



★ VIRGINIA ★

DEPARTMENT *of* ELECTIONS

1100 Bank Street, 1<sup>st</sup> Floor  
Richmond, VA 23219-3642

1/21/15

# **Candidacy Requirements**

## **For**

### **Town Council Town of Dumfries**

### **County of Prince William April 14, 2015 Special Election**



## General Disclaimer

The information contained in this candidacy requirements bulletin is provided with the aim of providing an overview of Virginia electoral requirements. This document, and its contents, however, is not meant as legal advice or as a binding statement of official policy. Such laws are subject to change in content and interpretation. Candidates are responsible for verifying the status of current law and compliance with same.





# INTRODUCTION

This bulletin and all required forms are available on our web site:

<http://elections.virginia.gov/index.php/candidatepac-info/becoming-a-candidate/>

Should you have questions relating to your candidacy, please do not hesitate to call our toll-free line (800)-552-9745. You also can reach us at 804-864-8901 or via email at [info@elections.virginia.gov](mailto:info@elections.virginia.gov).





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## I. ADVERTISING AND CAMPAIGN MATERIALS

The governing body of any town with a population of less than 25,000 may provide, by ordinance, that the provisions of the Campaign Finance Disclosure Act (CFDA) of 2006 shall be applicable to elections for town offices. The Town of Dumfries has not adopted such an ordinance. Therefore, candidates are not required to report campaign finance activity or comply with “Stand by your Ad” Chapter 9.5 of the Code of Virginia.

## II. QUALIFICATIONS TO BE A CANDIDATE

A candidate must be:

- ◆ Qualified to vote for and hold the office sought;
- ◆ A resident of the Commonwealth for one year immediately preceding the election;
- ◆ A resident, by the time of filing, of the Town of Dumfries.

## III. DOCUMENTS REQUIRED TO BE FILED

A candidate must file all of the documents described below and on the following pages with the Prince William County General Registrar’s office in order to qualify to appear on the ballot. The order by which each form is filed with the Prince William County General Registrar’s office is up to the candidate. However, a candidate’s declaration of candidacy and petitions of qualified voters must be filed together. All forms must be filed with the Prince William County General Registrar’s office by 5:00 p.m., Friday, February 13, 2015. See item IV on page 7 for more details on the filing schedule.

### **Certificate of Candidate Qualification – Local Offices SBE-501(4) Rev 1/15**

This document is prepared and distributed by the Department of Elections. **All** candidates are required to file this form.

**Special Note:** This document was revised in January 2015. The form contained outdated references to the “State Board of Elections”. The new form now reflects the agency’s name change to the “Department of Elections”. The previous version of SBE-501(4) Rev 7/12 is still valid and will be accepted if filed properly.

### **Declaration of Candidacy – SBE-505/520 Rev 1/15**

This document is prepared and distributed by the Department of Elections. It must be filed by all Independent (non-party) candidates and it must be filed **at the same time** as the petitions.

**Special Note (1/21/15):** This document was revised in January 2015. The form contained an outdated reference to the “State Board of Elections”. The new form now reflects the agency’s name change to the “Department of Elections”. The previous version of SBE-505/520 Rev 11/09 is still valid and will be accepted if filed properly.

### III. DOCUMENTS REQUIRED TO BE FILED (continued)

#### **Petition of Qualified Voters SBE-506/521 Rev 1.2013**

This document is prepared and distributed by the Department of Elections. Petitions containing at least 125 signatures of registered voters from the Town of Dumfries must be filed **together with** the *declaration of candidacy*.

The Department of Elections (ELECT) recommends that a candidate get at least 1 ½ times the number of signatures required to assure that enough signers are qualified voters. (For example: ELECT recommends candidates for town council with a 125 signature requirement gather at least 200 signatures.)

#### **Petition Circulator**

A candidate's petition may be circulated by any person who is a legal resident of the United States of America. Circulators may not be minors or felons whose voting rights have not been restored.

**Special Note:** The U.S. Supreme Court denied certification of Virginia's appeal in the 2012 Libertarian Party of Virginia v. Judd et al. case. The decision leaves in place the U. S. 4<sup>th</sup> Circuit Court's directive that prohibits the State Board of Elections from enforcing the in-state residency requirement to circulate a candidate's petition contained within §§ 24.2-506.

The person circulating the petition must affirm before a notary that s/he **personally witnessed** the affixing of each signature. Falsely taking this affidavit is a felony under Virginia law. The circulator **NEVER** can leave the petition unattended, e.g., left on the counter at a grocery store, restaurant, etc.

#### **The State Board's Regulation on Material Omissions on Candidate Petitions and Petition Signature Qualifications**

The State Board of Elections' Material Omission Regulation identifies what does and does not constitute a material omission on a candidate's petition and petition signatures for the purpose of allowing or disallowing both. The entire regulation is provided on the below and on the following pages for your convenience.

#### **1VAC20-50-20. Material Omissions from Candidate Petitions and Petition Signature Qualifications.**

A. Pursuant to the requirements of § 24.2-506, 24.2-521, and 24.2-543 of the Code of Virginia, a petition or a petition signature should not be rendered invalid if it contains an error or omission not material to its proper processing.

B. The following omissions are always material and any petition containing such omissions should be rendered invalid if:

1. The petition submitted is not the double-sided document, or a double-sided copy thereof, provided by the State Board of Elections;

### III. DOCUMENTS REQUIRED TO BE FILED (continued)

#### **Petition of Qualified Voters SBE-506/521 Rev 1.2013 (continued)**

#### **1VAC20-50-20. Material Omissions from Candidate Petitions and Petition Signature Qualifications. (continued)**

2. The petition does not have the name, or some variation of the name, and address of the candidate on the front of the form;
3. The petition fails to identify the office sought on the front of the form;
4. The petition fails to identify the applicable election district in which the candidate is running for office;
5. The circulator has not signed the petition affidavit and provided his current address;
6. The circulator is a minor or a felon whose voting rights have not been restored;
7. The circulator has not signed the petition he circulated in the presence of a notary;
8. The circulator has not had a notary sign the affidavit for each petition submitted;
9. A person other than the circulator signed the petition affidavit;
10. The notary has not affixed a photographically reproducible seal;
11. The notary has not included his registration number and commission expiration date; or
12. Any combination of the scenarios of this subsection exists.

C. The following omissions related to individual petition signatures are always material and any petition signature containing such omission shall be rendered invalid if:

1. The signer is not qualified to cast a ballot for the office for which the petition was circulated;
2. The signer is also the circulator of the petition;
3. The signer provided an accompanying date that is subsequent to the date upon which the notary signed the petition;
4. The signer did not sign the petition; or

### III. DOCUMENTS REQUIRED TO BE FILED (continued)

#### **Petition of Qualified Voters SBE-506/521 Rev 1.2013 (continued)**

#### **1VAC20-50-20. Material Omissions from Candidate Petitions and Petition Signature Qualifications. (continued)**

5. The signer provided an address that does not match the petition signer's address in the Virginia voter registration system, unless the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system, and the signer can be reasonably identified as the same registered voter.

D. The following omissions shall be treated as nonmaterial provided the general registrar can independently and reasonably verify the validity of the petition or signature:

1. An older version of the petition is used (provided that the information presented complies with current laws, regulations, and guidelines);
2. The "election information" including (i) county, city, or town in which the election will be held; (ii) election type; and (iii) date of election are omitted;
3. The name of the candidate and office sought are omitted from the back of the petition;
4. The circulator has not provided the last four digits of his social security number in the affidavit;
5. The signer omits his first name, provided he provides a combination of his first or middle initials or a middle name and last name and address that matches a qualified voter within the Virginia voter registration system;
6. The signer provided a derivative of his legal name as his first or middle name (e.g., "Bob" instead of "Robert");
7. The signer signs his name on the "Print" line and prints his name on the "Sign" line; or
8. The signer fails to provide the date but a period of time that qualifies can affirmatively be established with previous and subsequent dates provided by other signers upon the petition page.

E. A signature upon a petition shall be included in the count toward meeting the petition signature requirements only if:

1. The petition signer is a qualified voter who is maintained on the Virginia voter registration system either (i) with active status or (ii) with inactive status and qualified to vote for the office for which the petition was circulated;
2. The signer provides his name; and

### III. DOCUMENTS REQUIRED TO BE FILED (continued)

#### Petition of Qualified Voters SBE-506/521 Rev 1.2013 (continued)

#### 1VAC20-50-20. Material Omissions from Candidate Petitions and Petition Signature Qualifications. (continued)

3. The signer provides an address that matches the petition signer's address in the Virginia voter registration system, or the signer provided an address that is within the same precinct where a voter is currently registered in the Virginia voter registration system and the signer can be reasonably identified as the same registered voter.

#### Statutory Authority

§§ 24.2-103 and 24.2-506 of the Code of Virginia

Derived from Volume 27, Issue 16, eff. March 28, 2011; amended, Virginia Register Volume 29, Issue 01, eff. August 29, 2012; Volume 29, Issue 24, eff. July 12, 2013.

#### Frequently Asked Questions Regarding Petitions

The following are frequently asked questions received regarding the petition process:

1. Do I have to print the petition double-sided or may I staple two separate pages together and circulate?

Answer: **A petition page is a double-sided document with both a front and back.** If your printer is unable to print a double sided document, you must copy the two separate printed pages (i.e. front and back page) so that you end up with a double-sided single page. The front and back of the petition **cannot** be stapled together and circulated as one petition page.

2. What happens if I need additional time to gather the required number of signatures?

Answer: **Neither the general registrars nor ELECT have authority to accept additional petitions after the applicable candidate filing deadline.**

3. Who is responsible for ensuring my petition signers and circulators are eligible to sign and/or circulate my petition?

Answer: **The candidate.** As a courtesy, general registrars have the option of verifying the number of qualified voters that have signed a candidate's petitions prior to the filing deadline for the purpose of alerting the candidate of deficiencies. However, it is the candidate's ultimate responsibility to ensure that he or she gathers the requisite number of signatures of qualified voters, utilize eligible circulators, and otherwise follow the procedures laid out in the law. Candidates for election or political party nomination to further his/her candidacy may purchase from the Department of Elections a list of registered voters for his/her election district. Purchasing the list may aide in petition signature proficiency.

### III. DOCUMENTS REQUIRED TO BE FILED (continued)

#### **Petition of Qualified Voters SBE-506/521 Rev 1.2013 (continued)**

#### **Frequently Asked Questions Regarding Petitions (continued)**

4. Is it required for the petitions to be notarized?

Answer: **Yes.** Sections [24.2-506](#) and [24.2-521](#) require that each petition circulator's affidavit be notarized. Circulators should verify that the notary provides their photographically reproducible notary seal/stamp, notary registration number, date notary commission expires and notary signature to each petition page.

5. Must I provide my driver's license number and state of issuance when completing the petition affidavit?

Answer: **No.** The information is not required and does not invalidate the petition if left blank.

6. I see two versions of the petition of qualified voters form available on ELECT's website, which one should I use?

Answer: **Either the letter size (8 ½" x 11") or legal size (8 ½" x 14") petition may be used.** The legal size version contains more signature lines than the letter size version. The letter size version fits more neatly on a clip board. Personal preference will prevail.

#### **Statement of Economic Interests Rev 07/01/2014**

This document is prepared by the Secretary of the Commonwealth and should be available from the clerk of the governing body. If the clerk is unable to provide a copy, the form can be obtained from the Secretary of the Commonwealth's website:

<https://commonwealth.virginia.gov/formslist/>

If questions arise about how to complete the statement, please contact the Secretary of the Commonwealth's Conflict of Interest Director, at (804) 692-0102.

#### IV. FILING DEADLINE AND WHERE TO FILE

##### **For an Independent (Non-Party) Candidate**

*Items 1 and 2* listed below **must be received** by the *Prince William County General Registrar* by the filing deadline. A postmark is acceptable **only** for Items 3 and 4 and **only** if the documents are mailed by registered or certified mail and a receipt showing date of mailing can be produced if demanded by the office with which the forms are filed.

<b>REQUIRED FORMS</b>	<b>WHERE TO FILE</b>	<b>FILING DEADLINE</b>
*1. Declaration of Candidacy	General Registrar of Prince William County	5:00 p.m. 2/13/15
*2. Petitions of Qualified Voters		
*3. Certificate of Candidate Qualification		
*4. Statement of Economic Interests		

NOTE: The Dumfries town charter requires candidates in town elections to file as Independent candidates.

**Any person who fails to file all the required forms by the above deadline  
MAY NOT have his name printed on the Special Election ballot.**

\* Refer to Pages 1 through 6 herein for details.

## V. NOTICE OF DEFICIENCIES IN DECLARATION OR PETITIONS

An independent [non-party] candidate may request notification of any problems with his/her filing that can be corrected **before** the filing deadline. This request **must be in writing** as required by § [24.2-505](#) of the *Code of Virginia*.

This letter must be addressed to the Secretary of the Prince William County Electoral Board. It must accompany the declaration of candidacy and the petitions filed with the general registrar.

The written request **does not guarantee** timely response. Certain factors, may affect the electoral board's ability to comply with the request, that is, the number of filings, etc. It is suggested that documents be filed **at least ten [10] working days before the filing deadline** if this notice is requested.

## VI. APPEAL TO DEFICIENCY IN PETITION SIGNATURES

Virginia Code Section [24.2-506](#) grants a nonparty candidate the right to appeal a local electoral board's determination of deficiencies with his/her petition signatures [§ 24.2-506(C)]. The State Board's regulation articulating the appeal process is provided below and on the next two pages.

### **1VAC20-50-30. Appeals of petition signature insufficiency**

A. Pursuant to the requirements of §§ 24.2-506 and 24.2-543 of the Code of Virginia, a candidate for office, other than a party nominee, may appeal a determination that the candidate has failed to provide the required number of valid petition signatures necessary to qualify to appear on the ballot.

B. Any communication or notice required in this section shall be made in writing and delivered by mail or, unless otherwise prohibited by the Code of Virginia, electronically by electronic mail or facsimile. Notice of appeal from candidates must bear a photographically reproducible notary seal and be received by the deadlines established within this section.

C. A candidate for a county, city, or town office shall file his appeal with the local electoral board. A candidate for any other office shall file his appeal with the State Board of Elections.

D. A candidate for an office other than President of the United States must file his appeal within five (5) calendar days of the issuance of the notice of disqualification.

E. A candidate for President must file his appeal within seven (7) calendar days of the issuance of the notice of disqualification.

## VI. APPEAL TO DEFICIENCY IN PETITION SIGNATURES (continued)

### 1VAC20-50-30. Appeals of petition signature insufficiency (continued)

F. The proper body to which the appeal notice was given shall establish the time and place where the appeal will be heard and convey this information immediately to the candidate. Electronic mail will be the preferred method of notifying the candidate if such address has been provided by the candidate, otherwise, notice shall be sent by first-class mail.

G. The candidate bears the burden of proof in establishing that a sufficient number of signatures from qualified voters were timely provided.

1. The candidate must submit a list containing the rejected signatures to be reviewed and the specific reason for each signature's reconsideration at least two (2) business days prior to the date on which the appeal will be heard. If the candidate submits no list, or submits a list that contains an insufficient number of names and reconsideration reasons to make up the number of signatures by which the candidate was deemed deficient, no appeal shall be held and the initial determination that the candidate did not qualify for the ballot will be final.

2. The candidate may submit documents clarifying the status of persons whose signatures were rejected for lacking proper registration status or residence.

3. The candidate may submit documents establishing the age of majority for any signer who was listed as ineligible due to status of being a legal minor.

4. The candidate may submit affidavits from persons whose signatures were rejected due to illegibility that attest to their identity. If possible, the affidavits should state the person's name, residence address, and a reasonable description of the location where approached by the circulator to sign the petition.

5. The candidate may not submit documents establishing that a petition signer became registered or updated their voter registration status to the address provided upon the petition after the established candidate filing deadline for the office sought.

H. Individual signatures reconsidered during the appeal will only count towards the candidate's requisite number if a majority of board members agree that sufficient evidence exists for their inclusion.

I. All determinations of the board before which the appeal is being heard shall be considered final and not subject to further appeal.

## VI. APPEAL TO DEFICIENCY IN PETITION SIGNATURES (continued)

### 1VAC20-50-30. Appeals of petition signature insufficiency (continued)

Statutory Authority

§ 24.2-103 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 29, Issue 23, eff. July 1, 2013; amended, Virginia Register Volume 30, Issue 9, eff. December 30, 2013.

## VII. ORDER OF NAMES ON THE BALLOT

Non-partisan or independent candidates appear on the ballot in alphabetical order by last name.

## VIII. THE SUCCESSFUL CANDIDATE

Any successful candidate must file, as a condition to assuming office, with either the **clerk of the governing body or with the Virginia Conflict of Interest and Ethics Advisory Council**, a **second** statement of economic interests as required by §§ 2.2-3115 and 2.2-3116 of the *Code of Virginia* **prior to taking office**, and semi-annually thereafter by June 15<sup>th</sup> and December 15<sup>th</sup> each year.

**Special Note:** The Virginia Conflict of Interest and Ethics Advisory Council was established by the 2014 General Assembly Session. At the time of publication of this bulletin, the Council is still lacking in form and structure to receive statements of economic interest forms from elected official. It is recommended by the Department that the successful candidate check with the governing body officials or with the Council itself on the nature of this requirement at the time it is due. It is presumed that the current 2015 General Assembly Session is to give greater structure to the Council and, by the time the form is required to be filed by the successful candidate, the Council may in fact be up and operational. Forms are prescribed by the Secretary of the Commonwealth and should be available from the appropriate clerk. If the clerk is unable to provide a copy, the form can be obtained from the Secretary of the Commonwealth's website:

<https://commonwealth.virginia.gov/formslist/>

The successful candidate in a special *election* is required by law to qualify and take the oath of office within 30 days from the date of the election (§ 24.2-201).

Failure to qualify in a timely manner creates a vacancy in the office.

## IX. FREQUENTLY ASKED QUESTIONS

Listed below are the most commonly asked questions. If you need further details, please call us on our toll-free number.

A. Who may circulate a candidate's petitions?

Answer: **A candidate's petitions may be circulated by any person who is a legal resident of the United States of America. Circulators may not be minors or felons whose voting rights have not been restored.**

**Special Note:** The U.S. Supreme Court denied certification of Virginia's appeal in the 2012 Libertarian Party of Virginia v. Judd et al. case. The decision leaves in place the U. S. 4<sup>th</sup> Circuit Court's directive that prohibits the State Board of Elections from enforcing the in-state residency requirement to circulate a candidate petition contained within §§ 24.2-506 and 24.2-521.

The circulator must affirm before a notary or other person authorized to administer oaths, that he **personally witnessed** the affixing of each signature. Falsely taking this affidavit is a felony under Virginia law. The circulator can **NEVER** leave the petition unattended, e. g., left on the counter at a grocery store, restaurant, etc.

B. I am circulating a petition for a candidate. May I also sign as a qualified voter the petition that I am circulating?

I am a notary circulating petitions for a candidate. May I notarize the petition pages I circulate?

Answer: **No to both.** The person circulating the petition must swear, under oath, that s/he **personally witnessed** the affixing of each signature on the petition and no person can witness his/her own signature.

C. I am a candidate and a notary. May I notarize the petition pages circulated by other persons?

Answer: **No.** § [47.1-30](#) of the *Code of Virginia* prohibits a notary from performing a notarial act on any document in which the notary or his/her spouse is a party, **or** in which either of them has a direct beneficial interest.

Any Notary who violates these provisions is considered guilty of official misconduct, may be removed from office and may be subject to other penalties.

## IX. FREQUENTLY ASKED QUESTIONS (continued)

D. I work for the federal government. Can I be a candidate?

Answer: **Pursuant to the federal law commonly known as the Hatch Act, you may be a candidate in a non-partisan election or, if you live in the Counties of Arlington, Fairfax, Loudoun, Prince William, Spotsylvania or Stafford or the Cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park or Portsmouth, you may be an independent candidate for local office in a partisan election.** An election is considered partisan if any of the candidates for the office you would seek are nominated by a political party.

To determine whether you might also be affected by the rules and regulations of the agency for which you work, **contact your personnel officer.**

It should also be noted that most employees of the legislative branch of the federal government are not covered by the Hatch Act but may be affected by other rules and regulations.

E. I work for the state or a local government. Can I be a candidate?

Answer: **Some state and local government employees are prohibited from being candidates.** You may be so prohibited if your Agency receives federal funds. **Contact the personnel officer where you work.** If necessary, present the facts of your case in writing, including the office you wish to seek, to the Hatch Act Unit, **U.S. Office of the Special Counsel**, 1730 M Street NW, Suite 218, Washington, D. C. 20036-4505. The Unit can also be reached by phone at 800-854-2824, 202-254-3650 or by email through [hatchact@osc.gov](mailto:hatchact@osc.gov). That office will determine if you are affected by the Hatch Act. Their web address is <https://osc.gov>.

Most state and local government employees are not prohibited by law from being a candidate. However, you may be affected by the rules and regulations of the agency or ordinances of the government for which you work. **Contact your personnel officer.**

F. I do business with my local government. Am I prohibited from holding office on its governing body due to a conflict of interest?

Answer: **Contact an attorney to determine whether or not the provisions of the State and Local Government Conflict of Interests Act [ §§ 2.2-3100 through 2.2-3127 of the Code of Virginia ] might affect your ability to hold the office you intend to seek.**

## IX. FREQUENTLY ASKED QUESTIONS **(continued)**

G. What activities are permitted at the polls on Election Day?

Answer: **Please refer to the Do's and Don'ts for Campaigners and Authorized Representatives published by the Department of Elections** (see hyperlink below). We suggest that you provide this information to any person who will either serve as your representative inside the polls or work for you outside the polls on Election Day.

<http://townhall.virginia.gov/L/ViewGDoc.cfm?gdid=5329>

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