



Via Electronic Mail

February 6, 2020

Carol Lawler, Director  
Marian Coffey, Deputy Director  
Medina County Board of Elections  
3800 Stonegate Drive, Suite C  
Medina, OH 44256

Re: Tie Vote on Write-in Candidacy of Patricia Chaloupek

Dear Director Lawler and Deputy Director Coffey;

On January 13, 2020, the Medina County Board of Elections submitted a tie vote to my Office concerning Patricia Chaloupek's candidacy for Medina County Democratic Party Central Committee. The Board members tied over whether the candidate should be recognized as a write-in candidate.

Ms. Chaloupek omitted the "state, district, county, etc. of the office" being sought on her declaration of intent to be a write-in candidate. She did not indicate anywhere on her intent to be a write-in candidate which precinct she intended to represent as a central committee member.

Ohio's election laws generally require strict compliance. Substantial compliance is acceptable only when an election statute expressly permits it.<sup>1</sup> The law governing write-in candidacies does not expressly permit substantial compliance, but even if it did, "substantial compliance does not contemplate complete omission."<sup>2</sup> In a similar tie vote decision, Secretary Husted explained:<sup>3</sup>

Ohio Revised Code § 3513.041, final paragraph, requires the Secretary of State to prescribe the form of the declaration of intent to be a write-in candidate. Though the statute does not indicate what information must be contained within the declaration, implicit in the purpose of requiring a declaration is that it must, at a minimum, contain the information necessary for a board of elections to ascertain the identity of – and the office being sought by – the declarant.

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<sup>1</sup> *State ex rel. Phillips v. Lorain County Bd. Of Elections*, 93 Ohio St.3d 535 (2001).

<sup>2</sup> *State ex rel. Allen v. Lake Cty. Bd. of Elections*, 170 Ohio St.19 (1959).

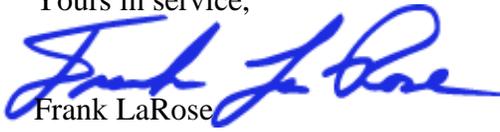
<sup>3</sup> Letter from Secretary Husted (March 21, 2014) to the Summit County Bd. of Elections.

The board members who voted in favor of Ms. Chaloupek's candidacy attempted to cure the mistake, relying upon her voting residence and current position on the county central committee to determine the precinct she seeks to represent. In effect, they filled in the blank on the candidate's form by presuming her intent.

Even when well-intended, Ohio law does not allow any alterations, corrections, or additions to a petition once it is filed.<sup>4</sup> In that spirit, a board must abide by what the candidate declares.<sup>5</sup>

Because the candidate did not specify the office she intended to represent, I am compelled by state law and prevailing case law to break the tie against the motion and decline to certify Patricia Chaloupek's write-in candidacy.

Yours in service,



Frank LaRose  
Ohio Secretary of State

cc: Pamela Miller, Chair, Medina County Board of Elections  
John Welker, Jr., Member, Medina County Board of Elections  
Larry Cray, Member, Medina County Board of Elections  
Charles Calvert, Member, Medina County Board of Elections

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<sup>4</sup> R.C. 3501.38(I)(1).

<sup>5</sup> See *State ex rel. Weller v. Tuscarawas County Bd. of Elections*, 2019-Ohio-4300.