

Via Electronic Mail

September 6, 2024

Thomas P. McCabe, Director
Melissa J. Wasko, Deputy Director
Mahoning County Board of Elections
345 Oak Hill Ave.
Youngstown, Ohio 44502

Re: Regarding the Candidacy of Austin James Texford Fischer

Dear Director McCabe and Deputy Director Wasko,

On August 15, 2024, the Mahoning County Board of Elections (BOE) voted and tied on a motion to certify Austin James Texford Fischer to the ballot as the Republican candidate for the 59th Ohio House District at the November 5, 2024, general election. The tie vote occurred in a special board meeting described by BOE Chair David J. Betras as “an inquiry by the Board of Elections regarding the petitions of Tex Fischer.” The meeting was in relation to a protest filed by Christopher J. Anderson, who objected to the certification of Mr. Fischer to the November general election ballot.

After consideration of the arguments and evidence, and for the reasons set forth below, I break the tie in favor of certifying Mr. Fischer to the November 5, 2024, general election ballot.

The basis for the challenge was Mr. Fischer’s alleged failure to comply with R.C. 3513.271. Revised Code 3513.271 provides, in relevant part, “If any person desiring to become a candidate for public office has had a change of name within five years immediately preceding the filing of his *statement of candidacy*, both his *statement of candidacy and nominating petition* must contain, immediately following the person's present name, the person's former names.” (emphasis added). In 2020, Mr. Fischer changed his name from “Austin James Fischer” to “Austin James Texford Fischer.”

Mr. Fischer did not submit a statement of candidacy and nominating petition to the BOE. He was selected by members of the Republican Party to replace a candidate who had withdrawn after winning the primary election. See R.C. 3513.31(B). The selection committee was required to certify the name of the person selected to fill the vacancy. See *id.* ("The chairperson and secretary of the meeting shall certify in writing ... the name of the person selected to fill the vacancy."). Mr. Fischer was required to provide "written acceptance of the nomination" under R.C. 3513.31(B). Thus, the committee submitted a Form 289 Certification of Selection of Candidate to Fill Vacancy in Party Nomination to the Mahoning County BOE. The Form 289 certified Mr. Fischer as the party's nominee and included Mr. Fischer's signed Statement of Acceptance.

The basis for Mr. Anderson's protest — the requirements of R.C. 3513.271 — do not implicate Mr. Fischer's candidacy. By its plain terms, R.C. 3513.271 applies to statements of candidacy and nominating petitions. Despite arguments to the contrary, the statute does not extend the requirement of listing a person's former name to the party's selection committee's Form 289 certification.

Although not raised by Mr. Anderson's written protest, BOE members also considered (and brought my attention to) R.C. 3513.06. That section contains a requirement similar to that of R.C. 3513.271, which it applies to a person's "declaration of candidacy and petition." R.C. 3513.06 does not extend the requirement of listing a person's former name to the Form 289 certification.

For the foregoing reasons, I break the tie in favor of certifying Mr. Fischer to the November 5, 2024, general election ballot.

If you have any questions regarding this decision, please contact Sarah Huffman, Deputy Chief Legal for Elections at the Secretary of State's office, at SHuffman@OhioSoS.gov.

Yours in service,



Frank LaRose

Ohio Secretary of State

Cc: Mahoning County Board Members