

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

In Re:)	
)	Administrative Order
Yi Yang, Candidate)	No. 24-014
)	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 15, 2024. It is an appeal from the Board’s Executive Director’s preliminary determination that Yi Yang, candidate for the office of Advisory Neighborhood Commissioner (“ANC”) for Single Member District (“SMD”) 2A02 in the November 5, 2024 General Election (“the General Election”), could not have her name appear on the ballot as “May Yang.” Board Member Karyn Greenfield presided over the hearing on this matter. The Board’s General Counsel was also present.

BACKGROUND

On July 26, 2024, Candidate Yang submitted a Declaration of Candidacy form (“the Declaration”) in support of her candidacy for ANC for SMD 2A02 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.”

On the Declaration, Candidate Yang entered “Yi Yang” as her name and “May Yang” as the name that should be printed on the ballot. Candidate Yang’s voter file shows that her name is Yi Yang.

On August 12, 2024, the Board’s Executive Director issued a preliminary determination finding that Candidate Yang was eligible to run for the ANC SMD 2A02 seat.² Her determination also notified Candidate Yang that her name would appear on the ballot as “Yi Yang,” thereby alerting her to the fact that the name “May” would not appear on the ballot.

On August 14, 2024, Candidate Yang sent an email to the Board’s Office of General Counsel appealing the Executive Director’s preliminary determination and seeking a hearing.³ By her appeal, Candidate Yang requested that her name appear on the ballot as “May Yang.” In her appeal and request for a hearing, Candidate Yang stated that she has been using the first name “May” since elementary school and that she uses that first name professionally. She provided a link to her place of business’s website and the page with her employment profile wherein she is identified as “May Yang.”

Candidate Yang was duly notified that a hearing on her appeal of the Executive Director’s preliminary determination would be held on August 15, 2024.⁴ Candidate Yang responded to the

² 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.

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

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

notice by advising the Board’s Office of General Counsel that she would be traveling at that time. Accordingly, she was made aware of the option to submit statements and evidence to support her case. On August 14, 2024, Candidate Yang emailed links of on-line materials showing her use of the first name “May” (e.g., a published article authored by Candidate Yang and business and academic affiliations), a statement whereby she attested to her long-time use of the first name “May,” and an affidavit from her friend, Rachel Gertler, evidencing the Candidate’s use of the first name “May” from 2007 to the present.

On August 15, 2024, the Board’s General Counsel placed on the record Candidate Yang’s appeal grounds and the statements and evidence that she had provided. Board Member Greenfield then entertained the General Counsel’s recommendation as to Candidate Yang’s appeal. The General Counsel recommended that the Board waive the regulation at 3 DCMR §1203.2 that requires that the name of candidates that appears on the ballot be the candidate’s actual name or a modified version of the candidate’s given name and allow the name that would appear on the ballot for Candidate Yang to be “May Yang” instead of “Yi Yang.”

After hearing the evidence and the General Counsel’s recommendation, Board Member Greenfield moved to waive the respective regulation and held that Candidate Yang’s name should appear on the ballot as “May Yang.”

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.

... 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.⁵

In interpreting that regulation, we note that the term “name” should be given its plain and ordinary meaning.⁶ 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.”⁷

In other words, the regulation, when given its plain and ordinary meaning, requires that candidates be identified on the ballot by either 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

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

⁶ *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).

⁷ *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 we relied on in that case were that the candidate had used his nickname since early childhood which tended to show that the use of the name “Red” was not intended to convey a prohibited political message. We also noted that we had 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, the candidate has not previously campaigned using the nickname “May.” That said, the overwhelming evidence is that she has long been known in her professional and private life as “May Yang.” In addition, the name “May” is not associated with a political message. Accordingly, voters would not be confused about the identity of the candidate if her name on the ballot appeared as “May Yang,” and there is no improper use of the ballot associated with placing the name “May Yang” on the ballot.

CONCLUSION

For these reasons, it is hereby **ORDERED** that the Executive Director’s preliminary determination that Candidate Yang cannot use her nickname “May” in lieu of her first name on the 2024 General Election ballot is **REVERSED**. Subject to any successful petition challenge that might be filed, the name to be printed on the ballot for Candidate Yang shall be “May Yang.”

I issue this written order today, which is consistent with my oral ruling rendered on August 15, 2024.

Dated: August 19, 2024



Karyn Greenfield,
Member, D.C. Board of Elections