

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

In Re:)	
)	Administrative Order
Girish Bose, Candidate)	No. 24-029
)	Appeal of Preliminary Determination
)	

MEMORANDUM OPINION AND ORDER

This matter came before the District of Columbia Board of Elections (“the Board”) at a special meeting on August 19, 2024. It is an appeal from the Board’s Executive Director’s preliminary determination that Girish Bose, candidate for the office of Advisory Neighborhood Commissioner (“ANC”) for Single Member District (“SMD”) 3C06 in the November 5, 2024 General Election (“the General Election”), could not have his name appear on the ballot as “Jay Bose.” Board Member Karyn Greenfield presided over the hearing on this matter. A representative of the candidate, Cole McEldowney, appeared at the hearing. The Board’s General Counsel was also present.

BACKGROUND

On July 18, 2024, Candidate Bose submitted a Declaration of Candidacy form (“the Declaration”) in support of his candidacy for ANC for SMD 3C06 in the General Election.¹ That form contained a field for a candidate to enter their name and another field for the candidate to enter how their name should be printed on the ballot. With respect to the latter field, the following admonition appears: “[*W*]hen listing your name, the Board will not permit a candidate to specify

¹ The Declaration of Candidacy form must be filed by candidates seeking to have their names printed on the ballot. 3 DCMR § 601.1 *et seq.*

*a modified form of their given name that confuses or misleads voters and is otherwise not legally acceptable. For example, James Smith could be Jim Smith but not Jim ‘The Best’ Smith.”*²

On the Declaration, Candidate Bose entered “Girish Bose” as both his name and the name that should be printed on the ballot. Candidate Bose’s voter file shows that his name is Girish Bose.

On August 12, 2024, the Board’s Executive Director issued a preliminary determination finding that Candidate Bose was eligible to run for the ANC SMD 3C06 seat.³ Her determination also notified Candidate Bose that his name would appear on the ballot as “Girish Bose,” thereby alerting him to the fact that the name “Jay” would not appear on the ballot.

On August 14, 2024, Candidate Bose emailed the Board’s Office of General Counsel and indicated that he was appealing the Executive Director’s preliminary determination with respect to the decision to disallow the use of the first name “Jay” on the ballot.⁴ In that email, Candidate Bose stated he had gone by this preferred name for nearly 10 years and that he was known in his community, personal life, and professional life by the name “Jay.” He contended that having his legal name “Girish” listed on the ballot would confuse voters. He also advised that he has used the first name “Jay” for approximately ten years and that his peers and community know him by that name.⁵

² Emphasis in original.

³ 3 DCMR § 601.6 (providing that the Board’s Executive Director or her designee will, three days after the filing of a Declaration of Candidacy, issue a preliminary determination as to a candidate’s eligibility). The preliminary determination of eligibility set forth in the Board’s regulations goes to the candidate’s qualifications for office. *See* D.C. Code 1-1001.05(a)(14) (providing that the Board issue regulations necessary to determine that candidates meet the statutory qualifications for office). It does not concern the adequacy of the candidate’s nominating petition.

⁴ 3 DCMR § 601.11 (providing that the candidate must appeal a preliminary determination within three days after receipt of notice of an adverse determination).

⁵ The Board’s voter files show that that equates to nearly the entirety of Candidate Bose’s adult life.

Candidate Bose was duly notified that a hearing on his appeal of the Executive Director’s preliminary determination would be held on August 19, 2024.⁶ While Candidate Bose responded that he would be unable to attend that hearing, he, in accordance with Board regulations, designated a third party, Mr. McEldowney, to represent him. He also submitted for the Board’s consideration three email communications, including communications from a current ANC member supporting Candidate Bose’s election that showed that he was known by the name “Jay Bose” for election purposes.

On August 19, 2024, Mr. McEldowney appeared at the hearing and reiterated Candidate Bose’s challenge to the Executive Director’s preliminary determination with respect to the representation of the candidate’s name on the 2024 General Election ballot. He corroborated Candidate Bose’s representation that the community had known the candidate as “Jay Bose” for over a decade.

After hearing from Candidate Bose’s representative, Board Member Greenfield requested that the General Counsel provide her recommendation in the matter. The General Counsel recommended that Candidate Bose be permitted to use the name “Jay Bose” on the ballot. Board Member Greenfield concurred and directed that the appeal be granted.

ANALYSIS

The pertinent Board regulation provides that:

The name of a candidate for election shall appear on the ballot in the form designated on the Declaration of Candidacy executed and filed by the candidate . . . provided, that the name conforms to . . . the given name or names, or the initial letter of a given name, if any, and surname.

⁶ 3 DCMR § 601.12 (providing that the Board shall hold a hearing on preliminary determination appeals within three days).

... The Board may permit a candidate to specify a modified form of his or her given name or names on the ballot if the Board finds that the change shall not confuse or mislead the voters and is legally acceptable.⁷

In interpreting that regulation, we note that the term “name” should be given its plain and ordinary meaning.⁸ The D.C. Court of Appeals has opined on the meaning of the term “name”:

A person’s “name” consists of one or more Christian or given names and one surname or family name. It is the distinctive characterization in words by which one is known and distinguished from others, and description, or abbreviation, is not the equivalent of a “name.”⁹

In other words, the regulation, when given its plain and ordinary meaning, requires that candidates be identified on the ballot with only their actual name or a modified version of their actual name, and that they not be identified with descriptive words that are not or do not conform to their given name.

The Board has previously explained that the regulation at issue serves the valid election administration interests of the Board, including that the ballot not be improperly used as a billboard for political advertising and the objective of avoiding voter confusion as to the identity of the candidate. *See Rodney Grant*, BOE Case No. 24-003 (March 19, 2024) at p. 5 and cases cited therein. In the *Rodney Grant* case, the Board expressed concern that entertaining exceptions to the regulation requirement that candidates use their real names on the ballot would open the door to litigation. The Board, however, waived its regulations as the matter presented a “rare case in which

⁷ 3 DCMR §§ 1203.1-1203.2. The regulations also provide that the use of titles, degrees, and prefixes on the ballot is prohibited.

⁸ *Oversight v. U.S. Dept. of Justice*, 292 F.Supp.3d 501, 508 (D.C.D.C. 2018) (decision supported by the plain meaning of the rule and existing precedent in analyzing it was both reasonable and legally sound).

⁹ *Gore v. Newsome*, 614 A.2d 40, 43 (D.C. 1992) (citing BLACK’S LAW DICTIONARY 1023 (6th ed. 1990)). While the definition of the term “name” excludes abbreviations, the Board’s regulation expressly allows the use of an initial that conforms to a given name.

the equities warrant allowing this candidate to include a nickname that is neither his actual name nor a modified version of that name.” *Id.* at 6. Factors that that the Board relied on in that case were that the candidate had used his nickname since childhood, which tended to show that the use of the name “Red” was not intended to convey a prohibited political message. They also noted that the Board has allowed the candidate to use the name “Red” as his nickname on a prior ballot and that knowledge in the community of the candidate as “Red” Grant suggested that that nickname “Red” was not likely to confuse voters and may actually help them identify him.

Here, while the candidate has not been listed on a prior ballot as “Jay Bose,” he has provided evidence that voters would know him by that name. He likewise has been known by the name “Jay Bose” throughout his adult life. His case was supported by evidence and witness statements that he is known in the community as “Jay Bose.” Like the *Rodney Grant* case, this is a situation where including the candidate’s real name on the ballot would likely confuse voters. Further, the name “Jay Bose” does not constitute a campaign slogan and would not result in the improper use of the ballot for campaigning.¹⁰

CONCLUSION

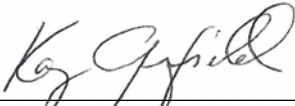
For these reasons, it is hereby

¹⁰ While Candidate Bose included on his Declaration of Candidacy form the name “Girish Bose” as his ballot name, he explained in an email sent contemporaneously with the preliminary determination that when he went to the Board’s offices on July 18, 2024 to file his Declaration and pick up his petition forms, he inquired about the section of the Declaration that required the entry of the candidate’s ballot name. Candidate Bose said that he was advised by Board staff to enter his given name as his ballot name and that he could appeal the use of that name later. As a novice candidate, Candidate Bose lacked experience completing the Board’s forms. To the extent that Candidate Bose’s request to use “Jay Bose” might be viewed as an untimely change to his Declaration and accepting as true that there was some confusion at the time Candidate Bose filed his Declaration form, I also waive, for good cause, the deadline for filing the Declaration of Candidacy and find that Candidate Bose’s appeal constitutes a request to change the ballot name indicated on his Declaration.

ORDERED that the Executive Director’s preliminary determination that Candidate Bose cannot use his nickname “Jay” in lieu of his first name on the 2024 General Election ballot is **REVERSED** and that the name approved for the ballot for Candidate Bose is “Jay Bose.”

The Board issues this written order today, which is consistent with its oral ruling rendered on August 19, 2024.

Dated: August 20, 2024



Karyn Greenfield
Member, D.C. Board of Elections