



Stacy Wall
Law Director
City of Piqua
201 W. Water Street
Piqua, OH 45356

Rebecca J. Cool
Clerk to the City Commission
City of Piqua
201 W. Water Street
Piqua, OH 45356

Board of City Commissioners
City of Piqua
201 W. Water Street
Piqua, OH 45356

September 4, 2008

Dear Ms. Wall, Ms. Cool, and Commissioners:

The American Civil Liberties Union of Ohio has received a complaint about the City of Piqua's methods of handling referendum petitions. Specifically, the complainants allege that Piqua officials are placing restrictions on petition circulators and signature requirements, beyond those spelled out in the Ohio Revised Code.

The ACLU of Ohio is very concerned that Piqua residents are being denied access to the ballot in violation of state law.

The Ohio Municipal Code, codified in Title 7 of the Revised Code, and the Ohio Elections Code, codified in Title 35 of the Revised Code, do not grant municipalities the authority to approve proposed ballot language or review the sufficiency of petitions.

Revised Code Section 731.29 delineates local procedures for handling referendum petitions. The petition is filed with the city auditor or clerk. The clerk transmits both the petition and a certified copy of the ordinance to the board of elections (BOE). A certified copy is defined by the statute as simply a "true and exact reproduction of the original" ordinance or measure. The BOE shall examine the signatures on the petition to determine whether they are sufficient. Then the BOE shall return the petition to the clerk along with a statement attesting to the number of valid electors who signed the petition.

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Revised Code Section 3501.11 delineates the powers and duties granted to each board of elections. Among them are the authorities to review and certify petition signatures and give approval to local ballot language. The BOE shall “[r]eview, examine, and certify the sufficiency and validity of petitions and nomination papers,” RC 3501.11(K), and “[g]ive approval to ballot language for any local question or issue and transmit the language to the secretary of state for the secretary of state’s final approval.” RC 3501.11(V).

Revised Code Section 3501.05 delineates the powers and duties of the secretary of state. Among them, the secretary shall “give final approval to ballot language for any local question or issue approved and transmitted by boards of elections under section 3501.11 of the Revised Code.” RC 3501.05(J).

As you know, while Ohio is a “home rule” state, that does not allow municipalities to enact ordinances or policies that conflict with state law. If the complainants’ allegations are true that Piqua officials are rejecting referendum petitions based on their own appraisal of the language and signatures, then the City of Piqua is overstepping its authority under the municipal code (Title 7 of the Revised Code) and intruding upon the rights of complainants and the authority of the board of elections and secretary of state granted by the elections code (Title 35 of the Revised Code) to review and certify petitions:

Please be aware these are allegations my organization takes very seriously. For that reason, I urge you to cease any and all such practices forthwith and to comply with the referendum petition process as mandated by Ohio law. Should this current behavior continue and I come to the conclusion the rights of petition circulators continue to be violated, I will have no choice but to recommend the matter for immediate litigation to my Board of Directors.

It is my sincere hope that won’t be necessary and that this matter can be resolved with no further action or attention from my office.

Should you have any questions or concerns about this matter I invite you to contact me at your convenience at 216/472-2220.

Sincerely,


Jeffrey M. Ganso
Legal Director

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cc:

Miami County Board of Elections
Courthouse
215 W. Main St.
Troy, OH 45373

Office of the Ohio Secretary of State
Attn: Election Services Division
180 E. Broad St., 15th floor
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