county, depending upon where the candidate's original report has been filed, for an audit of expense accounts. If the report was false in any substantial manner, then the cost of the audit is paid by the person who filed the report. Otherwise, the court may assign payment for the audit as it thinks just under the circumstances.<sup>156</sup>

Amounts received by candidates that are in excess of expenditures can be used to defray any ordinary and necessary expenses incurred in connection with their duties in office, may be contributed to any organization approved by law, or may be used for any other lawful purpose, including transfer without limitation to any national, State or local committee of any political party.<sup>157</sup>

Under Pennsylvania law it is unlawful for any candidate or political committee to disburse money received from an anonymous source. All such money must be returned to the State Treasurer within twenty days of its receipt.<sup>158</sup>

### **HOME STRETCH ADVERTISING RESTRICTION**

No candidate, nor his or her political committee or party, may place an advertisement referring to an opposing candidate for the same office which is to be broadcast or published five days immediately prior to an election or published in a weekly newspaper or periodical during the eight days immediately prior to an election, with a television or radio station, newspaper or periodical, unless he or she has first given a copy of the material to appear in the advertisement and reasonable notice to the opposing candidate and the county board of elections where the advertisement is to be placed in sufficient time for a reply advertisement to be published or broadcast at the same approximate time as the original advertisement and prior to the election in question. The reasonable notice must be given in writing by registered mail, return receipt requested, addressee signature only, with a true copy of the material enclosed.<sup>159</sup>

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<sup>153</sup> 25 P.S. § 3252(a).

<sup>154</sup> 25 P.S. § 3252(b).

<sup>155</sup> 25 P.S. § 3255.

<sup>156</sup> 25 P.S. § 3256(a).

<sup>157</sup> 25 P.S. §§ 3241(d), 3250, 3254.1.

<sup>158</sup> 25 P.S. § 3254.

<sup>159</sup> 25 P.S. § 3258(b).

## **CHAPTER 6 - STANDARDS OF JUDICIAL CONDUCT**

A candidate, including an incumbent judge for a judicial office, should maintain the dignity appropriate to judicial office, and should encourage members of his or her family to adhere to the same standards of political conduct as apply to the candidate. The candidate should prohibit public officials or employees subject to his or her direction or control from doing for the candidate what the candidate is prohibited from doing personally. The candidate should not make pledges or perform any acts of conduct which conflict with the candidate's promise to perform the duties of the office in a faithful and impartial fashion; nor should the candidate make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before that court.<sup>160</sup>

During an election, a candidate may attend political gatherings, speak to such gatherings on his or her own behalf, or speak on behalf of any judicial candidate for the same office, identify him or herself as member of a political party, and contribute to a political party or organization. A candidate should not personally solicit or accept campaign funds, or solicit publicly stated support, but the candidate may establish committees of responsible persons to secure and manage the expenditure of funds for the campaign and to obtain public statements of support for the candidacy. Such committees are not prohibited from soliciting campaign funds and public support from lawyers. A candidate's committees may solicit funds for the campaign no earlier than thirty days prior to the first day for filing nominating petitions or the last day for filing a declaration of intention to seek reelection on a retention basis. A candidate should not use or permit the use of campaign contributions for the private benefit of the candidate or members of the candidate's family.

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<sup>160</sup> In response to *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002), the language in Canon 7B(1)(c) of the Pennsylvania Code of Judicial Conduct was changed. 32 Pa. Bull. 5951 (2000). The old language said that a judicial candidate could not "announce his views on disputed legal or political issues," which was identical to Minnesota Canon 5(A)(3)(d)(i), the provision struck down in *White*. The new language says that judicial candidates cannot "make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before that court." Candidates for judicial office are strongly encouraged to read both the U.S. Supreme Court decision in *White* and the Pennsylvania Code of Judicial Conduct, as amended.

## **CHAPTER 7 - ELECTION CONTESTS**

Election contests in Pennsylvania are determined by the rules governing different nomination classes; there are five nomination classes altogether. For example, class II contests include judges of the courts who are elected by the electors of the State at large--the Supreme Court, the Superior Court and the Commonwealth Court.<sup>161</sup> Cases of the second class are tried and determined by the Commonwealth Court.<sup>162</sup>

Class III includes the judges of the other courts--the Court of Common Pleas, the Municipal Court and the Traffic Court.<sup>163</sup> Contested nominations and election of judges of courts of any judicial district of Pennsylvania are tried and determined before the court of common pleas of the county where the person was elected.<sup>164</sup> The procedure to contest in the third class requires a written petition signed by at least fifty registered electors of the district where the person whose nomination or election is contested. The petition is to be presented to the Governor of Pennsylvania, who without delay must direct the three President judges residing nearest to the courthouse of the county composing the district to convene the court of common pleas promptly.<sup>165</sup> When the nomination or election of any judge of a court of record is contested and if the trial of such contest involves the construction of the Constitution, appeal lies with the Pennsylvania Supreme Court.<sup>166</sup>

The commencement of proceedings in the second and third classes must be made by petition, which must be filed within twenty days after the day of the primary or election. The petition must set forth the cause of the complaint concisely.<sup>167</sup> The petitioners must be registered electors who voted at the primary or election contested. In the third class, each petition must be verified by the affidavits of at least ten petitioners. In the second class the petition must be verified by at least five of the petitioners. The affidavits must be taken and subscribed before a person authorized by law to administer oaths and must provide that the facts stated are true, that according to the best of the petitioners' knowledge the primary or election was illegal and the return incorrect, and that the petition to contest is made in good faith.<sup>168</sup>

The petitioners of all classes must file a bond five days after the presentation of their petition to the appropriate court signed by at least five of the petitioners in the sum designated by the court, with two or more individual sureties of a corporate surety to be approved by the court, conditioned for the payment of all costs which might accrue in the contest.<sup>169</sup> Notice of the filing of the petition, with a copy, must be served upon the person whose nomination or right of office is contested, together with a rule to answer at the time fixed for hearing.<sup>170</sup> If the court determines that the contest has been brought without probable cause, the petitioners become liable for all costs.<sup>171</sup> If there was probable cause, the costs will be borne by the Commonwealth or the appropriate subdivisions.<sup>172</sup>

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<sup>161</sup> 25 P.S. § 3291.

<sup>162</sup> 42 Pa.C.S. § 764.

<sup>163</sup> 25 P.S. § 3291.

<sup>164</sup> 25 P.S. § 3376.

<sup>165</sup> 25 P.S. § 3377.

<sup>166</sup> 42 Pa.C.S. § 722.

<sup>167</sup> 25 P.S. § 3456.

<sup>168</sup> 25 P.S. § 3457.

<sup>169</sup> 25 P.S. § 3459.

<sup>170</sup> 25 P.S. § 3460.

<sup>171</sup> 25 P.S. § 3469.

<sup>172</sup> 25 P.S. § 3470.

## **JUDICIAL WEBSITE LINKS**

### **FIRST JUDICIAL DISTRICT**

The Court of Common Pleas of Philadelphia - <http://courts.phila.gov/cp.html>

The Municipal Court of Philadelphia - <http://courts.phila.gov/mc.html>

Philadelphia Traffic Court - <http://courts.phila.gov/tc.html>

### **APPELLATE**

The Supreme Court of Pennsylvania - <http://www.courts.state.pa.us/Index/Supreme/indexSupreme.asp>

The Superior Court of Pennsylvania - <http://www.courts.state.pa.us/Index/Superior/IndexSuperior.asp>

Commonwealth Court of Pennsylvania - <http://www.courts.state.pa.us/Index/Cwealth/indexCwealth.asp>

### **METROPOLITAN PHILADELPHIA COUNTIES**

Bucks County Court of Common Pleas - <http://www.buckscounty.org/courts/>

Chester County Court of Common Pleas - <http://www.chesco.org/pleas.html>

Delaware County Court of Common Pleas - <http://www.co.delaware.pa.us/courts/>

Montgomery County Court of Common Pleas - <http://www.montcopa.org/countyoffices/COURTS.HTM>

