

Commissioner Berger: Good morning. My name is Henry Berger, Co-Chair of the State Board of Elections. I'm joined today by my Co-Chair, Peter Kosinski, and Commissioners Essma Bagnuola and Anthony Casale. I call to order the July 2, 2026 meeting of the New York State Board of Elections. It is July.

I don't believe we have any old business, so let's move to new business. The purpose of today's meeting is to review staff determinations related to objections to independent nominating petitions. The staff has prepared recommendations, and that report was distributed to the Board. I also note that in Congressional District 24, Todd Sloan submitted a letter disputing the staff determination. His submission has been circulated to the Board and considered. I will entertain a motion on the staff recommendations.

Commissioner Bagnuola: So moved.

Commissioner Casale: Second.

Commissioner Berger: Is there any discussion about these matters?

Commissioner Kosinski: I would just ask that the staff address the issue that was raised in that letter to us, Commissioner, on CD24 about the signatures that were ruled invalid by the staff.

Kristen Zebrowski Stavisky: Yes, yes. Brian Quail will be happy-

Commissioner Kosinski: Brian, yeah, could you just address that issue that he raises in his letter.

Kristen Zebrowski Stavisky: Sure.

Brian Quail: Yeah, I'd be very happy to. I mean, fundamentally, the issue that Mr. Sloan raises in his letter is that the Board should take into account extrinsic evidence in the circumstances when subscribing witnesses or signatures to the petition have an address that does, on the petition, that does not match the address that's in the records of the Board. And then Mr. Sloan suggests that the Board has guidelines that it's not following in that respect because in the case law update, it speaks to the fact that specifically, courts uphold the validity of signatures if the voter is registered to vote in the jurisdiction, but not at the address that's in the Board's records. And in fact, on page 39 of the Election Law Update, we talk about how the burden of proof often shifts to the proponent of the petition to prove the identity of the voter in those circumstances where the address does not match that on file with the Board of Elections and that extrinsic evidence in those instances may be necessary such as testimony or affidavits.

And obviously boards of elections are not in the business of receiving testimony or affidavits, so those are factual determinations that need to be made in a court of law. Mr. Sloan only cites the reference to the address issue two pages later in the case law update and not the reference two pages before. The important case in the matter, very recent is the Richard Luthmann v. the Board

of Elections case out of New York City in 2013 where the Supreme Court determined that in an instance where addresses did not match records of the court, that the Board of Elections was within its right to declare those signatures invalid, absent any evidence back from the proponent of the petition proving that the identity of the voter with a different address on the petition was in fact the one that's on file with the Board of Elections. Fundamentally, understanding this issue really comes down to the fact that it's fine if someone uses their current address on a petition either as a subscribing witness or as a signer, but the task of the Board is to determine whether or not that person is a registered voter.

And in as much as we don't do signature comparison, we need a direct match with our records to be able to make that determination in a ministerial fashion. Obviously, a court is in a position to take evidence, take affidavits, allow that evidence to be impeached by the other side and make a determination that yes, the person who signed the petition at address X is the person who is registered by that name at address Y. So I think fundamentally, Mr. Sloan essentially was asserting that the Board should take on fact-finding that the legislature has just not shown fit to give us. I hope that's an adequate explanation, Commissioner.

Commissioner Kosinski: I think that is. So my understanding is that if Mr. Sloan wants relief or remedy to this, he would have to go to court?

Brian Quail: Correct, Commissioner.

Commissioner Kosinski: Okay. Okay. Thank you.

Commissioner Berger: Thank you. Any other discussion or questions? Hearing none, the motion has been made and seconded, so let's proceed to a vote. All those in favor, please so indicate.

Commissioner Kosinski: Aye.

Commissioner Casale: Aye.

Commissioner Bagnuola: Aye.

Commissioner Berger: Aye. Any abstentions or noes? I don't hear any. This motion is adopted. Is there any other business to come before us? Hearing none, I will entertain a motion to adjourn.

Commissioner Bagnuola: So moved.

Commissioner Kosinski: So moved.

Commissioner Berger: Any objections? Hearing none, we stand adjourned. Thank you for the meeting.

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Kristen Zebrowski Stavisky: Thank you, Commissioners. Happy 4th of July.

Commissioner Bagnuola: Enjoy your weekend.