

15:10-2.1 General provisions

(a) A voter becomes a member of a political party by either:

1. Having voted in a previous primary of that party; or
2. By filing a political party affiliation declaration form. The declaration must be signed and filed with the municipal clerk or appropriate county election officer no later than the 50th day preceding the primary. However, a voter who has not previously voted in a party primary may vote in any primary without filing any declaration form. However, such voter shall declare a political party affiliation at the polling place on primary election day.

i. In the event such day falls on a Saturday, Sunday, or legal holiday, the county voter registration official shall accept as timely filed those political party affiliation declaration forms which he receives on the first regular business day following the 50th day before the primary election.

(b) A member of a political party county committee and/or a public official or public "employee" who was elected or appointed to such office or employment as a member of a political party shall be deemed a member of such political party.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Case Notes

Signatures of unregistered voters on nominating petitions for state office were invalid. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

Unaffiliated voters may declare party membership by signing nomination petition. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

Unaffiliated voter could sign nominating petition prior to signing declaration form. *Mayer v. Addison*, 265 N.J.Super. 171, 625 A.2d 1143 (A.D.1993), reversed 93 N.J.A.R.2d(STE) 1, certification denied 133 N.J. 442, 627 A.2d 1147.

To be valid, signatures of registered Republicans on Democratic primary nominating petition were required to have been preceded by filing of declaration. *Lesniak v. Budzash*, 265 N.J.Super. 165, 625 A.2d 1139 (A.D.1993), certification granted, judgment affirmed 133 N.J. 425, 627 A.2d 1133, affirmed as modified 133 N.J. 1, 626 A.2d 1073.

Nominating signature of individual identified as registered in another party was not invalid. *Garcia v. DuVal*, 95 N.J.A.R.2d (STE) 10.

Candidates with insufficient signatures on nominating petition were disqualified. *Republican Assembly Majority v. Cromar*, 95 N.J.A.R.2d (STE) 8.

Candidate with nominating petitions containing insufficient ballot signatures were disqualified. *Republican Assembly Majority v. Cortes*, 95 N.J.A.R.2d (STE) 7.

Insufficient qualified signatures on nominating petitions precluded appearance on ballot. *Republican Assembly Majority v. Bhalla*, 95 N.J.A.R.2d (STE) 5.

Nominating petitions with less than required number of registered signatories were invalid. *Assembly Republican Majority v. Albano Jr.*, 95 N.J.A.R.2d (STE) 1.

15:10-2.2 Who must file declarations

(a) To determine whether a voter must file a political party declaration affiliation form, three steps shall be followed:

1. It must be determined whether the voter has ever voted in a primary election under the voter's current registration;
2. If so, it must be determined in which political party primary the voter participated when the voter cast the most recent primary ballot;
3. If the voter now wishes to participate in the primary election of a different political party, the voter must file a declaration.

(b) A voter who has never previously participated in a primary election under the voter's current registration need not file a declaration of party preference.

(c) If a voter cast a ballot in a primary several years ago, that voter must file a declaration in order to vote in the primary of another party. The passage of time has no effect on the status of the voter as a member of a political party.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

Law Review and Journal Commentaries

Elections. Steven P. Bann, 134 N.J.L.J. No. 11, 45 (1993).

Case Notes

Voters must be registered to be considered "qualified" to sign party nomination petition. *Lesniak v. Budzash*, 133 N.J. 1, 626 A.2d 1073 (1993).

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15:10-2.3 Responsibilities of municipal clerks

(a) Municipal clerks should obtain and have available for distribution voter declaration forms.

(b) Upon receipt of a signed declaration or a written statement declaring political party membership, the municipal clerk should mark on the form or statement the date on which it was filed with him or her.

(c) The municipal clerk should accurately maintain a registry of declarations received showing the name and address of the voter the political party declared and the date received.

(d) Once it has been dated and recorded, the municipal clerk should submit the form or statement to the county voter registration official.

(e) Appropriate measures should be taken to insure that the forms are properly delivered in the condition in which they were received. Immediately after the expiration of the

deadline for the receipt of forms (that is, 50 days before the primary election), the municipal clerk should deliver those forms in his possession to the county voter registration official.

(f) In the event that declaration forms or statements are lost or damaged in transit, the municipal clerk may rely upon the records maintained by him or her to advise the county voter registration official of the declarations received, but this measure should only be used after all reasonable means of locating or repairing the original forms or statements have been exhausted.

15:10-2.4 Responsibilities of county election officers

(a) The superintendent of elections in all counties having a superintendent of elections and the county board of elections in all other counties, shall serve as the county commissioner of registration. The commissioner has complete responsibility for the permanent registration of all eligible voters within their respective counties and for the enforcement of the provisions of N.J.S.A. 19:23-45 et seq.

(b) The appropriate county commissioner of registration must distribute the declaration forms prepared by the Department of State to all municipal clerks and to other sources where, in the judgment of the officer, there is a substantial likelihood that such forms will be distributed to the voting public.

(c) Upon receipt of a signed declaration form or statement, the election officer shall immediately mail an acknowledgment to the voter indicating the political party the voter declared. The acknowledgment must also indicate that, if the voter believes that he or she has not filed a declaration, or that an error has occurred, the voter must so advise the officer by either personally appearing, writing or telephoning within two weeks. The voter must be informed that, in the absence of any response, the voter will be deemed to be a member of the political party declared. In the event a voter submits a written, signed statement to the effect that he or she has not filed a declaration or that an error occurred, whatever the case may be, the records of the commissioner of registration shall reflect this action.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

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15:10-2.5 Appearance at polls; declaration not required from excused voters

Voters who are not required to file a declaration card under N.J.S.A. 19:23-45 do not have to make a written declaration when appearing at the polls to participate in the primary election. It is sufficient that the voter proceeds to vote in the primary of one party and is thereby deemed to be a member of that party.

15:10-2.6 Method of filing declaration of political party membership

(a) The Department of State has prepared party declaration forms which may be obtained from the appropriate county voter registration official or municipal clerk. Upon filling out the form the voter shall file the completed form with the county commissioner of registration in the county in which he or she resides. The voter may also file the party declaration form with the municipal clerk of the municipality wherein he or she resides.

(b) Any voter wishing to file a declaration of political party membership is not required to use those forms provided by the Secretary of State. However, the voter should prepare a written statement indicating that he or she is a member of a political party. The statement should be signed by the voter. The name and full address should appear and the statement should be dated by the voter.

Amended by R.1996 d.211, effective May 6, 1996.
See: 28 N.J.R. 1344(b), 28 N.J.R. 2393(b).

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15:10-2.7 Effect of prior registration and voting

(a) Any voter who has voted in a primary election under a current registration shall vote in the same party as he or she has previously voted, unless the voter has filed a party declaration form in accordance with these rules.

(b) If a voter has registered to vote in a previous year, but has failed to vote in any primary election, then at the first primary election which the voter wishes to vote, he shall declare the party in whose primary he wishes to vote. The voter shall then be allowed to vote in the primary of the political party of his declared choice.

15:10-2.8 Availability of declaration forms

(a) A bona fide organization or individual candidate for public office may request a reasonable number of declaration forms from the county voter registration official in each county in which the organization functions or where the candidate is seeking public office. The number requested may be limited to two percent of the total number of declaration forms which the appropriate election official has available at the time of such request. There shall be no limit as to the number of requests that such a candidate or organization may make. The appropriate election official shall maintain a record of all organizations and individual candidates requesting 100 or more forms.