

Judicial Candidacy Information



Kings County Elections
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Term of office for Judges of the Superior Court is 6 years beginning the Monday after January 1st following their election. (California Constitution, Article VI, Section 16(c))

Qualifications for Judicial candidacy:

- Be a registered voter in California
- A member of the State Bar for 10 years or have served as a Judge of California court of record for 10 years immediately preceding the election

Documents required to be filed:

- Filing Fee and/or Petitions In-Lieu
- Declaration of Intention
- 20 nomination signatures
- Judge of the Superior Court Proof of Qualifications
- Statement of Economic Interests (Form 700)
- Declaration of Candidacy
- Campaign Disclosure Statements for candidates involved with a financial campaign

Optional:

- 200-word Candidate Statement The statement shall be limited to a recitation of the candidate's own personal background and qualifications.
- Code of Fair Campaign Practices

FILING PERIODS:

- | | |
|----------------------------|---|
| • Signatures In-Lieu | E-158 to E-118 Sept 12 - Nov 6, 2019 |
| • Declaration of Intention | E-127 to E-118 October 28 – November 6, 2019 |
| • Nomination | E-113 to E-88 Nov 11* - Dec 6, 2019 |

JUDICIAL NOMINATION DOCUMENTS - SIGNATURES IN-LIEU OF FILING FEE PETITION

(EC 8105, 8106)

A candidate may submit a petition containing signatures of registered voters residing in their district in-lieu of paying the filing fee required for that office. The signatures submitted may cover all, or a portion, of the filing fee. Any registered voter may sign an in-lieu petition for any candidate for whom he or she is eligible to vote. The first day to obtain a petition for this election is **Sept 12, 2019**. The petition(s) must be filed with the county elections official in the county where circulated no later than 5 p.m. on **Nov 6, 2019** and prior to filing a Declaration of Intent. (Other candidates, other than judges have until E-103) The names of candidates requesting Signature In-Lieu Petitions are considered public information.

No additional signatures may be filed after the Declaration of Candidacy has been filed; however, supplemental signatures may be filed to replace signatures in the original filings that were found invalid. The county elections official shall notify the candidate of the number of invalid signatures within 10 days of filing. The candidate can cover the deficiency either by submitting a supplemental petition or by paying the balance due (With a 'Not to Exceed' check) of the filing fee no later than November 6, 2019.

NOTE: All filing fees are non-refundable

Obtaining the In-Lieu Petition Form

A 2-page master petition form will be available from the county elections official beginning **Sept 12, 2019**. The form will be issued directly to the candidate or to someone bearing written authorization from the candidate. There is no charge for the master form; however, the candidate will be responsible for duplicating as many copies as he/she needs. The two pages should be duplicated front to back to ensure that the two pages will not be separated. The county elections official maintains a list of persons who have applied for Signatures In-Lieu Petitions. **This will be considered public information** in the event of inquiries from the media or others.

DECLARATION OF INTENTION

(EC 8023)

Declaration of Intention is only required for the Office of Superior Court Judge, and candidates are required to file a Declaration of Intention in order to become a qualified candidate for Superior Court Judge. The filing period for the Declaration of Intention is **October 28 – November 6, 2019**. The nonrefundable filing fee is due at the time of filing the Declaration of Intention form.

The Declaration of Intention form must be obtained from and filed with the county elections official of the county in which the candidate is a resident. The numerical office number being sought must be stated on the form. No candidate for a judicial office shall be required to state his or her residential address on the Declaration of Intention or Declaration of Candidacy. However, if the address is not stated on the Declaration of Intention, the address must be provided to the elections official for verification and contact purposes; this information will not be provided to the public.

If an incumbent judge has not filed by the end of the Declaration of Intention period, any qualified person, other than the incumbent, may file a Declaration of Intention form during the extension period (E-117 to E-113).

FILING FEES

(EC 8103 – 8105, 8106 (b), GC 85200, 84300)

When the filing fee is paid:

Candidates for Judicial office are required to pay the filing fee at the time they file their Declaration of Intention form.

Amount of the filing fee:

The filing fee is 1% of the annual salary for the office. (The filing fee shall be calculated on the basis of the annual salary for the office on the first day (E-158) to circulate petitions to gather signatures in-lieu of the filing fees. EC 8104 (b))

The filing fee is not refundable:

If, for any reason, the candidate fails to qualify, the filing fee is forfeited.

Example:

**2020 PRIMARY ELECTION SIGNATURE REQUIREMENT FOR
FULL SUBSTITUTION OF FILING FEES**

OFFICE	ANNUAL SALARY	FILING FEE	IN - LIEU SIGS	VALUE OF SIGS
Judge, Superior Court	\$207,424*	\$2,074.24 1% of annual salary	3,747**	3 sigs for every \$1

*Annual salary is verified by the Clerk of the Superior Court on the first day to circulate Petitions In-Lieu (E-158) – which for the 2020 March Primary Election is September 12, 2019.

** a candidate may submit a petition containing three signatures of registered voters for each dollar of the filing fee, or 7 percent of the total of registered voters in the district in which he or she seeks nomination, whichever is less. EC 8106

Returned checks:

If the filing fee is paid with a personal check that is returned without payment, the county elections official will notify the candidate by telephone. The candidate must present payment for the filing fee by cash, money order or cashier's check by 5 p.m. on the next business day, for the full amount of filing fees, in addition to the returned check fee. Failure to do so will invalidate the individual's candidacy, and the candidate's name will not appear on the ballot. Kings County's returned check charge is \$45.00 – (SCC-1369 Section 2.01.030 and Section 2.01.035)

NOMINATION PETITION

(EC 8020, 8041, 8062-8070)

All potential judicial candidates involved with this election must file a Nomination Petition. The Nomination Petition consists of 20 valid signatures. Signers shall be voters in the county in which the nomination is proposed. Nomination Petitions can be submitted up to the close of the nomination period (E-88).

Signatures In-Lieu toward Nomination Signatures (Petition)

(EC 8061-8063)

If a candidate submits a Signatures In-Lieu Petition, the county elections official will also count those valid signatures appearing on the petition toward the number of voter signatures required for the candidate's nomination qualification.

If the Signatures In-Lieu Petition contains the requisite number of valid signatures required for the Nomination Petition, the candidate is NOT required to circulate and file a separate Nomination Petition. However, other required documents (i.e. Declaration of Candidacy, etc.) must still be filed during the appropriate time frame.

If the Signature In-Lieu Petition does not contain the requisite number of valid signatures required for the Nomination Petition, the candidate may circulate and file a separate Nomination Petition to be signed by qualified registered voters during the nomination period. Supplemental Signatures In-Lieu may be submitted to satisfy the filing fee up until the close of the nomination period (E-88). (EC 8106 (b)(3))

STATEMENT OF ECONOMIC INTERESTS (FORM 700)

(Government Code 87200 – 87203, 87500, 81008)

Superior Court Judge Candidates must file Statements of Economic Interests (disclosing their investments, interests in real property, and any income received during the preceding 12 months) at the time of filing the Declaration of Candidacy. Statements of Economic Interest are public record. These statements are filed at VRE and sent to FPPC.

Exception: The statement is not required if the candidate has filed such a statement within the past 60 days for the same jurisdiction. (Although not required by law, we ask for a courtesy copy if they have filed within the past 60 days.)

DECLARATION OF CANDIDACY

(EC 8020, 8023, 8028, 8101, 8105)

The Declaration of Candidacy is the official nomination document, wherein the candidate indicates how his/her name and ballot designation is to appear on the ballot. Additionally, the candidate declares that he/she meets the statutory and/or constitutional qualifications for the office sought, and that if nominated, the candidate will accept the nomination and not withdraw.

The Oath of Office on the Declaration of Candidacy form must be taken and signed by the candidate before a person authorized to administer oaths. The county election officials and notaries public are so authorized. No candidate for a judicial office shall be required to state his or her residential address on the Declaration of Candidacy

The candidate is required to execute the Declaration of Candidacy in the office of the county elections official, unless a written statement is signed and dated by the candidate designating a person to receive the Declaration of Candidacy form from the county elections official and deliver it to the candidate. The written statement from the candidate shall include language indicating that the candidate is aware that the Declaration of Candidacy must be properly executed and delivered to the county elections official in the county of the candidate's residence by the 88th day prior to the election or by the 83rd day in the case of an extension to that office.

Withdrawal of Candidacy

(EC 8800, 8801, 8803, 8804)

No candidate whose Declaration of Candidacy has been filed for any primary election may withdraw as a candidate at that primary election.

No candidate nominated at any primary election may withdraw as a candidate at the ensuing general election except those candidates permitted to withdraw by this part.

**JUDICIAL INCUMBENT / ONLY NOMINEE –
PETITION CALLING ELECTION REQUIRED FOR WRITE-IN CANDIDACY
(EC 8203)**

Primary Election

EC 8203 (a)

In the circumstance where a judicial incumbent is the only candidate, the candidate's name shall not appear on the Primary Election ballot UNLESS there is filed with the Registrar of Voters, not later than E-78, at 5:00 p.m., a petition indicating that a write-in campaign will be conducted for the office and signed by at least 0.1 percent of the registered voters qualified to vote with respect to the office, provided that the petition shall contain at least 100 signatures but need not contain more than 600 signatures.

General Election

EC 8203 (b)

The name of the incumbent shall be placed on the general election ballot if it has not appeared on the direct primary election ballot if a petition indicating that a write-in campaign will be conducted for the office at the general election, signed by the number of registered voters qualified to vote with respect to the office specified in primary elections code 8203 (a), is filed with the elections official not less than 83 days before the general election.

Write-In Candidate Qualifications

(EC 8600)

Every person who desires to be a write-in candidate and have his or her name as written on the ballot of an election counted for a particular office shall file:

(a) A statement of write-in candidacy that contains the following information:

- (1) Candidate's name.
- (2) Residence address.
- (3) A declaration stating that he or she is a write-in candidate.
- (4) The title of the office for which he or she is running.
- (5) The party nomination which he or she seeks, if running in a partisan primary election.
- (6) The date of the election.
- (7) A certification of the candidate's complete voter registration and party affiliation/preference history for the preceding 10 years , or for as long as he or she had been eligible to vote in the state if less than 10 years, if running for a voter-nominated office.
- (8) For any of the offices described in Section 13.5, a statement that the candidate meets the statutory and constitutional requirements for that office as described in that section.

(b) The requisite number of signatures on the nomination papers, if any, required pursuant to Sections 8062, 10220, and 10510, or, in the case of a special district not subject to the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10), the number of signatures required by the principal act of the district.

(c) Notwithstanding any other provision of law, a person may not be a write-in candidate at the general election for a voter-nominated office.

(Amended by Stats. 2012, Ch. 3, Sec. 25. (AB 1413) Effective February 10, 2012.)

Unopposed Judicial Candidates

An unopposed non-incumbent judicial candidate will appear on the Primary Election ballot. That office, however, shall not appear on the ballot at the ensuing General election. (This is the opinion of our County Counsel - See Worden v. LaVine 2008)

VOTES NEEDED FOR ELECTION

(EC 8140)

If no candidate receives a majority of the vote in the primary election, there is a general-election runoff between the top two candidates. If an incumbent judge is unopposed, s/he is automatically reelected; the judge's name does not appear on the ballot.

QUESTIONS AND ANSWERS

1. A judicial seat is newly created.

If created in an election year, it will be on the ballot in two years; if created in a non-election year, it will be on the ballot the following year.

A newly created seat produces a vacancy which, under California Constitution Art. VI, §16(c) "shall be filled by election to a full term at the next general election after the second January 1 following the vacancy." *Fields v. Eu* (1976) 18 Cal.3d 322.

2. A judge leaves office (dies, retires, resigns, is removed from office or is appointed to another post) in a non-election year.

Under Art. VI, §16(c) of the State Constitution, "the vacancy shall be filled by election to a full term at the next general election after the second January 1 following the vacancy, but the Governor shall appoint a person to fill a vacancy temporarily until the elected judge's term begins." The person who is appointed to fill this position can use the ballot designation of 'Incumbent' or 'Superior Court Judge' when running for their next term. (EC 13107)

3. A judge leaves office early in the year in which his or her term expires.

The election will be held *that year* if a candidate has filed nominating papers; otherwise, it will be held in two years.

Once a candidate qualifies, a primary election will take place in June (a November election will take place ONLY if there is a run-off). *Stanton v. Panish* (1980) 28 Cal.3d 107. The governor may still make an appointment to the post after a candidate qualifies, though the term of the appointee will expire the Monday after January 1 following the election (Const., Art. VI, §16(c)). The flip side of *Stanton*, is that if the governor makes an appointment before a candidate qualifies for the office by filing nominating papers, the election for the office will be called off and will take place in two years. That said, it must be assumed to apply only where the incumbent who leaves office was *elected* to his or her post. *Pollack v. Hamm* (1970) 3 Cal.3d 264, which *Stanton* does not purport to overrule, held that the departure of an appointed judge will not result in the postponement of an election.

4. A judge who does not file nominating papers leaves office before the primary, and at least one candidate has filed nominating papers.

The election will be held *that year*.

Once a candidate files nominating papers, the subsequent death or retirement of the judge has no effect on the election. *Stanton v. Panish*. (Upon the failure of the incumbent to file nominating papers, the period for other candidates to file nominating papers is extended by five calendar days. Election Code §8204.)

5. A judge files nominating papers, is unopposed, but leaves office before the primary election.

The election will be held in two years.

A vacancy occurs which may be filled temporarily by the governor, with an election taking place in two years. Const., Art. VI, §16(c). Where the judge resigns prior to the primary, that judge will not be deemed elected to a new term. *People Ex rel. Superior Court v. Robinson* (1987) 190 Cal.App.3d 334.

6. A judge files nominating papers, is opposed, and resigns, retires, is removed, or is appointed to another post prior to the primary election

The election will be held that year.

Under *Stanton v. Panish*, the election will proceed. Elections Code §8800 provides: "No candidate whose declaration of candidacy has been filed for any primary election may withdraw as a candidate at that primary election." In light of that provision, a voter may not bring a proceeding in mandate under Elections Code §13314 to correct "an error or omission" on the ballot by compelling removal of the name of the candidate. *Mann v. Superior Court* (1986) 181 Cal.App.3d 372. The former judge may be listed on the ballot as a judge notwithstanding that he or she no longer holds that office. Under §13107(a) (1), an office may be listed as a ballot designation if the candidate held it "at the time of filing the nomination documents."

7. A judge files nominating papers, is opposed, and dies before the primary election.

The election will be held that year.

Under Elections Code §8809, a candidate's name will not appear on the ballot if the officer charged with printing ballots has ascertained the fact of the death at least 68 days before the election. In that event, only the name of the challenger (or names of challengers) will appear. If the name of the deceased incumbent does appear on the ballot, Elections Code §15402 applies and "votes cast for the deceased candidate shall be counted." The statute continues: "If the deceased candidate receives a majority of the votes cast for the office, he or she shall be considered elected and the office to which he or she was elected shall be vacant at the beginning of the term for which he or she was elected." The governor may then appoint a successor.

8. A judge who is in a run-off dies before the general election.

The election will be held that year.

Under the reasoning of *Stanton v. Panish*, the scheduled election will not be upset, and the same law would pertain as would apply if neither candidate in the run-off were an incumbent. If the election official responsible for printing the ballots becomes aware of the death at least 68 days before the general election, Elections Code §8803 authorizes filling the "vacancy" on the ballot (solely under this circumstance). Sec. §8807 provides that "the name of that candidate receiving at the primary election the next highest number of votes shall go upon the ballot to fill the vacancy." If there were only two candidates in the primary, only the name of the surviving

candidate will appear on the ballot. Sec. 8810 proscribes inclusion of the name of the deceased candidate.

If, however, the death occurred after the 68th day before the election, Elections Code §15402 pertains.

9. An incumbent is forced into a run-off election and is appointed to another post prior to the general election.

The election will be held *that year*.

Under the reasoning of *Stanton v. Panish*, the scheduled election will not be upset, and the same law would pertain as would apply if neither candidate in the run-off were an incumbent. Elections Code §8804 would require that election officials remove the name of the incumbent from the general election ballot and substitute the name of the candidate in the primary with the next highest number of votes if an incumbent who has been appointed to a state or federal office so requests at least 68 days before the general election. Otherwise, the name of the incumbent and the other high vote-getter in the primary would go on the general election ballot.

10. A judge is elected in the primary (was unopposed or prevails in a contest) but leaves office following the primary and before the general election.

An election for the office will not take place in November.

The election processes will have "spent their force" and there is no contest to go before the voters in the November election. *French v. Jordan* (1946) 28 Cal.2d 765. *Monterey County Registrar of Voters v. Luma Serrano Williams* (August 2008). Elections Code §8140.

11. A judge is elected in the primary but departs office prior to commencement of a new term, and an appointment is made prior to the commencement of that term.

An election will be held two years after the one in which the judge was elected to a new term.

When the elected judge does not take office in January, no new vacancy is created, and the appointed judge remains in office until the person is chosen at the next election, which will occur the following year. *Anderson v. Phillips* (1975) 13 Cal.3d 733.

12. A judge's position is up for election and the judge decides not to seek re-election. Only one candidate has qualified for the position.

When a non-incumbent candidate runs unopposed the contest must appear on the Primary ballot. *Worden v. LaVine* 2008

13. May a candidate file for the office of Superior Court Judge outside their county of residence?

Yes, Government Code section 69502 which stated "Each judge of a superior court shall reside within the county of the court for which he is elected or appointed." was repealed by Statute 2000, Chapter 1081 (Senate Bill 1823) Section 25.