

2026 IL App (2d) 260419-U
No. 2-26-0419
Order filed October 13, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

RICHARD L. NELSON, Petitioner-Appellant,

v.

THE KANE COUNTY OFFICERS ELECTORAL BOARD; JOHN DUGGAN, THERESA BARRIERO, and JOHN FRANK, in their Official Capacities as Members of the Kane County Officers Electoral Board, and JERRY COOK, Respondents-Appellees.

Appeal from the Circuit Court of Kane County.
Honorable Elizabeth K. Flood, Judge, Presiding.
No. 26-MR-239

JUSTICE BIRKETT delivered the judgment of the court.
Justices Hutchinson and Jorgensen concurred in the judgment.

ORDER

¶ 1 *Held:* Candidate's nomination papers substantially complied with the Election Code where the record established timely circulation.

¶ 2 Objector, Richard L. Nelson, appeals the circuit court's decision certifying the respondent, Jerry Cook, as a candidate for the November 3, 2026, general election. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On June 1, 2026, Cook filed his nomination papers as a candidate for Kane County Regional Superintendent of Schools for the November 3, 2026, general election. On June 8, 2026, Nelson filed an objection to Cook's nomination papers with the Kane County Officers Electoral

Board (Board). In the objection, Nelson cited Cook’s nomination papers to explain that, on April 15, 2026, the Democratic Party’s nominating committee designated Cook as a candidate for the upcoming general election. Consequently, because no Democratic candidate had been nominated in the general primary election, Nelson argued that section 7-61 of the Election Code (Code) (10 ILCS 5/1-1 *et seq.* (West 2024)) applied and prohibited Cook from circulating his nomination petitions before that date. Although Cook did file his nomination papers under section 7-61 of the Code, none of his petitions included a section 7-10 certification “stating that [their] signatures were obtained on or after April 15, 2026.” Instead, they included a “standard” certification stating that the signatures had been collected “not more than 90 days preceding the last day for filing of the petitions.” Thus, Nelson argued that Cook’s petitions should be stricken in their entirety because they included no certification that their signatures were specifically obtained within the applicable circulation period, and that Cook should consequently be removed from the ballot.

¶ 5 On June 16, 2026, the Board held a hearing on Nelson’s objection. Cook testified that, on April 13, 2026, a Kane County Democratic Office staff member printed his petition sheets. The parties did not present any evidence to the contrary. A receipt from Aurora Fast Print, where Cook later picked up the sheets, confirmed the date. Cook testified that he did not circulate the sheets until after the Democratic Party slated him on April 15, 2026. During cross-examination, however, Nelson identified two petition sheets—pages 8 and 96—bearing notary dates of April 13, 2026, and April 12, 2026, respectively. Nelson asked Cook how the sheets could contain sworn oaths dated prior to April 15 if Cook had only disseminated them thereafter. Cook surmised that the notaries had mistakenly dated the sheets, as he specifically remembered distributing them to precinct captains at the Kane County Democratic Party’s April 15, 2026, meeting.

¶ 6 On July 8, 2026, the Board issued its ruling. It sustained Nelson’s objection as to pages 8 and 96 because of their erroneous notary dates, although the Board attributed their discrepancies to “technical error.” Because it found that the remaining petition sheets substantially complied with section 7-10’s certification requirements, the Board overruled Nelson’s objection as to them.

¶ 7 On July 13, 2026, Nelson petitioned for judicial review of the Board’s July 8, 2026, decision, contending once more that Cook’s petitions should be stricken because they included an inaccurate circulator’s oath. He argued that the Board erred by: (1) finding that Cook was only required to substantially comply, rather than strictly comply, with section 7-10; (2) finding that Cook timely circulated his petitions; (3) failing to strike Cook’s petitions for his failure to strictly comply with section 7-10; (4) finding that Cook’s petitions substantially complied with the Code; (5) allowing Cook to effectively amend his nomination papers after the filing deadline; (6) considering Cook’s testimony; and (7) finding that Nelson failed to “meet his burden of proof.”

¶ 8 Nelson, the Board, and Cook all filed memoranda in support of their respective positions. In his memoranda, Nelson additionally contended that it was immaterial whether any signatures were indeed collected during the lawful, applicable period, and suggested that the Board had been inconsistent when considering Cook’s petitions. Specifically, Nelson argued that it had strictly applied section 7-10 to pages 8 and 96, while conversely considering whether Cook’s remaining pages substantially complied with the Code:

“More fundamentally, accepting Cook’s credibility cannot transform an unauthorized oath into the factual certification the statute commands. The legal deficiency remains even if every signature happened to be timely.

The Board’s internal treatment confirms the materiality of timing. It held that pre-April-15 jurats on two sheets ‘negatively impact[ed] the integrity’ of those pages and

required strict compliance, yet labeled the failure of all remaining sheets to certify post-April-15 circulation merely technical. [Citation.] But a later dated jurat attached to a 90-day oath does not establish that signatures were collected after April 15. The same statutory purpose the Board enforced on sheets 8 and 96 was left unsatisfied on every other sheet.”

¶ 9 On August 10, 2026, the circuit court heard arguments on Nelson’s objection. Nelson again stressed that Cook incorrectly used the 90-day circulator’s oath and argued that the Board erred by considering “later evidence,” presumably Cook’s testimony and the Aurora Fast Print receipt, to nonetheless find that his papers substantially complied with the Code. Cook, for his part, argued that the Board properly considered his testimony and the receipt to determine that his nomination papers substantially complied with the Code. He additionally argued that, if the court were to remove him from the ballot, the race for Kane County superintendent would no longer be contested, thereby depriving voters of any choice in the specific election. Finally, the Board largely reiterated its earlier findings when defending its July 8, 2026, ruling.

¶ 10 On August 13, 2026, the court issued a written order denying Nelson’s petition. The court first considered whether strict or substantial compliance applied:

“When considering the question of whether the wording of a circulator’s oath required strict or substantial compliance, the court in *Gallagher [v. Cook County Officer’s Electoral Board]*, 2024 IL App (1st) 240224] found that ‘substantial compliance’ is the appropriate standard. [Citation.] Therefore, the use of the ‘substantial compliance’ standard was generally appropriate for the issues raised. However, when the Board found the mistaken notary dates on [pages] 8 and 96 negatively impacted the integrity of the election process as to those pages, the correct ‘strict compliance’ standard was used by the Board.”

Thereafter, the court considered Nelson’s argument that the Board clearly erred in finding that Cook’s remaining petition pages substantially complied with section 7-10. It agreed that Cook used the improper certification, but nonetheless reasoned that

“Cook used a form that was substantially in the same form as required by the [Code.] ***

While the form [he] utilized suggests signatures could have been obtained earlier than April 15, 2026, *** the Board found that direct evidence supported the finding of circulation between April 15 and June 1, 2026, and the integrity of the election process was not negatively impacted.”

¶ 11 Nelson timely appeals.

¶ 12 II. ANALYSIS

¶ 13 On appeal, Nelson generally argues that the Board erred by considering Cook’s testimony to find the bulk of his petition sheets substantially complied with sections 7-10 and 7-61 of the Code. We address his contentions in turn.

¶ 14 A. Standard of Review

¶ 15 As a preliminary matter, the parties disagree as to the applicable standard of review. Nelson argues that we must review the Board’s decision *de novo* because he does not challenge any of the Board’s factual determinations, but only its interpretation of the Code. While he does not purport to challenge the Board’s factual determinations, however, he asserts that “[a]ny alternative challenge to the Board’s historical inference [sic] remains subject to factual deference.” Both Cook and the Board, on the other hand, argue that this appeal implicates both an interpretation of the Code and several factual issues, including: (1) Cook’s credibility; (2) the dates on which Cook circulated his petitions; and (3) whether the notary dates found on pages 8 and 96 of the petitions

constituted technical error. For this reason, they argue that the clearly erroneous standard applies. We agree with Nelson.

¶ 16 In *Shannon-DiCianni v. Du Page County Officers Electoral Board*, 2020 IL App (2d) 200027, ¶ 12, we noted that “[a] challenge in the circuit court to an electoral board’s decision is ‘in the nature of administrative review,’ ” meaning “we review the electoral board’s decision, not the decision of the circuit court.” We further explained that, when such an appeal “presents mixed issues of fact and law,” “the clearly erroneous standard applies.” *Id.* In *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 211, our supreme court defined mixed questions of fact and law as:

“ ‘ [Q]uestions in which the historical facts are admitted or established, the rule of law is undisputed, and the issue is whether the facts satisfy the statutory standard, or to put it another way, whether the rule of law as applied to the established facts is or is not violated.’ ”

Thus, under *Cinkus*, the application of an undisputed legal rule to established facts constitutes a mixed question of fact and law subject to the clearly erroneous standard of review. However, in *Jackson-Hicks v. East St. Louis Board of Election Commissioners*, 2015 IL 118929, ¶ 20, our supreme court diverged from *Cinkus*, instead holding:

“The standard of review we apply to an election board's decision depends on what is in dispute: the facts, the law, or a mixed question of fact and law. [Citation.] In this case, there is no issue as to the facts. *** Where, as here, historical facts are admitted or established and the only dispute concerns whether the governing legal provisions were interpreted correctly by election officials, the case presents a purely legal question for which our review is *de novo*, a standard we have characterized as “independent and not deferential.”

Accordingly, while *Cinkus* treated the application of law to established facts as a mixed question subject to the clearly erroneous standard, *Jackson-Hicks* treated the same issue as a purely legal question subject to *de novo* review. We follow the approach articulated by *Jackson-Hicks*.

¶ 17 Here, throughout his brief, Nelson makes clear that he does not dispute any of the Board’s factual or credibility findings. Instead, accepting Cook’s testimony as true, he argues that the Board incorrectly determined that Cook’s circulator oaths substantially complied with the Code, regardless of their circulation dates. Although Cook and the Board correctly identify several factual considerations that the Board earlier considered in denying Nelson’s objections, the existence of undisputed facts does not transform Nelson’s purely legal challenge into a mixed question of fact and law. Thus, because Nelson challenges only the Board’s application of sections 7-10 and 7-61 to an undisputed set of facts, his arguments present a purely legal question for which our review is *de novo*. *Id.*

¶ 18 B. Substantial Compliance

¶ 19 Having reached the applicable standard of review, we next find that the Board correctly found that Cook’s petitions substantially complied with sections 7-10 and 7-61 of the Code.

“When determining how the *** Code should be construed, we employ the same basic principles of statutory construction applicable to statutes generally. Our primary objective is to ascertain and give effect to the intent of the legislature. The best indication of legislative intent is the language employed by the General Assembly. When statutory language is plain and unambiguous, the statute must be applied as written without resort to aids of statutory construction [citation], and the court will not read into it exceptions, conditions, or limitations that the legislature did not express.” *Jackson-Hicks*, 2015 IL 118929, ¶ 21.

¶ 20 Generally, the provisions within the Code are mandatory, not directory. *Id.* at ¶ 23.

“Consistent with the principles governing the mandatory-directory dichotomy, a candidate's failure to comply with mandatory provisions of the Election Code governing nomination papers will therefore render the nomination papers invalid [citation] and require that the candidate's name be removed from the ballot.” *Id.*

¶ 21 However, where appropriate, “[s]ubstantial compliance can satisfy even a mandatory provision of the *** Code.” *Siegel v. Lake County Officers Electoral Board*, 385 Ill. App. 3d 452, 460. “[S]ubstantial compliance with the *** Code is acceptable when the invalidating charge concerns a technical violation that does not affect the legislative intent to guarantee a fair and honest election.” *Id.* In determining whether a candidate has achieved substantial compliance with the Code, courts consider whether any deviation impaired the integrity of the electoral process or “impairs the purpose of the specific statutory provision at issue.” *Atkinson v. Roddy*, 2013 IL App (2d) 130139, ¶ 17. Thus, “[a] minor error in a candidate’s nominating papers should not result in a candidate’s removal from the ballot.” *Siegel*, 385 Ill. App. 3d 452, 460. Ultimately, “access to a place on the ballot is a substantial right and not to be lightly denied.” *Id.*

¶ 22 In reviewing the election Code, courts must interpret any relevant statute according to its plain and ordinary language. *Gallagher*, 2024 IL App (1st) 240224, ¶ 13. Section 7-10 sets forth a standard form that candidates must “substantially” follow in filing their nomination papers. 10 ILCS 5/7-10 (West 2024). It requires each petition to include a circulator statement either

“(1) indicating the dates on which that sheet was circulated[;] or (2) indicating the first and last dates on which the sheet was circulated[;] or (3) for elections where the petition circulation period is 90 days, certifying that none of the signatures of the sheet were signed more than 90 days preceding the last day for the filing of the petition.” *Id.*

While these certification requirements are mandatory, “a straightforward reading of section 7-10 indicates that its requirements as to form for a nomination petition require only substantial, not strict, compliance.” *Gallagher*, 2024 IL App (1st) 240224, ¶ 15. Accordingly, a candidate’s “failure to utilize the exact language found in section 7-10 for the timing of the circulation of petitions” does not render otherwise “substantially compliant petitions noncompliant.” *Id.*

¶ 23 Section 7-61, on the other hand, provides a specific circulation period for candidates who did not appear on a primary ballot:

“Except as otherwise provided in this Code, if the name of no established political party candidate was printed on the general primary ballot for an office nominated under this Article and if no person was nominated as a write-in candidate for such office, a vacancy in nomination shall be filled only by a person designated by the appropriate committee of the political party and only if that designated person files nominating petitions with the number of signatures required for an established party candidate for that office within 75 days after the day of the general primary. The circulation period for those petitions begins on the day the appropriate committee designates that person.” 10 ILCS 5/7-61 (West 2024).

“Because section 7-61 imposes directives containing the word ‘shall’ and contains an express statement invalidating the ballot listing if the requirements are not fulfilled, it is considered a mandatory provision.” *Siegel*, 385 Ill. App. 3d 452, 458-59. Like section 7-10, however, this mandatory provision only requires substantial, and not strict, compliance. *Id.* at 461.

¶ 24 Relying upon *Gallagher*, *Zurek v. Petersen*, 2015 IL App (1st) 150508, and *Simmons v. DuBose*, 142 Ill. App. 3d 1077 (1986), Nelson argues that the circulator’s oath described in section 7-10 itself is a fundamental measure to eliminate fraudulent signatures and preserve the integrity of elections. Consequently, he contends that a candidate cannot substantially comply with section

7-10 unless any circulators' oaths appearing in the nominating petitions explicitly state their applicable circulation periods, regardless of when a candidate actually circulated their petitions. Citing *Schwartz v. Kinney*, 2016 IL App (3d) 160021, ¶¶ 16-20, Nelson argues that neither Cook's testimony, the Aurora Fast Print receipt, nor other extrinsic evidence could cure Cook's errors as a matter of law, because these sources cannot definitively establish when each circulator collected their signatures. Nelson further contends that any public policy favoring ballot access does not excuse Cook's failure to follow the relevant, mandatory Code provisions, and that Cook's errors disqualify him from the ballot. We disagree.

¶ 25 Here, the parties agree that Cook was only required to substantially comply with sections 7-10 and 7-61 while preparing and filing his nomination papers. Taken together, these provisions required Cook to include a circulator's statement on his petitions certifying—among other things—their circulation dates, which were required to fall between April 15, 2026, and June 1, 2026. Because Cook was only required to substantially comply with these provisions, we must consider whether Cook's errors were technical or if they impugned the election's integrity. *Atkinson*, 2013 IL App (2d) 130139, ¶ 17. Specifically, for Nelson's arguments to ring true, Cook's failure to specifically document his proper circulation under section 7-10 must have impugned the election's integrity, despite the uncontested evidence that the signatures were timely. *Id.*

¶ 26 Plainly, this is not the case. Again, while arguing for *de novo* review, Nelson is painstakingly clear that he does not dispute any of the Board's factual findings. Thus, it is undisputed that Cook printed his petitions on April 13, 2026, disseminated them to his circulators on April 15, 2026, when the applicable circulation period began, and timely filed his papers on June 1, 2026, the last lawful day to do so. Because Cook did not distribute the petition sheets to any circulator until April 15, no circulator could have collected signatures before the applicable

section 7-61 circulation period began. Because Cook filed his papers on June 1, 2026, no signatures could have been obtained thereafter. Thus, the undisputed evidence necessarily established that all of Cook’s petitions—not just those he personally handled—were circulated during the applicable section 7-61 period.

¶ 27 Although Cook improperly documented his compliance under section 7-10, “the purpose of a circulator affidavit is to provide ‘a meaningful and realistic method of eliminating fraudulent signatures and protecting the integrity of the political process.’ ” *Gallagher*, 2024 IL App (1st) 240224, ¶ 18 (citing *Sakonyi v. Lindsey*, 261 Ill. App. 3d 821, 826 (1994)). Regardless of Cook’s erroneous certifications, his testimony, the print receipt, and the petitions themselves all established that the petitions were in fact circulated during the lawful period, thereby preserving the function of section 7-10 and the integrity of the election as a whole. *Id.* Consequently, Cook’s errors were merely technical. Despite Nelson’s arguments, this conclusion is not solely the result of public policy, but rather, an application of established case law to undisputed facts. By arguing that the Board should essentially ignore the unrebutted evidence of Cook’s timely circulation solely because he failed to more accurately certify as much, Nelson elevates form over substance in the precise manner that substantial compliance is meant to avoid.

¶ 28 Nelson’s reliance on *Gallagher*, *Zurek*, *Simmons*, and *Schwartz* is misplaced. First, despite Nelson’s suggestions to the contrary, *Gallagher* does not provide that substantial compliance hinges on the precise wording of a circulator’s oath, regardless of any evidence showing timely circulation. Moreover, *Zurek*, *Simmons*, and *Schwartz* are all distinguishable. In these cases, the respective candidates offered no comparable evidence definitively establishing timely circulation to rebut the defects in their petitions. 2015 IL App (1st) 150508, ¶ 23 (candidate’s after-the-fact affidavit only established when petitions were printed, but not whether they were timely

circulated); 142 Ill. App. 3d 1077, 1081 (candidate offered “no direct proof” that petitions were timely circulated); 2016 IL App (3d) 160021, ¶¶ 16-20 (hearing testimony did not establish the identities of the circulators that candidate omitted from his petitions). Consequently, the courts in those cases could not determine from the record whether the candidates timely collected their signatures. Here, on the other hand, extrinsic evidence definitively established that Cook timely circulated his petitions, allowing the Board to determine that his violation did not impugn the election’s integrity. Moreover, *Zurek* was distinguishable in that it involved an interpretation of section 10-4 of the Code, which required strict, but not substantial, compliance. 2015 IL App (1st) 150508, ¶ 25; 10 ILCS 5/10-4 (West 2014). Accordingly, we find that Cook’s nomination papers substantially complied with the Code.

¶ 29

III. CONCLUSION

¶ 30 For the reasons stated, we affirm the judgment of the circuit court of Kane County.

¶ 31 Affirmed.