

**POLICY**

**ON**

**ELECTION**

**PETITIONS**

**DARKE COUNTY BOARD OF ELECTIONS**

**ADOPTED MAY 15, 2017**

Disclaimer: Case law and directives are constantly changing. We will attempt to revise this policy as necessary in conjunction with the Darke County Prosecuting Attorney's Office and the Ohio Secretary of State's Office.

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### Introduction

It is the goal of the Darke County Board of Elections (hereinafter referred to as BOE) to treat candidates consistently and with fairness with the goal of ensuring fair, open, and honest elections. In addition, the Darke County Board of Elections agrees with the public policy which favors free competitive elections, in which the electorate has the opportunity to make a choice between candidates.

Candidates are solely responsible for properly completing the petition form(s) for the elected office they are seeking and for filing said petition form(s) in a timely manner with the Darke County Board of Elections. *Rules Governing Petitions* are contained in the *Ohio Candidate Requirement Guide* provided to each candidate. Any candidate with questions concerning the completion of petition forms is encouraged to seek private legal counsel for assistance.

**Offices may have special qualifications and requirements.** See the [Ohio Candidate Requirement Guide](#) located at [www.ohiosecretaryofstate.gov/SOS/publications.aspx](http://www.ohiosecretaryofstate.gov/SOS/publications.aspx) or consult the [Ohio Revised Code](#).

## Petition Terms Defined

Below are terms commonly used and associated with the petition process. These terms relate directly to the petition process as it applies to the Darke County Board of Elections

**Certification:** The process of the members of the Board of Elections voting to approve the placement of an issue or candidate's name on the ballot after determining the validity and sufficiency of the petition.

**Circulator:** The individual who personally witnesses the affixing of a signature to a part-petition.

**Declaration of Candidacy:** Form/petition used by candidates seeking placement on the ballot in order to receive nomination from a political party, typically during a primary election.

**Elector:** One qualified to vote under Ohio law. An elector's qualifications are determined as of the date the petition is filed.

**Filing Deadline:** The date which the petition must be turned in to the proper elections entity (Secretary of State or local Board of Elections).

**Invalid Signature:** A signature which corresponds to a voter (1) who does not meet the necessary requirement(s) or (2) whose signature does not match the voter registration documents completed by and on file with the local BOE for that elector.

**Nominating Petition:** Form/petition used by candidates seeking placement on the ballot when running for a non-partisan office, or as an independent candidate.

**Part-petition:** The part of the actual petition which is circulated and signed. A part-petition may be deemed invalid without affecting the petition as a whole since other parts may be deemed valid or acceptable. Multiple petition forms are usually required to collect enough valid signatures.

**Residential Address:** For purposes of the candidate and the signer of petitions, this is the actual location as which the individual is registered to vote (their voting residence). For the purpose of the circulator, this is the address which the circulator considers to be his or her permanent address.

**Valid Signature:** A signature that meets the necessary requirement(s) and which matches the voter registration documents signed by the elector and on file with the Board of Elections. The determination of a signature's validity is based on the date in which the petition was filed.

## Completing the Petition – General Requirements

1. **Nominating Petition and Statement of Candidacy.** The Nominating Petition and Statement of Candidacy sections must be completed and signed before any electors sign the petition. If using a **Declaration of Candidacy** form, the top portion of the form, as well as the Petition for Candidate section on the front of **each** petition part must be completed and signed by the candidate prior to obtaining voters' signatures.
2. The section on the front of the **Nominating Petition and Statement of Candidacy** (in the middle of the page) is where the candidate may designate a campaign committee. This section is optional. An independent or nonpartisan candidate filing a nominating petition may, but is not required to, list three to five persons who have consented to serve as a committee to represent the candidate in the event of withdrawal or death.
3. The name a candidate uses in the Statement of Candidacy may be any combination of the first and middle names or initial or a nickname, but only if it is a natural derivative of the candidate's given name, ("Bill" for William," but not "Shorty" for "John.")
4. "Voting residence address" and "post office box" are not synonymous and cannot be used interchangeably. RC 3501.38(C) which does not permit substantial compliance requires a voting residence address for the petition signature to be counted as valid.
5. Multiple copies of the petition with the completed statement of candidacy, including the candidate's signature, may be photocopied before the signatures of electors are placed thereon. Original petitions from which the photocopies were made must accompany all petitions at the time of filing. Statements signed and dated on two or more different dates may be accepted as one petition.
6. **Beginning Date of Term of Office:** Only certain petitions for elective office require that a term of office beginning date be included in the statement of candidacy. However, even in those cases, omission of the beginning date may not always be fatal to the petition. It is necessary only to distinguish between races involving two or more positions.
7. **Unexpired Term Ending Date:** Ohio law requires each person filing a declaration of candidacy or nominating petition as a candidate for the remainder of an unexpired term to designate the date on which that unexpired term will end. Failure to provide the correct term-ending date on the petition will result in the petition being invalidated. Indicate the full term commencing date or the unexpired term ending date so the BOE can distinguish the office and term.
8. The Circulator's Statement on the back of the petition form must:
  - a. Contain the correct total number of signatures contained on that petition part.
  - b. The Circulator's Statement must be completely filled out and must provide the circulator's voting residence address. Post office box addresses are not a voting residence address.
  - c. Whoever circulates the petition, collects and witnesses the signatures is the person who will sign the Circulator's Statement.

9. The Certificate of Validity at the bottom of the petition form is completed by the BOE.
10. Signature means cursive-style legal mark as defined in RC 3501.011. If a person's signature is on file in the BOE's Voter Registration system with a printed signature, the printed signature is acceptable.
11. The filing fee may be paid in cash or by check payable to Darke County Board of Elections.
12. Candidates may have someone else pick up their petition packet but are strongly encouraged to do so personally so they understand the process.
13. Candidates may have someone else file their petition but, again, are encouraged to file personally.
14. Pursuant to Ohio Secretary of State (SOS) Directive 2011-018 the BOE staff is not allowed to pre-check a candidate's petition prior to filing. A candidate may use the public view computer at the BOE to check the signatures on their petition.
15. A candidate may also obtain a voter list or walking list from the BOE or print one from the website at [www.electionsonthe.net/oh/darke](http://www.electionsonthe.net/oh/darke) under the Voter List tab.
16. When a candidate is ready to file a petition, but prior to actually filing, the BOE staff will ask him/her to complete and sign the "Candidate Filing Checklist" to turn in with their petition.
17. **Candidates are solely responsible for the completion of their petitions.**
18. Petitions must be filed on or before the filing deadline.
19. If others will circulate your petition, please review the requirements with them prior to collecting signatures.
20. Petitions become public record upon filing with the BOE and will be made available for public inspection upon request. The petition must remain in full view of the BOE staff at all times.
21. No information regarding the certification, sufficiency or validity of a petition will be released to the candidate and/or public until after the Board has acted on the petitions in a public session and the petitioner/candidate has been notified.
22. The **minimum amount of signatures required** for a specific office is outlined in the newest edition of the Candidate Requirement Guide. The Candidate Requirement Guide is always available at <http://www.sos.state.oh.us/SOS/publications.aspx#crg>.
23. The **maximum amount of signatures** certified may not be more than **three times the minimum** amount required. (RC3513.05; 3513.251;

## Circulator Information

**A circulator is an individual in charge of witnessing the affixing (watching people sign) of signatures to a part-petition.**

1. The candidate may circulate his or her own petition. **The candidate must complete and sign the circulator statement if he or she is the circulator.**
2. A candidate may circulate his or her own petition but may not sign the petition as an elector. For the purpose of circulating his or her own petition, a candidate is exempted from the party affiliation requirements described in RC 3513.191(C) (4).
3. There may be only one circulator per part-petition (RC 3501.38; 3513.05, paragraph 10). There may be multiple circulators per petition, but only one circulator per part-petition.
4. A circulator may not sign the same petition paper that he or she is circulating for a candidate; a circulator may, however, sign a petition paper being circulated for the same candidate by a different circulator.
5. When circulating a petition across county lines, you must use a separate part-petition for each county. If a part-petition has signers from more than one county, only signatures that correspond to the county that has the most signatures on the part-petition will be accepted and validated.
6. A part-petition cannot be signed unless the circulator witnesses the signing of the petition. Therefore, leaving a petition on a bulletin board, telephone pole, etc. where witnessing the signing of the petition did not occur, is not allowed.
7. Signers of a petition must be qualified electors in the district or jurisdiction that corresponds to the office on the petition. Therefore, it is always best to utilize a voter list to determine more accurately if the signer is a registered voter in the district or jurisdiction. Lists may be acquired online by visiting [www.electionsonthe.net/oh/darke](http://www.electionsonthe.net/oh/darke) and by selecting the Voter List tab or by visiting the Board of Elections office to personally request a list.
8. If circulating a Declaration of Candidacy form for a partisan candidate, the circulator must be affiliated with the same party as the candidate. For a description of party affiliation, please refer to the Candidate Requirement Guide issued by the Ohio Secretary of State.
9. The circulator should complete the circulator's statement on a part-petition only after he/she has finished soliciting signatures on that petition part. The circulator must sign each petition part. RC 3501.38(E)
10. If a circulator knowingly permits an unqualified person to sign a petition part or to sign a name other than his/her own on a petition paper, that entire part-petition is invalid. Otherwise, the signature of the unqualified signer shall be rejected but shall not cause the other valid signatures on the petition paper to be invalidated. RC 3501.38(F) Note: RC 3501.38(D) prohibits anyone including someone who holds a power of attorney on behalf of a voter – from signing another person's name to a petition. (Only individuals who file an attorney in fact

document with the BOE for elections purposes may have another individual sign on his or her behalf.

11. Before filing a petition, the circulator may delete any signature by drawing a line through the signature but no signature may be removed after the petition is filed. RC 3501.38(G) (H).
12. The circulator must indicate on each petition paper the number of signatures contained thereon. If a circulator fails to fill in the number of signatures on a part-petition, the entire part-petition will be invalidated.
13. A circulator who wants to revise the number of signatures indicated in the circulator's statement should draw a line through the original number and put in the revised number. Any signature that has been lined-out or deleted by a petitioner shall not be counted in determining the sufficiency of the petition. RC 3501.38(G).
14. No changes, alterations, corrections, or additions may be made to a petition after it is filed with the Board of Elections. RC 3501.38(I)

### **Signer Requirements**

1. All signatures must be written in ink. Each signer's name may also be printed by the signer next to the signer's signature so as to clearly identify the signature. The BOE recommends but does not require the signer's printed name. RC 3501.38(B)
2. Each signer shall place on the petition after the signer's name the date of signing and the location of the signers voting residence, including the street and number if in a municipal corporation or the rural route number, post office address, or township if outside a municipal corporation. The voting address given on the petition shall be the address appearing in the registration records at the board of elections. RC 3501.38(G)  
A post office box does not constitute a voting residence address.
3. If in doubt that the signers address is current, have the voter complete a voter registration form and turn it in to the BOE before or simultaneously with the petition.
4. No person shall sign any name other than his/her own on any petition unless a proper attorney-in-fact form has been filed with the Board of Elections. No one may authorize any other person, including a spouse, guardian, or other person holding power of attorney for that individual, to sign his/her name to any petition. (Only once an attorney-in-fact form has been filed with the BOE may someone sign on another individual's behalf and in his or her presence. RC 3501.38(D) and 3501.382(A)
5. The voter may authorize the circulator or another person to fill in the voter's address information, county of residence and the date on which the voter signed the petition.
6. Each signature must be dated. However, the dates need not be in chronological order.

7. Ditto marks may be used in lieu of repeating duplicate information. However, a signature that is neither dated nor followed by ditto marks in the space provided for the date will be invalidated.
8. Failure to provide the signer's ward and precinct on the petition will not invalidate the signature.
9. Signers of nominating petitions may be affiliated with any, or no, political party and may sign petitions for more than one candidate for the same office.
10. A circulator may not sign as a voter on any part-petition that he/she has circulated, but may sign a part-petition circulated by someone else.

### **Circulator and Signer Requirements: Party Affiliation Rules**

For the purposes of circulating and signing petitions, a circulator or signer is considered to be a member of a political party if the elector voted in the primary election of only that party within the preceding two calendar years, or did not vote in any other party's primary election within the preceding two calendar years. RC 3513.05, paragraph 7. Therefore, an unaffiliated voter may circulate or sign a Declaration of Candidacy petition.

### **Reason to Invalidate a Signature**

1. The signer is not registered to vote. Each person who signs a petition paper must be a qualified elector as of the date the petition is filed.
2. The signature on the petition does not appear to be the genuine signature of the person whose signature it purports to be, or the elector's name as signed by the elector's attorney-in-fact, compared to the signature on file with the BOE as of the date the petition is filed. If the signature does not match the signature on file, the signature will be invalidated.
3. The signer forgets to write in his or her voting residence address, street and number.
4. The signer forgets to write in the city, village, or township and county.
5. The signer forgets to write the date on which the signature was affixed.
6. The circulator signed the part-petition he or she was circulating. This will invalidate the signature but not the entire part-petition.
7. Both the signature and address are unreadable, so that it is impossible to check the signature against the voter registration record.
8. The address provided on the petition paper is not the address on file with the BOE as of the date the petition is filed.
9. The signature was not written in ink.
10. The signer's signature date precedes the candidate's signature date in the statement of candidacy section (or the section where the candidate places his or her signature in the case of a Declaration of Candidacy form petition).
11. The signer signed a part-petition which was signed by a majority of signers from another county of residence. Since the signer failed to sign a part-petition exclusively for his or her county, this signature will be invalidated.
12. The signer is not affiliated with the party of the candidate or voted in a different party's primary election in the preceding two calendar years.

## **Petition Deficiencies**

**Per Directive 2011-18 the Darke County Board of Elections' staff is not and/or individual board members are not permitted to tell the petitioner or the public:**

- a. A petition is deficient.**
- b. The number of valid or invalid signatures on a petition-part or an entire petition until after the Darke County Board of Elections meets to certify candidate nominating petitions or declarations of candidacy.**

Board staff will not call the petitioner to inform him/her of the number of valid or invalid signatures on their nominating petition or statement of candidacy prior to board certification.

After a petition is filed, it is a public record and the candidate or the public may come to the Darke County Board of Election and request to see the petition.

## **Other Deficiencies**

All petition parts must be filed at the same time. You cannot supplement a petition filing.

Filing fees cannot be refunded or returned.

After the filing deadline and after board action on petitions, the board cannot accept for filing a declaration of intent to be a write-in candidate if that person, for the same election has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate or has become a candidate by party nomination at a primary election or by the filling of a vacancy under RC 3513.30 or 3513.31.

## **Board Discretion**

If the Statement of Candidacy section is not completely filled out, the decision to certify is a board decision to make in consultation with its legal counsel, the county prosecutor's office.

If the Statement of Candidacy on the front of the petition is completed but the Nominating Petition section is not completed, the decision to certify is a board decision to make in consultation with its legal counsel, the county prosecutor's office.

In making its decision, the board will consider among other factors, if the omission or error would possibly mislead any petition signer or elector and if there is a claim of fraud or deception.

## **Notification if Petition is Not Certified**

If an individual's petition is not certified by the board, the board staff will send out, on the same day the board meets for the purpose of certification, a notice by certified mail regarding why a petition was not certified. Individuals whose petition is certified will not be notified.

## **Request for Reconsideration**

If a person submits a written request to the Board of Elections for the board to reconsider a prior decision, the following procedures will be following by the Board. It is within the Board's discretion to decide if it will consider requests for reconsideration. The policy to entertain requests for reconsideration is intended to protect the requestor's due process rights.

All requests for reconsideration must be received by the Darke County Board of Elections at their office at 300 Garst Avenue, Greenville, OH 45331, on or before 4:00 p.m. of the fifth (5<sup>th</sup>) business day following the board meeting at which the board made their initial decision.

The director shall be responsible for expeditiously setting the date, time and place of a board meeting to consider the request for reconsideration and shall provide written notice to the requestor and his/her legal representative; any opposing candidate(s) or party(s) and to the public in the same manner as regular board meetings. Notice must be provided to all interested parties at least 24 hours before the reconsideration meeting or hearing. The meeting shall be a public meeting with the same formalities afforded at a regular board meeting.

The requestor and/or his/her legal representative shall be afforded ample time to speak and present any and all facts and evidence relating to the request. Other interested parties may also address the board.

Following the presentation of the facts and evidence, the board must make a final decision in public session and must announce its decision (whether that decision is to stand by the board's prior decision or to take a different action) in public session at the same meeting. The Board reserves the right to move into executive session if/when it deems it is warranted by the circumstances.

## **Protests**

Written protests against nominating petitions may be filed by any qualified elector eligible to vote for the candidate whose nominating petition he/she objects to in accordance with the requirements of RC 3513.262.

## **Liquor Option Petitions**

The staff at the BOE is not permitted to give instruction and/or legal advice to applicants for liquor option petitions. Petitioners are required to know which petition form they want prior to coming into the board of elections. Petitioners are encouraged to seek the advice of an attorney or a designated agent prior to appearing at the board office to request petitions and related information.

There are five different types of liquor option petitions. The BOE will provide the forms and information required for the various petition process(s) as outlined in the Secretary of State's *Guide To Local Liquor Options Elections*

Chairman Tom Howard

Member Ant. Pittling

Director Lee A. Lee

Member Rand E. Riley

Member Edward W. Lutz

Prosecutor By Margaret B. Lutz  
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