



Via Electronic Mail

September 13, 2022

Debra Quivey, Director
Tony Brooks, Deputy Director
Athens County Board of Elections
15 S. Court St., #130
Athens, OH 45701

Re: Tie Vote Regarding the Candidacy of Tanya Conrath

Dear Director Quivey and Deputy Director Brooks:

On August 17, 2022, the Athens County Board of Elections (the “Board”) held a meeting where it considered whether to certify Tanya Conrath as a candidate for the 94th District of the Ohio House of Representatives, as a substitute for Rhyan Goodman as the Democratic nominee. Board Chair Kate McGuckin and Sky Pettey voted to certify and accept the substitution, and members Aundrea Carpenter-Colvin and Gary Van Meter voted against certification and to reject the substitution. The Board timely submitted the matter in controversy and accompanying documentation to my Office to decide the question pursuant to R.C. 3501.11(X).

Rhyan Goodman ran unopposed in the August 2, 2022 Primary Election for the Democratic nomination for State Representative in the Ohio House District 94, which contains Athens, Meigs, Morgan, and part of Washington Counties. On August 8, 2022, Rhyan Goodman submitted a notice of withdrawal to the Board, requesting “to be removed from the ballot for the November 8th General Election for the office of State Representative, District 94.” On August 15, 2022, the Athens County Democratic Party filed SOS Form 289 (the Certification of Selection of Candidate to Fill Vacancy in Party Nomination) with the Board to certify Tanya Conrath as its candidate to replace Rhyan Goodman as the Democratic nominee for 94th House District. These events occurred *after* Election Day, *after* the unofficial canvass, and *before* the official canvass and certification of results.

The Athens County Democratic Party’s district committee replaced a candidate that withdrew before the results of the August 2, 2022 Primary Election were officially certified. According to R.C. 3513.31, if a person nominated in a party primary election as a party candidate withdraws before the general election, the vacancy in nomination may be filled by the political party that made the nomination at the primary election. The deadline for the party to certify the name of a replacement candidate is 4:00 p.m. on the 86th day before the day of the general election.¹ For this election cycle, the deadline to certify a replacement for a party candidate was **August 15, 2022** (86 days before November 8, 2022).

¹ R.C. 3513.31(A) to (E).

Pursuant to Ohio law, the official canvass of an election may begin no earlier than the 11th day after the election and must begin no later than the 15th day after the election. Boards must complete their official canvass no later than the 21st day after an election. For the August 2, 2022 Primary Election, boards could begin their official canvass as early as **August 13, 2022**, begin no later than **August 17, 2022**, and finish the official canvass and certify results no later than **August 23, 2022**.²

The redistricting process resulted in the primary election for Ohio General Assembly and state central committees occurring in August as opposed to May. This delayed primary election and lack of legislative action to change statutory deadlines resulted in the possibility that the deadline to withdraw and replace a nominee could pass before the official certification of election results. My Director of Elections alerted each board of elections to this possibility on August 9, 2022 via email.³ The Board received this email the day after Rhyan Goodman submitted the notice of withdrawal with the Board. However, the Board did not reschedule its official canvass to certify results by August 15, 2022.

Ohio law defines “party candidate” as “any candidate who claims to be a member of a political party and *who has been certified to appear on the office-type ballot at a general or special election as the nominee of a political party* because the candidate has won the primary election of the candidate’s party for the public office the candidate seeks, has been nominated under section 3517.012 [as a minor party candidate], or is selected by party committee in accordance with section 3513.31 of the Revised Code” (*emphasis added*).⁴ R.C. 3513.31 only allows a party committee to replace a candidate “nominated in a primary election as a party candidate for election at the next general election.”⁵

The unofficial canvass on Election Night, by definition, produces unofficial results. Such unofficial results **do not** include absentee ballots received after Election Day or provisional ballots eligible for counting. Official results of an election are certified upon completion of the official canvass.⁶ Therefore, a candidate in a primary election can only become the “party candidate” and nominee of a political party after official certification of election results.

In this case, Rhyan Goodman submitted his withdrawal from the race for the 94th House District prior to the official canvass and certification of official results of the August 2, 2022 Primary Election. As such, Rhyan Goodman was not the official nominee and party candidate at the time of his withdrawal. The Athens County Democratic Party’s district committee could not replace him prior to the official certification of the August 2, 2022 Primary Election results. Moreover, the Board did not reschedule its official canvass.

² R.C. 3505.32 and Directive 2022-40.

³ “Unfortunately, the Ohio General Assembly has not adjusted the deadline for certifying replacement candidates, nor does the Secretary of State have legal authority to modify the deadline. Boards of elections should consider certifying official results by August 15, 2022 if a nominee for State Representative or State Senator is expected to withdraw. Boards should also reach out to the appropriate political party committees to remind them of the August 15, 2022 deadline.”

⁴ R.C. 3501.01(K).

⁵ R.C. 3513.31(B).

⁶ R.C. 3505.27 and 3505.32.

For these reasons, I break the tie and vote against certifying Tanya Conrath to the ballot. Rhyan Goodman was not certified to appear on the November 8, 2022 General Election ballot at the time he withdrew from the race and therefore could not be considered the party candidate and nominee to replace.

Yours in service,



Frank LaRose
Ohio Secretary of State

cc: Kathleen McGuckin, Chair of Athens County Board of Elections
Aundrea Carpenter-Colvin, Member of Athens County Board of Elections
Gary Van Meter, Member of Athens County Board of Elections
Sky Pettey, Member of Athens County Board of Elections