## **BALLOT DESIGNATION (AFFIDAVIT OF NOMINEE)**

The ballot designation (see back page of Nomination Paper) is not more than **three words** which will appear on the ballot under the candidate's name. Candidates must complete and turn into the City Clerk's Office a ballot designation worksheet (Elections Code § 13107.3a)

At the option of the candidate, immediately under the name of the candidate and not separated from the name by any line, only **one** of the following designations may appear (E.C. § 13107a).

- 1. Words designating the elective city, county, district, state or federal office which the candidate holds at the time of filing the nomination papers to which he/she was elected by vote of the people.
- 2. The word "incumbent" if the candidate is a candidate for the same office that he/she holds at the time of filing and to which he/she was elected by vote of the people. (If appointed by the Council to fill a vacancy, this designation may not be used See No. 4).
- 3. No more than three words designating either the current principal professions, vocations, or occupations of the candidate, or the principal professions, vocations, or occupations of the candidate during the calendar year immediately preceding the filing of the nomination papers. For purposes of this section, all California geographical names shall be considered to be one word.
  - Hyphenated words that appear in any generally available standard reference dictionary, published in the United States at any time within the 10 calendar years immediately preceding the election for which the words are counted, shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word.
- 4. The phrase "appointed incumbent" if the candidate holds an office by virtue of appointment and the candidate is a candidate for election to the same office; or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office. In either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed." However, the phrase "appointed incumbent" shall not be required of a candidate who seeks reelection to an office that he/she holds and to which he/she was appointed, as a nominated candidate, in lieu of an election.

The City Clerk shall NOT accept a ballot designation which (E.C. § 13107.b):

- 1. Misleads the voter. The candidate may be required to provide the elections official with substantiation, evidence or documentation to support the requested designation.
- 2. Suggests an evaluation of a candidate such as outstanding, leading, expert, virtuous, or eminent. Examples of ballot designations usually considered to suggest an evaluation of a candidate include: "Best \_\_\_\_\_," "Prominent \_\_\_\_\_," "Activist," "Advocate," "Reformer," anything conveying a philosophy, or words connoting a status.
- 3. Abbreviates the word "retired" or places it following any word or words that it modifies. Examples of impermissible designations: "Ret. Army General" and Navy Admiral, Retired."
- 4. Uses a word or prefix, such as "former" or "ex," which means a prior status. The only exception is the use of the word "retired." "Retired" is defined as having given up one's work, business, career, etc., especially because of advanced age.
- 5. Uses the name of any political party, whether or not it has qualified for the ballot.
- 6. Uses a word(s) referring to a racial, religious or ethnic group.
- 7. Refers to any activity that is prohibited by law.

The following types of activities are distinguished from professions, vocations and occupations and are not acceptable as ballot designations.

- 1. <u>Avocations</u>: An avocation is a casual or occasional activity, diversion or hobby pursued principally for enjoyment and in addition to the candidate's principal profession, vocation or occupation. Avocations may include, but are not limited to, hobbies, social activities, volunteer work, and matters pursued as an amateur.
- 2. Pro Forma Professions, Vocations and Occupations: Pro forma professions, vocations or occupations are positions held by the candidate which consume little or none of the candidate's time and which, by their nature, are voluntary or for which the candidate is not compensated. Pro forma professions, vocations and occupations may include, but are not limited to, such pursuits as honorary peace officer, volunteer firefighter, honorary chairperson, honorary professor, goodwill ambassador, official host or hostess and the like.

3. <u>Statuses</u>: A status is a state, condition, social position or legal relation of the candidate to another person, persons or the community as a whole. A status is generic in nature and generally fails to identify with any particular specificity the manner by which the candidate earns his or her livelihood or spends the substantial majority of his or her time. Examples of a status include, but are not limited to, philanthropist, activist, patriot, taxpayer, concerned citizen, husband, wife and the like.

If the candidate fails to give an occupational designation, his/her name will appear on the ballot with no designation. (Election Code 13107(c))

Additionally, no title or degree shall appear on the same line on a ballot as a candidate's name, either before or after the candidate's name, in the case of election to any office (E.C. §13106).

A ballot designation also may not comprise or include commercial identification information such as a trademark, service mark, tradename or the specific name of a business, partnership, corporation, company, foundation or organization. Examples of an improper use of commercial identification information include: "Acme Company President," "Universal Widget®," "UCLA Professor," etc. (Secretary of State Regulations . §20716d).

If the City Clerk determines that the ballot designation is in violation of any of the restrictions discussed above, the candidate will be notified, and asked to appear before the City Clerk within three days to provide an alternative designation. If the candidate fails to provide an alternative designation, no designation shall appear after the candidate's name. (E.C. 13107(c))

The following are questions and answers concerning a court decision involving occupational designations for your information.

- 1. How much time is required to be spent in a <u>current principal profession</u>, <u>vocation</u>, <u>occupation</u> for use in a ballot designation?
  - "We do not take the phrase to mean that a pro forma profession, vocation or occupation which consumes little or none of the candidate's time, and by its nature is never compensated,... may be designated properly under Elections Code section 10211." (Andel v Miller et al, Court of Appeal, Third District, Sept.1994).
- 2. Is a designation indicating the word "retired" permissible if the candidate is presently employed and combines the wording with his/her current principal profession, vocation, occupation?

"We noted that the Guidelines define "retired" as "having given up one's work, business, career, etc., especially because of advanced age." Moreover, under the Guidelines, evidence supporting retired status includes the fact that the candidate "has not had another more recent occupation." (Andel v Miller, Court of Appeal, Third District, Sept.1994)

3. Is a ballot designation of "peace officer" an acceptable ballot designation? A "paid" peace officer is a profession, vocation or occupation.

Candidate could not use ballot designation of "peace officer" absent evidence that his/her position as reserve deputy sheriff was one of his principal professions, vocations or occupations either at the time he submitted his designation or during the calendar year immediately preceding the filing of nomination documents, or that candidate would ever be compensated for such services." (Andel v Miller, Court of Appeal, Third District, Sept.1994)

Therefore, the Court held that "peace officer" was not an acceptable ballot designation in this case.

Guidelines for Ballot Designation are available at http://www.sos.ca.gov/elections/ballot des regs.pdf.

A printed copy of the Secretary of State regulations for Ballot Designation is available upon request.