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Board Meeting

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Agency: [Cuyahoga County Board of Elections](#)

Date: Aug. 21, 2023

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Summary

- The Board of Elections has very little discretion to make exceptions for candidate petition filings. This is the case even when candidates have seemingly strong excuses for missing deadlines or signature requirements, when filing requirements are complex or unclear, and when the board itself gives incorrect instructions to potential candidates.
- Candidates who are not certified may appear on the ballot as write-in candidates.
- Businesses go through a similar process to put ballot issues before voters, who decide to grant liquor licenses. One restaurant, Juicy Seafood and Wing, shored up its number of petition signatories by having voters sign affidavits attesting to the validity of their signatures.

Follow-Up Questions

- Board Member Inajo Davis Chappell's comments about the election officials' manual suggests that the board has limited control over the training and information available to its staff. What is the relationship between the Secretary of State's office and county boards of elections? Are there things the board could do on its own to make the filing process simpler or more flexible?
- How many restaurants fail to obtain liquor licenses through local elections?
- It was difficult to hear the statement related to vouchers and the postal service, and the nature and importance of the board's decision here was not clear from the available context. What is the relationship between the Board of Elections and the postal service?

Notes

At the opening of the meeting, Chair Henry Curtis noted that Terence McCafferty, an appointed Democrat serving on the board, was absent for excused reasons.

The Board of Elections' [Meeting Agenda for Aug. 21](#) included five items:

1. Acknowledgement of candidate withdrawals from the Nov. 7, 2023, general election
2. Certification of candidates for the Nov. 7 general election
3. Certification of issues for the Nov. 7 general election
4. Authorization to pay 16 individuals (two voting location managers, two voting location deputies, and 12 precinct election officials) a total of \$4,100 for the Sept. 12 primary election;
5. Approval of the voucher and resolution for the U.S. Postmaster General.

At the motion of Curtis, the board voted unanimously to acknowledge the withdrawal of five candidates from the Nov. 7 general election as a result of issues with their nominating petitions. The board previously [told Signal Cleveland](#) that these candidates have opted to run as write-in candidates.

Two other candidates appealed to the board to be allowed to appear on the ballot despite issues with their nominating petitions. The first was Jason Hubbell, who filed to run for the Brooklyn Board of Education. Hubbell said that, as a first-time candidate for office, he filed his petition early on July 6 because he was advised by Board of Elections staff that they would contact him if there were any issues and he would have the opportunity to correct them before the deadline.

On July 11, Hubbell said the Board of Elections website updated to indicate his petition had been accepted. Taking this as an indication that there were no issues, he began campaigning and raising funds for his election.

On Aug. 15, the Board of Elections informed him that his paperwork was missing the nominating petition—an error that could not be corrected before the deadline because, as Democratic Board Member Inajo Davis Chappell noted, submitted petitions cannot be amended, they can only be withdrawn and refiled, in apparent contradiction to the advice given to Hubbell.

Curtis responded that as much as he would have personally liked to accept Hubbell's appeal to appear on the ballot, the board "is not able within the parameters of the law" to accommodate his request. All three board members in attendance expressed regret that they could not accept Hubbell's appeal, citing at times the 2019 Ohio Supreme Court decision in [State ex rel. Weller v. Tuscarawas Cty. Bd. of Elections](#)—in which the court upheld a board decision not to certify appellant Clayton Weller's application to appear on the ballot as a mayoral candidate for Sugarcreek, Ohio. The basis of the Tuscarawas

Board of Elections' decision in that case was the same: Weller had not submitted the nominating petition portion of his application.

Chappell noted that the Board of Elections was bound by the precedent from Weller's case: the court found that the board had no discretion with which to excuse candidates from filing the legally required nominating petition. Chappell said that despite her regret, erroneous advice from Board of Elections staff did not provide legal justification for the board to exercise discretion over the matter.

Chappell then noted that the board's staff manual does not include information about the Weller case or the board's inability to revise petitions or approve them on appeal without nominating petitions. She said they should coordinate with the Ohio Secretary of State's office and with other county governments to change that manual and to set up a "tripwire" to issue advisories when there are significant changes to how electoral law is administered.

She said her "heart breaks" for candidates and that the board should let candidates know they cannot rely on guidance from the Board of Elections as a defense against filing errors.

Republican Board Member Lisa Stickan agreed that the board cannot add candidates missing their nominating petition under the law, calling it a "hard vote." However, she noted a "plethora" of case law, in addition to *Weller*, saying that this is true even if the board gives mistaken advice.

Chappell then clarified that even partial submission of the nominating petition did not give the board discretion to waive this requirement.

Curtis then called for a vote not to certify Hubbell, which passed unanimously.

The board then heard an appeal from Tony Walker, Ward 1 candidate for Richmond Heights City Council, whom the board voted not to certify on the same grounds as Hubbell.

The board then moved not to certify two other candidates who were not present: East Cleveland Board of Education candidate Deborah Abdul Rahim and Moreland Hills City Council candidate Heather Sinn. (All candidates who filed applications, valid or not, are listed [here](#)). In this vote, it also declined to certify an application to put a [local option election](#) on the ballot granting a liquor license to Chillie's Beverage & Deli at 2976 E.

116th St., from which no representative was present. (A local option election is a ballot issue allowing voters to decide if and under what conditions alcohol can be sold at specific businesses in their precinct. All issue elections which applied to be included on the ballot can be found [here](#).)

The board considered separately a second local option election application, from Juicy Seafood and Wing at 8005 and 8011 Euclid Ave., which appealed before the board. Juicy Seafood and Wing brought signed affidavits from six voters whose signatures were rejected on the petition, verifying that they did sign the petition. (One signature was described as looking like a “doctor’s signature;” another signature was under a woman’s maiden name). The board voted affirmatively to accept the validity of these affidavits and to certify the local option.

The board then voted affirmatively to approve \$4,100 to pay 16 individuals (two voting location managers, two voting location deputies, and 12 precinct election officials) for the Sept. 12 primary. It also approved a voucher resolution from the U.S. Postmaster General. The board then adjourned.

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