

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

In Re:

Petition to Recall
Ward Two Councilmember
Jack Evans

Administrative Hearing
No. 19-042
Certification of Recall Petition

MEMORANDUM OPINION AND ORDER

Introduction

On Monday, November 18, 2019, Mr. Adam Eidinge (“the Proposer”) timely filed a petition in support of his effort to recall Ward 2 Councilmember Jack Evans (“the Petition”). The Petition contained 628 pages and 5,627 signatures. Based upon the latest official count of the registered voters in Ward Two issued at least 30 days before November 18, 2019¹, the Petition was required to contain the valid signatures of at least 4,949 of the registered voters in Ward Two in order for the recall measure to qualify for ballot access.² The Board has determined that the Petition contains the valid signatures of only 3,885 registered voters in Ward Two. Accordingly, the Petition does not meet the qualifying percentage requirement. Therefore, the Petition is numerically insufficient for ballot access.

¹ As of October 15, 2019, there were 49,493 registered voters in Ward Two.

² D.C. Official Code § 1-204.112 provides as follows: Any elected officer of the District of Columbia government (except the Delegate to Congress for the District of Columbia) may be recalled by the registered electors of the election ward from which he or she was elected or by the registered electors of the District of Columbia at large in the case of an at-large elected officer, whenever a petition demanding his or her recall, signed by 10 percent of the registered electors thereof, is filed with the District of Columbia Board of Elections and Ethics. The 10 percent shall be computed from the total number of the registered electors from the ward, according to the latest official count of registered electors by the Board of Elections and Ethics which was issued 30 or more days prior to submission of the signatures for the particular recall petition.

Discussion

Upon its acceptance of a petition to recall an official elected from a ward, the Board has 30 days to determine whether the petition contains the requisite number of valid signatures of voters registered in the same ward as the elected official. During this 30-day period, the Board first verifies the registration of each petition signer and then determines the total number of verified registrants. The total number of verified registrants comprises the universe of signatures from which a random sample will be drawn for purposes of verifying the authenticity of the signatures on the petition (“random sample universe” or “RSU”). A signature will not be included in the RSU if:

- a. The signer’s voter registration was designated as inactive on the voter roll at the time the petition was signed;
- b. The signer, according to the Board’s records, is not registered to vote at the address listed on the petition at the time the petition was signed;
- c. The signature is a duplicate of a valid signature;
- d. The signature is not dated;
- e. The petition does not include the printed or typed address of the signer;
- f. The petition does not include the printed or typed name of the signer where the signature is not sufficiently legible for identification;
- g. The circulator of the petition sheet was not a qualified petition circulator at the time the petition was signed;
- h. The circulator of the petition failed to complete all required information in the circulator’s affidavit;
- i. The signer was also the circulator of the same petition sheet where the signature appears;
- j. The signature was obtained on a petition sheet that was submitted on behalf of a previously filed recall petition that was rejected or found to be numerically insufficient; or
- k. The signer is not a registered voter in the ward or Single-Member District of the elected official sought to be recalled.

If the number of signatures in the RSU meets or exceeds the statutory minimum requirement, the verification process moves forward. However, if the number of signatures in the RSU does not meet or exceed the statutory minimum requirement, the Board shall reject the petition as numerically insufficient.

The RSU

The Petition contained 5,627 signatures. 1,742 of these signatures were excluded from the RSU on the following grounds:

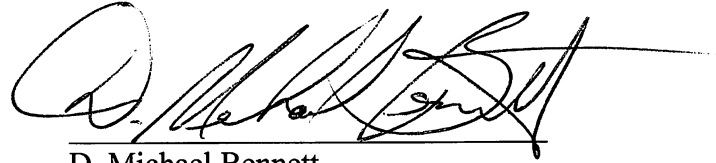
| Ground for Disqualification | Number Disqualified |
|---|----------------------------|
| Inactive Voter | 29 |
| Address on Petition Does Not Match Address in Board Records, and Board Records Show that Voter Was Not Registered at Address on Petition at Time of Signing | 422 |
| Duplicate Signature | 211 |
| No Date Provided | 1 |
| No Address Provided | 23 |
| Illegible Signature/No Printed or Typed Name | 128 |
| Signer Not Registered in Ward Two | 502 |
| Signer Not Registered in DC | 388 |
| Signer Not Registered at Time of Signing | 6 |
| Name Mismatch | 11 |
| Signature Mismatch | 21 |
| Total Number of Signatures Disqualified | 1742 |

After the above-referenced signatures were excluded, 3,885 signatures remained in the RSU - 1,064 signatures below the minimum number necessary for the Petition to be deemed numerically sufficient. Accordingly, Board staff halted the verification process.

During the Board's regularly scheduled monthly meeting on December 5, 2019, the Board's Executive Director, Alice P. Miller, presented to the Board the Recall Petition Verification Report ("the Report"), which outlined Board staff's findings concerning the verification of the Petition. On that date, based upon the findings contained in the Report, which the Board adopts and incorporates into this Order, and the public testimony of the Board's Executive Director, the Board:

- 1) Certified that the Petition submitted by the Proposer in support of his recall measure is numerically insufficient; and accordingly,
- 2) Certified that the recall measure submitted by the Proposer does not qualify for ballot access.

Date: December 16, 2019

A handwritten signature in black ink, appearing to read "D. Michael Bennett", written over a horizontal line.

D. Michael Bennett
Chairman, Board of Elections



DISTRICT OF COLUMBIA
BOARD OF ELECTIONS
WASHINGTON, D.C. 20003-4733



December 5, 2019

MEMORANDUM

TO: Board of Elections

FROM: Alice P. Miller
Executive Director

SUBJECT: Petition Verification re: Recall Jack Evans, Ward 2 Member of the Council filed on November 18, 2019. Recommendation: To Reject the Petition as Numerically Insufficient.

After executing the Board's standard procedure for verifying registered voter signatures contained in the above reference recall petition, the Board's staff has determined that this petition does not meet the statutory requirements for certification to the ballot, in accordance with D.C. Official Code §1-1001.17(k)(1).

It is therefore my recommendation that the Board reject the petition as numerically insufficient, in accordance with D.C. Official Code §1-1001.17(k)(1), because it does not contain the signatures of the required minimum number of registered voters. An overview of the petition verification process and a summary of its results are provided below.

Overview of the Petition Verification Process

The petition verification process is conducted to determine whether a petition to present a recall measure to the electorate contains the minimum number of registered voter signatures required to place the measure on the ballot. The required minimum is 10% of the duly registered voters of the ward from which the official was elected.

The numerical requirements are based on the Board's published registration totals in effect at least 30 days before the petition was filed, in this case, the voter registration totals as of October 15, 2019.

The petition verification process --- detailed in Standard Procedures for Verification of Recall Petitions --- has four basis steps:

- First, the Board's staff verifies if the circulator is a resident of the District of Columbia or a resident of another jurisdiction who registered as a petition circulator with the Board prior to the circulation of the petition sheet and if the petition has a completed circulator's affidavit.

- Second, the name, and address of each petition signer is checked against the voter registration system file to determine if the petitioner was registered to vote at the residence address listed on the petition at the time the petition was signed, as required by law. Only those petition signers whose names and addresses are found to match the Board's registered voter file are entered into the petition checking program as "verified registrants".
- Third, the totals of verified registrants are compiled by the registration system to determine whether the petition contains a sufficient number of registered voters to proceed to the signature verification stage, in which the actual names on the petition are examined against the names on the Board's records.
- Fourth, where the total number of verified registrants is determined to have met the minimum signature requirement, a random sample of signatures is drawn, for comparison to the original voter signatures on file in the Board's records. The validity rate of the randomly selected signatures in the sample is then used to make a statistical determination of the sufficiency of the petition as a whole, at the required confidence level of 95%.

Summary of Findings

The petition for Recall Jack Evans, Ward 2 Member of the Council, containing 628 pages, was filed on November 18, 2019. The petition contained 5,627 signatures. After completing the procedures for verifying the voter registration status of petition circulators and signers – steps 1, 2 and 3 in the process outlined above – the total number of registered voters listed in the petition was found to be 3,885. A total of 1,064 below the minimum required 10% of 4,949 of the ward from which the official was elected.

The determination that the petition did not contain the required minimum number of duly registered voters meant that the verification process came to an end at this point, without proceeding to the signature sampling stage. This is the required outcome, in accordance with the Standard Procedures whenever the universe of verified registrants falls below the threshold numerical requirement -- for verification even if every signature in the universe were found to be valid, there would still be an insufficient total number.

Based on the foregoing results of the verification of the petition for Recall Jack Evans, Ward 2 Member of the Council the determinations are that (1) the proposed measure does not meet the statutory requirement for certification to the ballot and (2) the proposed measure should be rejected by the Board because it does not contain a sufficient number

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of signatures of registered electors in the ward from which the official was elected as required by D.C. Official Code §1-1001.17(l).

cc: Terri D. Stroud, General Counsel