

DIRECTIVE 2010-34

February 22, 2010

To: ALL COUNTY BOARDS OF ELECTIONS

Re: **Petition of L. Michael Howard for Auditor of State**

Enclosed for your review and verification is L. Michael Howard's declaration of candidacy and petition for statewide office of Auditor of State that was filed in the Secretary of State's office on **February 18, 2010**. The facts of qualification for signers and circulators of the part petitions are determined **as of the date the petition was filed** in the Secretary of State's office, that is: **February 18, 2010**. Please note that this differs from the standard used for the state issue part petitions you recently examined, for which those qualifications were determined based on the date a part petition was examined by the board, not the date the petition was filed.

You must examine petitions for minor political party candidates according to the requirements of R.C. 3513.05 (requirements of declarations of candidacy), R.C. 3501.38 (rules governing petitions), R.C. 3501.011 (definition of "signature"), Directive 2009-21 (Continued ballot access for minor political parties in Ohio), and the enclosed instructions. Your board must certify the validity and sufficiency of the part petitions by **March 1, 2010**. All petition papers and certification forms must be returned to the Secretary of State's office by **March 3, 2010, via a method that provides a record of sending, tracking while in transit, and receipt upon delivery. (Examples: Certified U.S. Mail, UPS, FedEx.)** You also may return them in person.

When examining each part-petition, please remember that:

- o A **signer** of the subject declaration of candidacy must be a qualified elector whose qualifying voting address is located in the State of Ohio. Note that, unlike major party candidate petitions, signers of minor party candidate petitions may be affiliated with a different political party from the candidate; that is, for these new minor political parties, signers are not limited to persons who are of the same minor political party as the candidate or unaffiliated with any political party for the last two (2) years, (meaning the circulator did not vote in any other political party's primary election in 2008 or 2009). See Directive 2009-21, section C.2.
- o A federal court has ruled unconstitutional the provision of R.C. 3503.06(A) that required a circulator of a declaration of candidacy or nominating petition to be a resident of Ohio. Consequently, a **circulator** of the subject declaration of candidacy is not required to be a qualified elector of Ohio. However, if the **circulator** is a qualified elector of Ohio, the circulator must be affiliated with the same political party as the candidate or be unaffiliated with any political party, *unless* the circulator is the candidate named in the petition's declaration of candidacy. See Directive 2009-21, section D.3.

We remind you that, although R.C. 3501.38(C) provides that a **signer's address** on a petition must match the signer's address on file with the board of elections, no such requirement extends to the addresses of *candidates* or *circulators*. (While this does not seem to be what would be the

spirit of the law, it is the letter of the law, and until changed by the state legislature, we must follow this result. This is because state law requires that a candidate for Auditor of State must be a qualified elector of the State of Ohio. Consequently, there is no basis in law for invalidating a part-petition solely because the address of the candidate and/or circulator on that part-petition differs from the address on file with a board of elections.

If you receive one or more part-petitions signed by a circulator who is an Ohio elector from another county, please contact that county's board of elections to confirm the circulator's registration and party affiliation.

If you have any questions concerning the petition or any part-petition, please call the Elections Division at 614-466-2585. We appreciate your cooperation.

Sincerely,

Jennifer Brunner