



Via Electronic Mail

February 24, 2021

Matthew Nicklas, Director
John Howley, Deputy Director
Pickaway County Board of Elections
141 West Main Street, Suite 800
Circleville, Ohio 43113

Re: Tie Vote Regarding the Candidacy of Katie Logan Hedges and Todd Brady

Dear Director Nicklas and Deputy Director Howley:

On February 12, 2021, the Pickaway County Board of Elections submitted two tie votes to my Office concerning the candidacies of Katie Logan Hedges for Council at Large and Todd Brady for the Third Ward City Council position.

Katie Logan Hedges needed 50 signatures and obtained 73 valid signatures. The Board questioned two signatures that had an incorrect date on the signature line. In both cases, 11/19/21 was written on the part-petition instead of 1/9/21. The Board tied on a motion to reject the signatures with a November 19, 2021 date. Nonetheless, even without the two signatures in question, there were enough valid signatures on the petitions to certify her candidacy to the ballot.

Todd Brady needed 25 valid signatures and submitted 29 signatures to the Board. On one of Brady's part-petitions, four signers wrote 12/21/21; the final signer wrote presumably the correct date of 1/21/21. The Board tied on a motion to reject the signatures with the incorrect and illegible dates. Without the signatures on the part-petition in question, Mr. Brady will fall short of the required number of valid signatures for certification to the ballot.

Pursuant to the Ohio Revised Code 3501.38(C), each signature must be followed by the date it was affixed to the petition paper. Ohio law requires a candidate to sign the declaration of candidacy before the signatures of electors are placed on it, and if the electors' signatures predate the candidate's signature, they must be rejected.¹ However, the Election Official Manual instructs that the Board must not invalidate a signature solely because its date is out of sequence with other signatures on the same part-petition.²

¹ [R.C. 3513.09](#); *State ex rel. Simonetti v. Summit Cty. Bd. of Elections*, 151 Ohio St.3d 50, 2017-Ohio-8115, 85 N.E.3d 728.

² [Chapter 11 of the Election Official Manual](#), page 11 and 12 ("acceptable are: month-date-year, month-date, date out of sequence with other signers' dates, ditto marks.").

One date affixed to a signature on the Brady petition was illegible, and two of the board members voted to reject that signature. However, the Election Official Manual states, “A signature is illegible only if both the signature and address are unreadable, such that it is impossible for board personnel to query the board’s voter registration system to check the signature against a voter registration record.”³ In this case, *only* the date was illegible.

Generally, “unless there is language allowing substantial compliance, election statutes are mandatory and must be strictly complied with.”⁴ R.C. 3513.07, expressly permits substantial compliance with the form of the declaration of candidacy and petition.⁵ Accordingly, the candidates needed only to substantially comply with the form of the declaration of candidacy and petition set forth in R.C. 3513.07.

With respect to the petition form requirements of R.C. 3513.07, the Ohio Supreme Court has long held that “[a]bsolute compliance with every technicality should not be required in order to constitute substantial compliance, unless such complete and absolute conformance to each technical requirement of the printed form serves a public interest and a public purpose.”⁶ Public policy favors free competitive elections, in which the elector has the opportunity to decide their candidate of choice.⁷

With the signatures in question, the dates do not precede the declaration of candidacy statement; rather, the electors mistakenly wrote dates that have not yet occurred (adding a “1” or “2” after the “1” for January). The signers of the candidate petitions made a technical mistake; there is no claim of fraud or deception; and there is sufficient substantial compliance to determine the petitions to be valid.

Therefore, I break the tie votes in favor of access to the ballot. The signatures with the wrong dates and the illegible date should not be rejected, and both candidates should be certified to the ballot.

Yours in service,



Frank LaRose
Ohio Secretary of State

cc: W. David Winner, Chair of Pickaway County Board of Elections
Fred Mavis, Member of Pickaway County Board of Elections
Karen Bensonhaver, Member of Pickaway County Board of Elections
Susan Welsh, Member of Pickaway County Board of Elections

³ [Chapter 11 of the Election Official Manual](#), page 11, citing *State ex rel. Owens v. Brunner*, 125 Ohio St.3d 130, 2010-Ohio-1374.

⁴ *State ex rel. Husted v. Brunner*, 123 Ohio St.3d 288, 2009-Ohio 5327, 915 N.E.2d 1215, 15.

⁵ *State ex rel. Wilson v. Hisrich*, 69 Ohio St.3d 13, 16, 630 N.E.2d 319 (1994) (“R.C. 3513.07 may be satisfied by substantial compliance with the form of a declaration of candidacy and petition”); see also *State ex rel. Wolson v. Kelly*, 6 Ohio St.2d 67, 69, 215 N.E.2d 719 (1966).

⁶ *Stern v. Cuyahoga Cty. Bd. of Elections*, 14 Ohio St.2d 175, 180, 237 N.E.2d 313 (1968).

⁷ *Stern*, 14 Ohio St.2d 175, 184.