



30 July 2020

John G. Caupp, Greene County Board of Elections Chair
Doris M. Adams, Board Member
Janis G. Basham, Board Member
Anne Gerard, Board Member

Greene County Board of Elections
551 Ledbetter Road
Xenia, Ohio 45385

Re: Non-citizen Registration and Voting in the Village of Yellow Springs

Dear Chair Caupp and Members Adams, Basham, & Gerard:

During the March 17, 2020 Primary Election, the Village of Yellow Springs in Greene County had the following charter amendment on the ballot (amendment underlined):

SECTION 6. GENERAL ELECTION LAWS TO APPLY

Residents of the Village of Yellow Springs who are non-US citizens shall be electors and are eligible to vote for Yellow Springs local issues and elected officials pursuant to the home rule power and granted by this Charter. The general election laws of the State of Ohio shall control in all elections except as otherwise provided in this Charter.

According to your certified results of the March 17, 2020 Primary Election, the issue passed in the Village. My Office was also informed that the Village has placed an issue on the ballot for the November 3, 2020 General Election and that some discussions have taken place between the Board and the Village on how to register non-citizens in the Village for the election to vote on that issue. The purpose of this letter is to direct the Greene County Board of Elections on how to handle this situation.

As you know, Article V, § 1 of the Ohio Constitution states:

Every citizen of the United States, of the age of eighteen years, who has been a resident of the state, county, township, or ward, such time as may be

provided by law, and has been registered to vote for thirty days, has the qualifications of an elector, and is entitled to vote at all elections. . .

Likewise, Ohio Revised Code § 3503.01(A) states:

Every citizen of the United States who is of the age of eighteen years or over and who has been a resident of the state thirty days immediately preceding the election at which the citizen offers to vote, is a resident of the county and precinct in which the citizen offers to vote, and has been registered to vote for thirty days, has the qualifications of an elector and may vote at all elections in the precinct in which the citizen resides.

Without question, under Ohio law, as expressed in state statute and in Ohio's Constitution, a person must be a United States citizen to have "the qualifications of an elector" to be eligible to vote in Ohio elections.¹ While it is true that Ohio's Constitution confers "home rule" powers on Ohio's municipalities, those municipalities may only exercise home rule powers "as are not in conflict with the general laws." Ohio Constitution, Article XVII, § 3.

The new Yellow Springs charter provision that seeks to allow aliens to vote for Yellow Springs issues and candidates not only conflicts with a state statute, it conflicts with one of the most fundamental provisions of Ohio's Constitution. Thus, the new charter provision is blatantly unconstitutional under Ohio's Constitution.

In addition, state law requires me to maintain the Statewide Voter Registration Database ("SWVRD"). Ohio Revised Code § 3503.15(A). As you know, my Office and your Board, along with the other 87 county boards of election, share voter registration information with my Office to maintain the SWVRD. If an individual in Greene County registers to vote with your office, that voter's registration is then uploaded to the SWVRD maintained by my office.

The voter registrations of non-citizens cannot be included in the SWVRD because under state statute and the Ohio Constitution non-U.S. citizens are not permitted to vote or even register to vote in Ohio. In fact, I am required by law to annually compare the SWVRD with citizenship information possessed by the Ohio Bureau of Motor Vehicles to identify any person who "[r]egisters to vote, submits a voter registration change of residence or change of name form, or votes in this state" and who is not a U.S. citizen. R.C. 3503.15(H). While the law allows any such non-citizen identified in this process to first voluntarily cancel their voter registration, a non-citizen who fails to do so can be criminally

¹ See also Section 1 of the Twenty-Sixth Amendment to the U.S. Constitution which limits voting for federal offices to only "citizens of the United States."

prosecuted under R.C. 3599.11 for having illegally registered to vote or under R.C. 3599.12 for having illegally voted. R.C. 3503.15(H)(5).

The criminal penalties under R.C. 3599.11 and 3599.12 are felonies of the fifth degree and the fourth degree, respectively. If a non-U.S. citizen were to be prosecuted under either of these statutes, their ability to remain in the United States may be adversely affected as a felony conviction can be grounds for immediate deportation.

For all of these reasons, under my authority as the Chief Elections Officer of the State of Ohio, I am directing the Greene County Board of Elections to:

- Prohibit any non-citizen residents in the Village of Yellow Springs from registering to vote with the Greene County Board of Elections;
- By August 3rd, cancel the voter registrations of any non-citizen residents of the Village of Yellow Springs who may have already registered to vote with the Greene County Board of Elections;
- Prohibit any non-citizen residents in the Village from voting on Yellow Springs ballot issues or for Yellow Springs candidates in any election in the Village which the Greene County Board of Elections is administering; and
- Not include in the tabulations, canvasses, or certifications of votes of any election administered by the Greene County Board of Elections the votes of any non-citizen residents in Yellow Springs, even if the election is held solely in the Village and the issues or candidates are limited solely to Village issues or elected offices.

Please feel free to contact my office if you have any questions regarding these instructions.

Yours in service,



Frank LaRose
Ohio Secretary of State

cc: Llyn McCoy, Director
Denise Percival, Deputy Director