



Filing Guide for Affidavits of Disqualification

A party or an attorney may seek a judge's removal from a case by filing an affidavit of disqualification with the the Supreme Court of Ohio Office of the Clerk. The filing requirements and relevant procedures are set forth in R.C. 2701.03 and S.Ct.Prac.R. 21.

A. How to file an Affidavit of Disqualification

1. Affidavits shall be submitted to the Supreme Court of Ohio Office of the Clerk's by:

In person delivery, delivery service, or mail addressed to:

Office of the Clerk
Supreme Court of Ohio
65 South Front Street, 8th Floor
Columbus, Ohio 43215-3431

When an affidavit of disqualification is submitted by mail and accepted for filing, the clerk's office will mail a date-stamped copy back to the affiant or their counsel at the address listed in the affidavit. If the affidavit was not accepted for filing, a letter will be sent back with the unfiled affidavit stating the reasons for the rejection. A copy of the letter will be sent to the judge named in the affidavit.

When submitting the affidavits by mail or in person, the affiant must submit the original and three copies.

OR

Email to: AOD_Filing@sc.ohio.gov.

When an affidavit is filed by email, the affidavit shall be submitted as a .pdf attachment. You may upload more than 1 attachment, but the affidavit itself must be one .pdf.

If the size of the document is large, you may send the .pdfs in more than one email. If you intend to send more than one email, please include the number of emails in the subject line, such as "1 of 2" "2 of 2."

Persons submitting an affidavit of disqualification by email will receive a responsive email from the clerk's office stating whether the submission was filed or rejected. If the affidavit is not accepted for filing, the responsive email will list the reasons for the rejection.

2. The body of the affidavit shall not exceed fifteen numbered pages exclusive of the certificate of service and any exhibits.

3. Affidavit of disqualification files are public record but are not posted to an online docket on the Supreme Court of Ohio’s website. To obtain a copy of an affidavit or check on the status, please contact the Clerk’s Office. Record requests must include a case number or name for searching. If the file or any document is sealed, only parties to the case may have access to the sealed documents.
4. There is no filing fee for submitting an affidavit of disqualification. An affidavit of indigence is not needed.
5. The right to file an affidavit of disqualification is established by statute.
 - R.C. 2701.03: court of common pleas judge.
 - R.C. 2101.39: probate court judge.
 - R.C. 2501.13: court of appeals judge.
 - R.C. 2701.031: municipal or county court judge.
 - R.C. 2743.041: court of claims judge.
6. An affidavit of disqualification cannot be filed against a magistrate or referee.
7. The Chief Justice of the Supreme Court or any Justice designated by the Chief Justice decides affidavits of disqualification. Any entry issued by the Chief Justice, or her designee, will be mailed to all parties and counsel listed in the affidavit.

B. Filing requirements:

The affidavit of disqualification shall state specific allegations on which the claim of interest, bias, prejudice, or disqualification is based and the facts to support each of those allegations.

The Revised Code and the Rules of Practice prohibit the Clerk’s Office from filing an affidavit of disqualification that is not timely presented or that fails to comply with requirements 1 through 5 below.

1. The affidavit must contain the jurat of a notary public or another person authorized to administer oaths or affirmations.
2. The affidavit must contain a certificate of service that indicates that a copy of the affidavit was served upon the judge. The copy must go to the judge’s office directly.

The Supreme Court of Ohio Office of the Clerk cannot accept an affidavit without the jurat of a notary public that indicates the date the affidavit was sworn to, or affirmed, and signed in the notary public’s presence. The jurat must include the notary public’s signature and seal.

3. The affidavit must contain a certificate of service that indicates that a copy of the affidavit was served on all parties or their counsel in the underlying case. If the underlying case is a criminal proceeding, the county prosecutor's office typically represents the State of Ohio, unless special counsel (such as the Attorney General's Office) has been assigned.
4. The affidavit must contain the date of the next scheduled hearing in the underlying case or a statement that there is no hearing scheduled. This shall be listed in the body of the affidavit.
5. The affidavit of disqualification shall be filed not less than seven calendar days before the date of the next hearing in the underlying case.

C. Mechanical Requirements

In addition to the requirements listed above, the affidavit shall include:

1. The case caption, case number, and court/county of the underlying case.
2. The affiants full name and address.
3. If the affiant is represented by counsel, the name of the affiant's attorney.
4. If the affiant is the attorney, the attorney must list the name and party status of the client.
5. The name(s) and address(es) of all other parties to the underlying case.

If corrections or additions to an affidavit of disqualification need to be made after it has been accepted for filing, an amended document that incorporates all of the original content along with any additions or corrections may be submitted to the Clerk's Office for review. The amended affidavit must meet all of the requirements listed above and include the case number into which the amended affidavit is to be filed.

If a supplement to the affidavit or additional affidavit of disqualification needs to be filed, the supplemental affidavit must meet all of the requirements listed above. If the Chief Justice has already ruled on the original affidavit, the supplemental or additional affidavits filed will be filed in a new case.

If an affidavit is not accepted for filing, a corrected affidavit may be resubmitted for review, as long as it is submitted within the time for filing.

D. Proceedings after an Affidavit of Disqualification is filed

1. Once the affidavit is accepted and assigned a case number, a copy of the affidavit will be sent to the judge against whom the affidavit is filed and the Clerk of Court in the underlying case.
2. The judge in the underlying case is deprived of any authority to preside in the case until the Chief Justice rules on the affidavit.
3. The Chief Justice may request that the judge file a written response to the affidavit.
4. The judge may file a request for extension of time to respond to the affidavit.
5. The judge shall serve a copy of the response on the affiant and all parties or their counsel.
6. The response shall not exceed fifteen numbered pages exclusive of the certificate of service and any attachments or exhibits.
7. A reply to the judge's response is not permitted and the Clerk's Office is required to refuse to file a reply to a response from a judge.
8. The Rules of Practice prohibit the filing of a motion for reconsideration in an affidavit of disqualification case.

Checklist:

- Name of the judge who the affidavit is filed against.
- Name of the court where the judge presides.
- Name and address of affiant or their attorney.
- Addresses of judge and parties.
- Underlying case caption.
- Underlying case number.
- Date of next hearing, or a statement that there is no hearing scheduled.
- Is submitted seven or more days before the next scheduled hearing.
- Jurat of notary public.
- Certificate of service on the judge.
- Certificate of service on all parties in the underlying case.

Other Rule Requirements

Unless clearly inapplicable, Supreme Court Rules of Practice Sections 3.01 through 3.14 and Sections 4.01 through 4.06 apply. Includes citation style and format of documents submitted to the Clerk's Office.