



Via Electronic Mail

September 22, 2023

Nicole Unzicker, Director
Eric Corbin, Deputy Director
Butler County Board of Elections
1802 Princeton Rd., Suite 600
Hamilton, OH 45011

Re: Tie Vote on Whether to Provide Public Terminal Access for Candidates and Members of the Public for Petition Signature Verification Purposes

Dear Director Unzicker and Deputy Director Corbin,

I've been asked by Director Unzicker to break a tie vote cast by the Butler County Board of Elections (the "Board") on September 11, 2023. During the Board's regular business meeting, members were presented with a proposed "Public Signature Verification Policy." If approved, the policy would allow members of the public to use a secure computer terminal at the Board office to access publicly available voter data for the purpose of checking the validity of part-petitions prior to filing them with the Board. The proposed policy also prohibits Board members and staff from "pre-checking," "pre-approving" or otherwise opining on the validity of part-petitions before they're submitted for official review and certification.

Let me say first that I applaud efforts by our county boards of elections to assist the public with navigating the electoral process, particularly as it relates to our time-honored tradition of running for office. I believe we should always strive to make customer service a top priority, and I empathize with putative candidates and other citizens who get frustrated by a lack of clear direction. The idea that led to the Board's consideration of this issue is clearly rooted in the desire to help the customers we serve.

Getting to the question at hand, the facts before me show that after discussion on the proposed policy a motion "not to provide the public terminal" resulted in a 2-2 tie vote, with Chairman Frank Cloud and Member Mariann Penska voting yes and Members Todd Hall and Chris Wunnenberg III voting no. On September 14, 2023, the Board submitted this tie vote to me for consideration in accordance with Ohio Revised Code 3501.11(X) and [Chapter 2 of the Election Official Manual](#). On that date, the Board also submitted substantial position

statements and supporting evidence to my Office, along with a copy of the meeting minutes from the September 11, 2023 Board Meeting. Ohio Revised Code Section 3501.11(X) sets forth my duties in this matter:

In all cases of a tie vote or a disagreement in the board, if no decision can be arrived at, the director or chairperson shall submit the matter in controversy, not later than fourteen days after the tie vote or the disagreement, to the secretary of state, who shall summarily decide the question, and the secretary of state's decision shall be final.

After due consideration of this matter, I vote “no” on the motion to “not provide the public terminal,” thus breaking the tie and authorizing the Board to proceed with implementation of the proposed policy. Ohio law neither requires nor prohibits the use of a public computer terminal for use in accessing voter records and checking the accuracy of petitions. Therefore, this decision applies only to the policy as proposed by the Butler County Board of Elections and should not be construed as a directive to all 88 counties. However, I encourage all county boards to consider this and other “best practices” for use in assisting the citizens we serve. As previously stated, I believe too many well-intended Ohioans are unnecessarily deterred by a lack of clear, basic guidance on how to comply with election law. We should be thoughtful about those frustrations and strive to be helpful while maintaining our objectivity as neutral administrators of the law.

As the Board seeks to implement this policy, I encourage you to proceed with caution in developing the appropriate protocols to ensure this resource is not abused. The Board should collaborate with your designated information technology professionals, including our team of cybersecurity professionals at the Office of the Ohio Secretary of State. Please take the following recommendations into consideration:

- Users should be made aware through posted signage and perhaps even a legal waiver that any information obtained through such a public terminal system does not guarantee the validity of any petition, in whole or in part.
- The Board should clearly advise participants that neither members nor staff are permitted to pre-check, pre-approve, or otherwise pre-judge the validity of signatures or petitions prior to the official filing of a petition.
- The Board should adopt clear, publicly available protocols for use and access,

including regularly reviewed policies and controls ensuring the system remains properly configured and locked down to mitigate physical and cybersecurity risks. For instance, the Board should consider ensuring that staff creates an access log that would capture user information, including a person's name, date, usage in and out time, and signature.

Finally, my staff is always available to discuss matters of physical and cyber security. If you have any questions regarding this decision, please contact Paul Disantis, Chief Legal Counsel at the Secretary of State's Office, at pdisantis@ohiosos.gov, or Shanda Behrens, Chief Elections Counsel at the Secretary of State's Office, at sbehrens@ohiosos.gov.

Yours in service,



Frank LaRose
Ohio Secretary of State

cc: Frank Cloud, Chair, Butler County Board of Elections
Todd Hall, Board Member
Mariann Penska, Board Member
Chris Wunnenberg III, Board Member