

# The State of Texas



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## **ELECTION ADVISORY** **NO. 2022-16**

**TO:** County Clerks/Elections Administrators and Cities, School Districts, and Other Political Subdivisions

**FROM:** Keith Ingram, Director of Elections 

**DATE:** March 9, 2022

**RE:** Cancellation of Elections

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This advisory explains the situations and procedures in which an election may be cancelled for cities, schools, and other political subdivisions; the general election for state and county officers; and the office of precinct chair. We also outline certain changes to the cancellation provisions in the Texas Election Code ("the Code") made by Senate Bill 1 (87th Leg., 2nd C.S., 2021).

There are specific situations under the Code in which all or part of an election may be cancelled. However, Section 2.082 of the Code requires the authority ordering an election to have specific statutory authority to cancel that election.

All statutory references in this advisory are to the Texas Election Code, unless otherwise indicated.

### **Changes in Law Made by Senate Bill 1**

Senate Bill 1 (87th Leg., 2nd C.S., 2021) amended Sections 2.053 and 2.056 of the Code to require that unopposed candidates be declared elected for the office sought, if otherwise authorized.

### **Cancellation of Election – Cities, Schools, and Other Political Subdivisions**

The cancellation law under Section 2.051 applies only to an election for officers of a political subdivision other than a county in which write-in votes may be counted only for names appearing on a list of write-in candidates. All or part of an election may be cancelled when each candidate for an office that is to appear on the ballot in that territorial unit **is unopposed AND no opposed at-large race is to appear on the ballot**. An unopposed at-large race may also be cancelled, regardless of whether an opposed race is to appear on the ballot in a particular territorial unit.

NOTE: If an opposed at-large race is to appear on the ballot, NO portion of the election may be cancelled.

For cancellation purposes, a special election of a political subdivision is considered to be a separate election from the general election held on the same day by the same political subdivision. Common examples of special elections include a special election on a measure and a special election to fill a vacancy.

For scenarios of when an entity can and cannot cancel an election, please see our [Cancellation of Election for Local Political Subdivisions \(Not County\)](#) outline.

## **Certification**

In order to begin the process of cancelling an election, the authority responsible for having the ballot prepared in an election must certify, in writing, that a candidate is unopposed in an election for office. That certification must be delivered to the governing body of the political subdivision as soon as possible after the filing deadlines for applications for a place on the ballot AND write-in candidate declarations.

[Certification of Unopposed Candidates for Other Political Subdivisions \(PDF\)](#)

## **Action Following Certification**

Upon receiving the certification that candidates are unopposed, the governing body of the political subdivision must, by order or ordinance, declare the unopposed candidates elected. This must occur at a meeting of the governing body subject to the Texas Open Meetings Act.

[Sample Order of Cancellation \(PDF\)](#)

If the candidates are declared elected, the election is not held. The governing body must notify the public by posting a copy of the order or ordinance that declared the unopposed candidates elected at each polling place that would have been used in the election. We also recommend posting the order or ordinance on the entity's website.

**NEW LAW:** Senate Bill 1 amended Section 2.053 of the Code to provide that a governing body of a political subdivision **must** cancel an election if presented with proper certification of unopposed status by the filing authority.

**NOTE:** If a separate election is being held at the same time as a cancelled election, the unopposed candidates must be listed on the ballot for that separate election under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the candidates.

## **After the Cancelled Election**

Unopposed candidates who are declared elected are issued certificates of election in the same manner as candidates who are elected. Additionally, unopposed candidates who are declared elected **MUST** qualify for office in the same manner as candidates who are elected—meaning that unopposed candidates must take an oath of office. An unopposed candidate who is declared elected may not qualify for office until after the regular canvass takes place (or would have taken place).

## **Cancellation of Election – Counties**

Section 2.056 of the Code requires the certifying authority to declare a candidate elected to an office of the state or county government if, were the election held, only the votes cast for that candidate in

the election for that office may be counted. **This only applies to the general election for state and county officers.**

NOTE: Candidates for public office may NOT be declared nominated if they are unopposed in the primary election.

### **Certification**

The certifying authority must certify, in writing, that a candidate is unopposed in an election for office. The “certifying authority” means:

- 1) The secretary of state, for a statewide or district office; or
- 2) The county clerk, for a county or precinct office.

### **Action Following Certification**

If an unopposed candidate is declared elected by the certifying authority, the election for that office is not held and the name of the candidate is listed on the ballot as elected to the office.

Offices and names of any candidate declared elected shall be listed separately after the contested races in the election under the heading “Unopposed Candidates Declared Elected.” The candidates shall be grouped according to their respective political party affiliations or status as independents in the same relative order prescribed for the ballot generally. No votes are cast in connection with the candidates.

**NEW LAW:** Senate Bill 1 amended Section 2.056 of the Code to provide that the certifying authority MUST declare a candidate elected to a state or county office if, were the election held, only the votes cast for that candidate in the election for that office may be counted.

### **After the Cancellation**

The certifying authority shall issue certificates of election to an unopposed candidate declared elected in the same manner as candidates who are elected at the election. In addition, unopposed candidates who are declared elected MUST qualify for office in the same manner as candidates who are elected—meaning that unopposed candidates must take an oath of office. An unopposed candidate who is declared elected may not qualify for office until after the regular canvass takes place (or would have taken place).

## **Cancellation of Election – Party Offices**

Section 171.0221 of the Code provides that if only one candidate's name is to be placed on the ballot for the office of **precinct chair**, the election for that office is not held, and the unopposed candidate, if otherwise eligible, shall be declared elected to the office.

NOTE: There is NO method to declare an unopposed candidate for **county chair** elected.

### **Certification**

The county chair shall prepare a document that shall be posted that states “Pursuant to Section 171.0221, Election Code, (insert name of unopposed candidate for precinct chair), if otherwise eligible, shall be declared elected to the office of precinct chair at the time of the local canvass.”

## **Action Following Certification**

The county chair or entity contracted to hold the election shall distribute copies of the document to the presiding judge of the election precinct with the other election supplies. An election officer shall post the document in one or more locations in the polling place where it can be read by persons waiting to vote.

The county chair shall post the name of a candidate declared elected at a public place in the election precinct.

If you have any questions regarding these matters, please feel free to contact the Elections Division toll-free at 1-800-252-2216.

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