



OKLAHOMA STATE ELECTION BOARD

DECLARATION OF ELECTION EMERGENCY 2020-02

WHEREAS on March 11, 2020, the World Health Organization classified the Coronavirus Disease 2019 (COVID-19) as a pandemic; and

WHEREAS on March 13, 2020, President Donald J. Trump declared the ongoing Coronavirus Disease 2019 (COVID-19) pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia pursuant to Section 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207 (the "Stafford Act"); and

WHEREAS Governor J. Kevin Stitt has issued Executive Order 2020-07, as amended, declaring an emergency for all seventy-seven (77) Oklahoma counties caused by the impending threat of COVID-19 to the people of this State and public peace, health and safety, and requires that social gatherings of more than ten (10) people are prohibited, and it encourages businesses within the critical infrastructure sector to "take all reasonable steps necessary to comply with this Order and protect their employees, workers, and patrons;" and

WHEREAS Governor J. Kevin Stitt has issued Executive Order 2020-08 on March 17, 2020, urging Oklahomans to follow the President's Coronavirus Guidelines for America, which includes the recommendation to avoid gatherings in groups of more than ten (10) people; and

WHEREAS Governor J. Kevin Stitt has issued Executive Order 2020-12 on April 2, 2020, declaring a catastrophic health emergency under the Catastrophic Health Emergency Powers Act, 63 O.S.2011, § 6101 *et seq.*, for all seventy-seven (77) counties as a result of the ongoing COVID-19 Pandemic, which both houses of the Oklahoma Legislature concurred to on Monday, April 6, 2020, by an affirmative vote on HCR 1001 that occurred in the First Extraordinary Session of the 57th Oklahoma Legislature; and

WHEREAS Governor J. Kevin Stitt has issued Executive Order 2020-13 on April 8, 2020, declaring an emergency for all seventy-seven (77) Oklahoma counties caused by the ongoing threat of COVID-19 to the people of this State and public peace, health and safety, and requires that social gatherings of more than ten (10) people are prohibited, and it encourages businesses within the critical infrastructure sector to "take all reasonable steps necessary to comply with this Order and protect their employees, workers, and patrons;" and

WHEREAS Section 5-118 of Title 26 of the Oklahoma Statutes authorizes any candidate for state or federal office to contest the candidacy of any other candidate for the same office by filing a written petition with the Secretary of the State Election Board; and

WHEREAS Section 5-122 of Title 26 of the Oklahoma Statutes requires that Secretary of the State Election Board to set contests of candidacy no sooner than three (3) days from the date of filing of said petition; and

WHEREAS the State Election Board has historically held all contest of candidacy hearings in person at the State Capitol and open to the public; and

WHEREAS Section 1-102 of Title 26 of the Oklahoma Statutes requires the primary election in an even-numbered year to be held on the last Tuesday of June, which is June 30, 2020; and

WHEREAS federal law, the Uniform and Overseas Citizens Absentee Voting Act (“UOCAVA”), as amended by the Military and Overseas Voter Empowerment Act (“MOVE Act”), and state law, the Uniform Military and Overseas Voters Act, requires that military and overseas voters receive absentee ballots not less than forty-five (45) days prior to federal elections; and

WHEREAS the State Election Board cannot postpone the contests of candidacy without impinging its ability to finalize and timely send ballots to uniformed and overseas voters as required under federal and state law; and

WHEREAS Governor J. Kevin Stitt signed into law Senate Bill 661, 2020 O.S.L. 3, allowing public bodies in the State of Oklahoma to convene remotely by videoconference and teleconference to conduct business; and

WHEREAS the Secretary of the State Election Board agrees with recommendations from the Centers for Disease Control and Prevention (“CDC”), the Oklahoma State Department of Health (“OSDH”) and other health experts that large public gatherings should be limited in an effort to decrease the risk of the community spread of COVID-19; and

WHEREAS Paragraph 1 of Subsection A of Section 22-101 of Title 26 of the Oklahoma Statutes authorizes the Secretary of the State Election Board to “declare an election emergency for any area of the state” when a national or local emergency “has occurred or is imminent, and such circumstances could make substantial compliance with state and federal election laws impossible or unreasonable, or could disrupt voter registration, voting, the tabulation of votes or the certification of election results;” and

WHEREAS the Secretary of the State Election Board finds that national and local emergencies currently exist that could make substantial compliance with state and federal election laws impossible or unreasonable.

NOW, THEREFORE, I, Paul Ziriak, Secretary of the Oklahoma State Election Board, pursuant to the power vested in me by Paragraph 1 of Subsection A of Section 22-101 of Title 26 of the Oklahoma Statutes, hereby declare and order the following:

- ¶ 1. An election emergency exists for the contest of candidacy hearings for state and federal offices to be held on Tuesday, April 21, 2020, following the 2020 Candidate Filing Period.
- ¶ 2. Candidates who wish to contest the candidacy of another candidate for the same office and district (“petitioners”) are encouraged to call ahead to schedule an appointment with the State Election Board to file their petition. A \$250.00 cashier’s check or certified check must be included with the Petition for it to be accepted by the Secretary of the State Election Board. To schedule an appointment, legal representatives for petitioners or petitioners themselves can call **(405) 521-2391**. Otherwise, petitioners without a scheduled appointment should call ahead to advise the Secretary of the State Election Board that they will be coming to, or if they are en route to, the State Capitol to file a petition. Petitioners are advised to follow social distancing guidelines on arriving at the State Capitol.
- ¶ 3. Prior to filing their petition contesting candidacy, Petitioners are ***strongly encouraged*** to make arrangements with the appropriate County Sheriff to make service of the Petition and Notice of Hearing, as required by Sections 5-124 – 5-125 of Title 26 of the Oklahoma Statutes.
- ¶ 4. The time for a ***contested*** candidate who wishes to withdraw from the race is extended in an effort to promote social distancing and flatten the curve. Any candidate whose candidacy is contested may file a notice of withdrawal from the primary election ***no later than Monday, April 20, 2020, at 5:00 p.m.*** A candidate’s notice of withdrawal shall be in writing and notarized as required under Section 5-115 of Title 26 of the Oklahoma Statutes. This Paragraph shall also apply to any candidates for county office whose candidacy is contested. Candidates for county office wishing to withdraw shall furnish their notice of withdrawal to the secretary of the election board that accepted such contested candidate’s declaration of candidacy.
- ¶ 5. In the event personal service is not achieved as described in Section 5-125 of Title 26 of the Oklahoma Statutes, or if a return of service is received indicating service, a petitioner may email a copy of the return of service to ***info@elections.ok.gov***. Please include the Cause Number in the Subject line of the email. However, the original return of service must be subsequently mailed to the State Election Board if a petitioner is appearing remotely. Alternatively, if a petitioner appears in person, he or she can provide the return of service prior to the start of the hearing at which he or she is a party.
- ¶ 6. Any contestee who has not filed an answer or paid a deposit of \$250.00 by cashier’s check or certified check with the Secretary of the State Election Board before 5:00

p.m. on Monday, April 20, 2020, and who wants to appear before the Board on his or her contest must appear in person on **Tuesday, April 21, 2020, at 8:30 a.m.** The Secretary of the State Election Board will accept the filing of a written answer and supporting exhibits on the day of the hearings. Any contestee wishing to file an answer on the day of hearings must file **one (1) original of the answer and supporting exhibits** and at least **one (1) additional copy.**

- ¶ 7. No later than 12:00 p.m. on Monday, April 20, 2020, parties shall exchange by electronic means exhibit and witness lists along with any exhibits that a party intends to introduce at the hearing. Exhibit and witness lists, along with exhibits, shall also be sent by electronic means to ***info@elections.ok.gov*** in **one (1) PDF file**, which shall constitute an “Electronic Exhibit Binder,” for circularization to the members of the Board prior to the hearing. For the purposes of clearly identifying exhibits, parties are encouraged to stamp their exhibits such as ***Petitioner Exhibit #1*** or ***Contestee Exhibit #1***.

Any exhibits contained in the Electronic Exhibit Binder and sent to the State Election Board prior to the hearing will not be deemed admitted and a part of the Record. Like other administrative proceedings and previous contest of candidacy hearings, Parties should be prepared to offer exhibits during the hearing. Electronic Exhibit Binders will be available to Members and Alternates of the State Election Board at the start of the hearings. Supporting exhibits filed with an answer on the day of the hearing as provided for under ¶ 6 of this Declaration will likewise not be deemed admitted and must be offered into evidence for them to be a part of the Record.

- ¶ 8. Once remarks and explanations concerning the procedure of the hearings have concluded, the State Election Board will call the docket. All Parties should be ready to announce their presence and whether they are ready to proceed.

Following the docket call, all Parties except those appearing in the first cause to be called for hearing, will be instructed to leave the meeting or conference in order to reduce feedback and ensure that the Members of the Board and Alternates can more easily determine, see, and hear whoever is asking questions, answering questions, presenting statements, making objections, etc.

After a hearing concludes, all Parties to the concluded hearing are encouraged to immediately leave the meeting or conference. The Chair of the State Election Board or his designee will then announce the next cause. Parties are encouraged to watch the live feed in order to hear when their cause is called. Time will be given to allow the Parties to re-enter the meeting or conference. Once all Parties to a cause have entered the meeting or conference, the Chair of the State Election Board or his designee will request Parties to announce their appearance.

- ¶ 9. Consistent with the requirements under Senate Bill 661, 2020 O.S.L. 3, § 3, members of the State Election Board and Alternates ***may elect*** and are ***strongly encouraged*** to

participate in the Contest of Candidacy hearings on Tuesday, April 21, 2020, by videoconference or teleconference.

- ¶ 10. Parties, witnesses, and representatives or counsel to the Parties are **strongly encouraged** to appear by videoconference or teleconference. If Parties, representatives of Parties, and witnesses appear on the same videoconference or teleconference equipment, all individuals are encouraged to practice social distancing and any guidance set forth by the CDC.
- ¶ 11. Consistent with the Governor's Eighth Amended Executive Order 2020-07 and Executive Order 2020-13, no more than ten (10) people should be gathered using the same videoconference or teleconference equipment to participate in any contest of candidacy hearing.
- ¶ 12. Any court reporter who transcribes and/or records the proceedings should use his or her best judgment as whether he or she will appear in person, by videoconference, or teleconference.
- ¶ 13. The contest of candidacy hearings will be livestreamed this year. Accordingly, the public and press are encouraged to view the proceedings remotely. Links will be published on the State Election Board's website, social media pages, and on the notice and agenda for the April 21, 2020 hearings.
- ¶ 14. The Secretary of the State Election Board **strongly encourages** the Secretaries of all seventy-seven (77) County Election Boards to consult with their district attorney to develop procedures for conducting contest of candidacy hearings in accordance with the Governor's Executive Orders as well as the CDC Guidelines regarding social distancing.

Copies of this Declaration of Election Emergency shall be posted on the State Election Board website, elections.ok.gov.

IN WITNESS WHEREOF, I have set my hand and caused the seal of the State Election Board to be affixed at Oklahoma City, Oklahoma, this 10th day of April, 2020.



PAUL ZIRIAX
SECRETARY
STATE ELECTION BOARD

ATTEST:

Jana Kowals
Notary Public # 17001398



My Commission expires on: 2-10-2021