

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

Scott Kuechenmeister,)	
Challenger)	Administrative
)	Order #24-019
)	
v.)	Re: Challenge to Nominating
)	Petition Submitted for
)	Advisory Neighborhood
Ashleigh Fields,)	Commissioner, Single
Candidate.)	Member District 1B07

MEMORANDUM OPINION AND ORDER

Introduction

This matter came before the District of Columbia Board of Elections (“the Board”) on September 3, 2024. It is a challenge to the nominating petition submitted by Ashleigh Fields (“the Candidate”) in support of her candidacy for the office of Advisory Neighborhood Commissioner for Single Member District 1B07 in the November 5, 2024 General Election (“the General Election”). The challenge was filed by Scott Kuechenmeister (“the Challenger”) pursuant to D.C. Official Code § 1-1001.08 (o)(1). Chairman Gary Thompson and Board members Karyn Greenfield and J.C. Boggs presided over the hearing. All parties appeared *pro se*.

Background

On August 12, 2024, the Candidate submitted a nominating petition to appear on the ballot as a candidate in the contest for the office of Advisory Neighborhood Commissioner for Single Member District 1B07 in the General Election (“the Petition”). The minimum number of signatures required to obtain ballot access for this office is 25 signatures of District of Columbia voters who are duly registered in the same Advisory Neighborhood Commissioner Single Member

District as the Candidate.¹ The Petition contained 32 signatures. Pursuant to Title 3, District of Columbia Municipal Regulations (D.C.M.R.) § 1603.1, Marissa Corrente, the Board of Elections' Registrar of Voters ("the Registrar"), accepted 32 signatures for review.

On August 10, 2024, the Petition was posted for public inspection for 10 days as required by law. On August 12 2024, the Challenger, who is a registered voter in the District of Columbia, filed challenges to a total of 26 Petition signatures ("the Challenge"). Specifically, the signatures were challenged pursuant to Title 3 D.C.M.R. § 1607.1 of the Board's regulations on the following grounds: the signer is not a registered voter in DC, and the signer is not a registered voter in the ward or Single-Member District from which the candidate seeks nomination at the time the petition was signed.

Registrar's Initial Preliminary Determination

The Registrar's initial review of the challenge indicated that a total of 25 of the 26 signature challenges were valid. Specifically, the Registrar found that seven challenges are valid because the signer is not registered to vote; three are valid because the signer is not registered to vote at the address listed on the petition at the time the petition was signed; one is valid because the signer's voter registration was designated as inactive on the voter roll at the time the petition was signed; one is valid because neither the name of the signer nor the signature are sufficiently legible for identification; thirteen are valid because the signer is not a registered voter in the electoral jurisdiction from which the candidate seeks nomination at the time the petition is signed.

Accordingly, the Registrar preliminarily determined that the Petition contained seven presumptively valid signatures, which is 18 signatures below the number required for ballot access.

¹ See D.C. Official Code § 1-309.05(b)(1)(B).

August 26, 2024 Pre-Hearing Conference

Pursuant to title 3 D.C.M.R. § 415.1, the Office of the General Counsel convened a pre-hearing conference with both parties on Monday, August 26, 2024. In her findings report issued prior to the pre-hearing conference, the Registrar outlined her determinations with respect to the validity of each signature challenged and provided a key code explaining the notations she used to indicate the basis for upholding or denying each challenge.

In response to the Registrar's findings, the Candidate argued that the Board should not have accepted the challenge for two reasons: 1) a Board official did not sign the Nominating Petition Challenge Receipt Form ("the Receipt")²; and 2) the challenge was not made in good faith in accordance with 3 DCMR 1607.2(d) because, in certain instances, the Challenger asserted that signers were not registered voters when, in fact, they were. The Candidate also indicated that she timely filed changes of address regarding four signers and that her petition should thus be credited with the signatures for the four signers.

As the parties were not able to resolve the matter, the case was set for a Board hearing on September 3, 2024. The parties were duly notified of the hearing.

² The Receipt is a form that is completed by individuals who file challenges to nominating petitions. It indicates the names of the challenger and the challenged candidate, the office sought by the candidate, and the challenger's residential and contact information (number and email address). There is a space for a Board official to sign to indicate that he or she has received a challenge containing a specified number of pages as well as a Nominating Petition Challenge Cover Sheet completed by challengers. The Nominating Petition Challenge Cover Sheet solicits the same information as the Receipt, and also instructs the challenger that, "in order for [his or her] challenge to be accepted, [her or she] must:

- allege the minimum number of signature defects that would, if valid, render the prospective candidate ineligible for ballot access
- specify the name(s), if legible, sheet, and line number(s) of any challenged signature(s); and
- specify the basis for the challenge(s) by citing the regulation that describes the defect in the petition or petition signature and providing a clear and concise explanation of the alleged petition or signature defect."

Registrar's Updated Preliminary Determination

In response to the Candidate's assertion at the prehearing conference, the Registrar reviewed the changes of address referenced by the Candidate. As a result of that review, the Candidate was credited with one additional signature, bringing the total of presumptively valid signatures on the Petition to eight, which is 17 signatures below the number required for ballot access.

September 3, 2024 Board Hearing

At the Board hearing, the Registrar presented her updated findings. In response, the Candidate indicated that she did not dispute the Registrar's findings regarding the review of the four changes of address, but she repeated her claims that the challenge should not have been accepted because of the lack of a Board official's signature on the Receipt and because it was not made in good faith. In addition, for the first time, she cited D.C. Official Code § 1-1001.14(b)(3) – a provision of the Board's Corrupt Election Practices statute pertaining to initiative, referendum, and recall petitions - as a basis for discarding the challenge. Ultimately, however, the Candidate did acknowledge that the Petition contains only eight valid signatures, 17 signatures below the number required for ballot access.

After hearing from the Registrar and the parties, the Board Chair made a motion that the Candidate be denied ballot access on the grounds that the Petition was numerically insufficient. The motion was duly seconded and passed unanimously.

Discussion

The minimum number of signatures of required to obtain ballot access for this office is 25 signatures of District voters who are duly registered in the same Advisory Neighborhood Commission Single Member District as the Candidate. As indicated, the Candidate acknowledges

that the Petition contains only eight valid signatures, 17 signatures below the number required for ballot access.

Despite this acknowledgment, the Candidate claims that the challenge should not have been accepted, and should not be upheld, because a Board official did not sign the Receipt and because the challenge was not made in good faith in accordance with 3 DCMR 1607.2(d). Both of these arguments against accepting and upholding the challenge are without merit.³

First, it is beyond dispute that the challenge was timely filed on August 12, 2024 - a full week before the end of the 10-day challenge period for the 2024 General Election. The date-stamp indicating the filing date appears on both the Nominating Petition Challenge Cover Sheet - which accompanied the challenge and which *was* signed by a Board official - and the Receipt. Moreover, the Candidate acknowledges that both she and the Board received all four pages that the Receipt indicated that the Challenge contained. In light of these facts, there is no material basis upon which to call into question either the circumstances surrounding the filing of the challenge or its validity, notwithstanding the lack of a Board official's signature on the Receipt.

Second, the fact that the Challenger was incorrect in several instances in which he challenged signers as not being registered voters does not, in and of itself, indicate that the Challenge was made in bad faith. Indeed, the fact that the Registrar agreed with the Challenger that a particular signature was invalid for the exact reason that the Challenger alleged with respect to 16 of the 26 challenges indicates that the challenge was made in good faith.⁴ Accordingly, the Challenge was properly accepted.

³ Regarding the Candidate's invocation of the provisions of the District's Corrupt Election Practices statute as a basis for discarding the challenge, as the General Counsel noted on the record, that provision does not apply at all in the context of nominating petitions.

⁴ In the other eight instances where the Registrar determined that a signature was defective, she did so on grounds other than that which was alleged by the Challenger. However, once a signature has been reviewed and determined to be defective on any ground, such defect cannot be ignored and the signature cannot be credited to the candidate.

Conclusion

Given that the Candidate did not produce evidence to rebut the reasons for upholding at least 17 of the 26 challenges determined to be valid, which would have resulted in there being 25 valid signatures on the Petition, we cannot find that there are sufficient signatures for ballot access.

It is therefore hereby:

ORDERED that the challenge to the nominating petition submitted by Ashleigh Fields for the office of Advisory Neighborhood Commissioner for Single Member District 1B07 in the 2024 General Election is hereby **UPHELD** and that Ms. Fields is denied ballot access in the contest for that office.

The Board issues this written order today, which is consistent with our oral ruling rendered on September 3, 2024.

Date: September 5, 2024



Gary Thompson
Chairman
Board of Elections