

**Butler County Board of Elections
Special Board Meeting Minutes
October 16, 2024**

The Butler County Board of Elections met on Wednesday, October 16, 2024, at 9:00 a.m., for a special meeting. Roll call was taken, and present were Chairman Frank Cloud, Member mariann penska, Member Chris Wunnenberg III, Director Nicole Unzicker and Deputy Director Eric Corbin.

Chairman Cloud lead the pledge of allegiance.

Director Unzicker introduced Document 1, 257 Forms Previously Labeled as Insufficient and gave some background information. These forms include 257 forms filed back to July 31, 2024, that were previously labeled as insufficient but upon further review with the prosecutor’s office there seems to be a conflict between the Election Officials Manual and the Revised Code. The Prosecutor recommended that the Board Members meet to officially act on the filed 257 forms.

On the second page of Document 1 Director Unzicker introduced the first item, Potential out of State Challenges, the prosecutor opinion and their assessment of federal law having supremacy over state law in this circumstance stands. The board has no authority to remove a registered voter or implement a provisional process for any individual undergoing the confirmation process as outlined in Federal Law. Member penska moved to deny the July 31st Potential Out of State challenges; seconded by Member Wunnenberg. Roll call:

Chairman Cloud	yea
Member penska	yea
Member Hall	absent
Member Wunnenberg	yea

All in favor; motion carried.

Director Unzicker stated the next set of challenges July 31st – Voters with an Inactive Status and Sent a Confirmation Notice, the prosecutor opinion and their assessment of federal law having supremacy over state law in this circumstance stands. The board has no authority to remove a registered voter or implement a provisional process for any individual undergoing the confirmation process as outlined in Federal Law. Member penska moved to deny the July 31st Voters with an Inactive Status and Sent a Confirmation Notice challenge; seconded by Member Wunnenberg. Roll call:

Chairman Cloud	yea
Member penska	yea
Member Hall	absent
Member Wunnenberg	yea

All in favor; motion carried.

Director Unzicker continued to the next item on Document 1, August 19th - Residence at a Commercial Building. She said there is no prohibition against commercial buildings as a voting residence – There are no prohibitions cited in the EOM or in the qualifications statute (3503.02). The EOM sites prohibition for Post Office Box or Mail Stores as Voting Residence (Chapter 4; Section 4.02). Member penska moved to deny the August 19th - Residence at a Commercial Building challenge; seconded by Member Wunnenberg. Roll call:

Chairman Cloud	yea
Member penska	yea
Member Hall	absent
Member Wunnenberg	yea

All in favor; motion carried.

Director Unzicker started on page 3 of Document 1 and said there were more Potential Out of State challenges from the August 19th board meeting. Member penska moved to deny the August 19th Potential Out of State challenges; seconded by Member Wunnenberg. Roll call:

Chairman Cloud	yea
Member penska	yea
Member Hall	absent

Member Wunnenberg yea

All in favor; motion carried.

Director Unzicker said the next item is from September 4th, Potential Out of State challenges.

Member penska moved to deny the September 4th Potential Out of State challenges; seconded by Member Wunnenberg. Roll call:

Chairman Cloud yea

Member penska yea

Member Hall absent

Member Wunnenberg yea

All in favor; motion carried.

Director Unzicker introduced the filed 257 forms listed as insufficient at the September 11th meeting. The voters in question have been confirmed as qualified electors by the Secretary of State under Directive 2023-24 and, as such, are required to remain on the voter rolls. Member penska moved to deny the September 11th Voter Initiated Activity added to the Secretary of State Election Official Manual in 2022 challenges; seconded by Member Wunnenberg. Roll call:

Chairman Cloud yea

Member penska yea

Member Hall absent

Member Wunnenberg yea

All in favor; motion carried.

Director Unzicker said the next item is from September 11th, Potential Out of State challenges.

Member penska moved to deny the September 11th Potential Out of State challenges; seconded by Member Wunnenberg. Roll call:

Chairman Cloud yea

Member penska yea

Member Hall absent

Member Wunnenberg yea

All in favor; motion carried.

Director Unzicker said the next item is a form 257 that was originally reviewed at the September 25th meeting, Voter's flagged for information mismatch and marked as Inactive Status. The prosecutor opinion and their assessment of federal law having supremacy over state law in this circumstance stands. The board has no authority to remove a registered voter or implement a provisional process for any individual undergoing the confirmation process as outlined in Federal Law. Member penska moved to deny the September 25th Voter's flagged for information mismatch and marked as Inactive Status challenge; seconded by Member Wunnenberg. Roll call:

Chairman Cloud yea

Member penska yea

Member Hall absent

Member Wunnenberg yea

All in favor; motion carried.

Director Unzicker said the next item is from the October 10th meeting, Voter's flagged for information mismatch and marked as Inactive Status. Member penska moved to deny the October 10th Voter's flagged for information mismatch and marked as Inactive Status challenge; seconded by Member Wunnenberg. Roll call:

Chairman Cloud yea

Member penska yea

Member Hall absent

Member Wunnenberg yea

All in favor; motion carried.

Director Unzicker introduced the next item, October 10th – Potential Out of State Challenges. Again, she stated the Board does not have the authority to act on these voters per prosecutor opinion. Member penska moved to deny the October 10th Potential Out of State challenges. There was some confusion about why there are two sections with the same title. Director Unzicker said it is because there were two separate forms filed on the same day. Member penska withdrew her motion. Member penska moved to deny the October 10th (meeting date) Potential Out of State challenges filed on September 25, 2024, at 9:00 a.m.; seconded by Member Wunnenberg. Roll call:

Chairman Cloud	yea
Member penska	yea
Member Hall	absent
Member Wunnenberg	yea

All in favor; motion carried.

Director Unzicker introduced the last item, October 10th – Potential Out of State Challenges. Member penska moved to deny the October 10th (meeting date) Potential Out of State challenges filed on September 25, 2024, at 9:01 a.m.; seconded by Member Wunnenberg. Roll call:

Chairman Cloud	yea
Member penska	yea
Member Hall	absent
Member Wunnenberg	yea

All in favor; motion carried.

Previously labeled insufficient 257 forms for board formal vote

According to the prosecutor's opinion, the board is prohibited from granting a form 257 that would cancel a voter registration or implement a provisional process for individuals currently undergoing the confirmation process, as Federal Law, which supersedes state law in this scenario, does not allow it.

Due to a potential conflict regarding the review process between the directive set by the Secretary of State's office and ORC 3503.24 and upon further review by the county prosecutor's office, they have advised us to schedule a board meeting for the board to formally vote on the filed 257 forms that were labeled as insufficient according to the EOM.

Challenges Filed Pursuant to R.C. 3503.24

A qualified elector may file an application for correction or challenge either in person or by mail with the office of the board of elections. A challenger must 1) use Secretary of State Form 257, 2) file the application or challenge no later than 30 days before an election, 3) state the reasons for the application or challenge, and 4) sign under the penalty of election falsification.

ORC 3503.24, Application for correction of precinct registration list or challenge of right to vote.

(B) On receiving an application or challenge filed under this section, the board of elections promptly shall review the board's records. If the board is able to determine that an application or challenge should be granted or denied solely on the basis of the records maintained by the board, the board immediately shall vote to grant or deny that application or challenge.

If the board is not able to determine whether an application or challenge should be granted or denied solely on the basis of the records maintained by the board, the director shall promptly set a time and date for a hearing before the board. The hearing shall be held, and the application or challenge shall be decided, no later than ten days after the board receives the application or challenge. The director shall send written notice to any elector whose right to vote is challenged and to any person whose name is alleged to have been omitted from a registration list. The notice shall inform the person of the time and date of the hearing, and of the person's right to appear and testify, call witnesses, and be represented by counsel. The notice shall be sent by first class mail no later than three days before the day of any scheduled hearing. Except as otherwise provided in division (D) of this section, the director shall also provide the person who filed the application or challenge with such written notice of the date and time of the hearing.

(C) If the board decides that any such person is not entitled to have the person's name on the registration list, the person's name shall be removed from the list and the person's registration forms canceled. If the board decides that the name of any such person should appear on the registration list, it shall be added to the list, and the person's registration forms placed in the proper registration files. All such corrections and additions shall be made on a copy of the precinct lists, which shall constitute the poll lists, to be furnished to the respective precincts with other election supplies on the day preceding the election, to be used by the election officials in receiving the signatures of voters and in checking against the registration forms.

Required Board Action

(See next page)

July 31st – Potential Out of State Challenges

Per prosecutor opinion and their assessment of federal law having supremacy over state law in the circumstance stands. The board has no authority to remove a registered voter or implement a provisional process for any individual undergoing the confirmation process as outlined in Federal Law.

Grant Challenge _____

- (C) If the board decides that any such person is not entitled to have the person's name on the registration list, the person's name shall be removed from the list and the person's registration forms canceled. If the board decides that the name of any such person should appear on the registration list, it shall be added to the list, and the person's registration forms placed in the proper registration files.

Deny Challenge (Recommended)

- No Action

July 31st – Voters with an Inactive Status and Sent a Confirmation Notice

Per prosecutor opinion and their assessment of federal law having supremacy over state law in the circumstance stands. The board has no authority to remove a registered voter or implement a provisional process for any individual undergoing the confirmation process as outlined in Federal Law.

Grant Challenge _____

- (C) If the board decides that any such person is not entitled to have the person's name on the registration list, the person's name shall be removed from the list and the person's registration forms canceled. If the board decides that the name of any such person should appear on the registration list, it shall be added to the list, and the person's registration forms placed in the proper registration files.

Deny Challenge (Recommended)

- No Action

August 19th - Residence at a Commercial Building

- No prohibition against commercial buildings as a voting residence – There are no prohibitions cited in the EOM or in the qualifications statute (3503.02). The EOM sites prohibition for Post Office Box or Mail Stores as Voting Residence (Chapter 4; Section 4.02).
- ORC 3503.02(l) *If a person does not have a fixed place of habitation, but has a shelter or other location at which the person has been a consistent or regular inhabitant and to which the person has the intention of returning, that shelter or other location shall be deemed the person's residence for the purpose of registering to vote.*

Grant Challenge _____

- (C) If the board decides that any such person is not entitled to have the person's name on the registration list, the person's name shall be removed from the list and the person's registration forms canceled. If the board decides that the name of any such person should appear on the registration list, it shall be added to the list, and the person's registration forms placed in the proper registration files.

Deny Challenge (Recommended)

- No Action

August 19th - Potential Out of State Challenges

Per prosecutor opinion and their assessment of federal law having supremacy over state law in the circumstance stands. The board has no authority to remove a registered voter or implement a provisional process for any individual undergoing the confirmation process as outlined in Federal Law.

Grant Challenge _____

- (C) If the board decides that any such person is not entitled to have the person's name on the registration list, the person's name shall be removed from the list and the person's registration forms canceled. If the board decides that the name of any such person should appear on the registration list, it shall be added to the list, and the person's registration forms placed in the proper registration files.

Deny Challenge (Recommended)

- No Action

September 4th - Potential Out of State Challenges

Per prosecutor opinion and their assessment of federal law having supremacy over state law in the circumstance stands. The board has no authority to remove a registered voter or implement a provisional process for any individual undergoing the confirmation process as outlined in Federal Law.

Grant Challenge _____

- (C) If the board decides that any such person is not entitled to have the person's name on the registration list, the person's name shall be removed from the list and the person's registration forms canceled. If the board decides that the name of any such person should appear on the registration list, it shall be added to the list, and the person's registration forms placed in the proper registration files.

Deny Challenge (Recommended)

- No Action

September 11th - Voter Initiated Activity added to the Secretary of State Election Official Manual in 2022

The voters in question have been confirmed as qualified electors by the Secretary of State under Directive 2023-24 and, as such, are required to remain on the voter rolls.

Grant Challenge _____

- (C) If the board decides that any such person is not entitled to have the person's name on the registration list, the person's name shall be removed from the list and the person's registration forms canceled. If the board decides that the name of any such person should appear on the registration list, it shall be added to the list, and the person's registration forms placed in the proper registration files.

Deny Challenge (Recommended)

- No Action

September 11th - Potential Out of State Challenges

Per prosecutor opinion and their assessment of federal law having supremacy over state law in the circumstance stands. The board has no authority to remove a registered voter or implement a provisional process for any individual undergoing the confirmation process as outlined in Federal Law.

Grant Challenge _____

- (C) If the board decides that any such person is not entitled to have the person's name on the registration list, the person's name shall be removed from the list and the person's registration forms canceled. If the board decides that the name of any such person should appear on the registration list, it shall be added to the list, and the person's registration forms placed in the proper registration files.

Deny Challenge (Recommended)

- No Action

September 25th- Voter's flagged for information mismatch and marked as Inactive Status

Per prosecutor opinion and their assessment of federal law having supremacy over state law in the circumstance stands. The board has no authority to remove a registered voter or implement a provisional process for any individual undergoing the confirmation process as outlined in Federal Law.

- The voters in question have been confirmed as qualified electors by the Secretary of State under Directive 2023-24 and, as such, are required to remain on the voter rolls and are.
 - "Like a voter with an "active" status code, a voter with an "inactive" or "active-confirmation" voter status code is a fully qualified elector and eligible to engage in the activities of a registered voter (i.e., sign a petition, request an absentee ballot, etc.) and appears in the pollbook on Election Day"
 - Section 4.07 BMV Registration transactions
 - Pursuant to the Help America Vote Act (HAVA), the National Voter Registration Act (NVRA), and the Ohio Revised Code, all boards of elections must mail confirmation notices to certain electors as part of a uniform and nondiscriminatory voter records Chapter 4: Voter Registration 101 information verification program prescribed by the Secretary of State.

Grant Challenge _____

- (C) If the board decides that any such person is not entitled to have the person's name on the registration list, the person's name shall be removed from the list and the person's registration forms canceled. If the board decides that the name of any such person should appear on the registration list, it shall be added to the list, and the person's registration forms placed in the proper registration files.

Deny Challenge (Recommended)

- No Action

October 10th – Voter's flagged for information mismatch and marked as Inactive Status

Per prosecutor opinion and their assessment of federal law having supremacy over state law in the circumstance stands. The board has no authority to remove a registered voter or implement a provisional process for any individual undergoing the confirmation process as outlined in Federal Law.

- The voters in question have been confirmed as qualified electors by the Secretary of State under Directive 2023-24 and, as such, are required to remain on the voter rolls and are.
 - "Like a voter with an "active" status code, a voter with an "inactive" or "active-confirmation" voter status code is a fully qualified elector and eligible to engage in the activities of a registered voter (i.e., sign a petition, request an absentee ballot, etc.) and appears in the pollbook on Election Day"
 - Section 4.07 BMV Registration transactions
 - Pursuant to the Help America Vote Act (HAVA), the National Voter Registration Act (NVRA), and the Ohio Revised Code, all boards of elections must mail confirmation notices to certain electors as part of a uniform and nondiscriminatory voter records Chapter 4: Voter Registration 101 information verification program prescribed by the Secretary of State.

Grant Challenge _____

- (C) If the board decides that any such person is not entitled to have the person's name on the registration list, the person's name shall be removed from the list and the person's registration forms canceled. If the board decides that the name of any such person should appear on the registration list, it shall be added to the list, and the person's registration forms placed in the proper registration files.

Deny Challenge (Recommended)

- No Action

October 10th - Potential Out of State Challenges

Per prosecutor opinion and their assessment of federal law having supremacy over state law in the circumstance stands. The board has no authority to remove a registered voter or implement a provisional process for any individual undergoing the confirmation process as outlined in Federal Law.

Grant Challenge _____

- (C) If the board decides that any such person is not entitled to have the person's name on the registration list, the person's name shall be removed from the list and the person's registration forms canceled. If the board decides that the name of any such person should appear on the registration list, it shall be added to the list, and the person's registration forms placed in the proper registration files.

Deny Challenge (Recommended)

- No Action

October 10th - Potential Out of State Challenges

Per prosecutor opinion and their assessment of federal law having supremacy over state law in the circumstance stands. The board has no authority to remove a registered voter or implement a provisional process for any individual undergoing the confirmation process as outlined in Federal Law.

Grant Challenge _____

- (C) If the board decides that any such person is not entitled to have the person's name on the registration list, the person's name shall be removed from the list and the person's registration forms canceled. If the board decides that the name of any such person should appear on the registration list, it shall be added to the list, and the person's registration forms placed in the proper registration files.

Deny Challenge (Recommended)

- No Action

With no further business, Member Wunnenberg moved to adjourn the meeting; seconded by Member penska. Roll call:

Chairman Cloud	yea
Member penska	yea
Member Hall	absent
Member Wunnenberg	yea

All in favor; motion carried.

The meeting was adjourned at approximately 9:15 a.m.

Frank Cloud, Chairman

Nicole Unzicker, Director

ABSENT

Todd Hall, Member

Chris Wunnenberg III, Member

mariann penska, Member