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June 4, 2019

Paul Adams, Director
Lorain County Board of Elections
padams@loraincountyelections.com

Re: R.C. 3513.04
Our File No. 19-128

Dear Mr. Adams:

You have inquired whether candidates who ran for office in the primary may run for another office in the immediately following general election.

The third paragraph of Section 3513.04 of the Revised Code provides in pertinent part:

“No person who seeks party nomination for an office or position at a primary election by declaration of candidacy or by declaration of intent to be a write-in candidate...who are chosen by direct vote of the electors as provided in this chapter shall be permitted to become a candidate by nominating petition or by filling a vacancy under section 3513.31 of the Revised Code (Central Committee) at the following general election for any office other than the office of member of the state board of education, office of member of a city, local or exempted village board of education, office of member of a governing board of an educational service center, or office of township trustee.”

Previously, the statute only precluded candidates through nominating petition. In a 2006 opinion the Attorney General stated that a candidate could fill a vacancy in office through the method provided in Section 3513.31. However, following that opinion, the statute was amended twice effective June 21, 2013 and again effective February 5, 2014, and now specifically adds an additional prohibition barring a person who appeared on a primary ballot from filling a vacancy **at the following general election.**

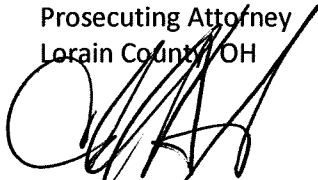
Although this statute is commonly referred to as a “sore loser” statute, it prevents anyone who has appeared on the ballot in the primary from running in November whether or not their candidacy was successful.

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It is the conclusion and opinion of this office that candidates who filed declaration of candidacy or declaration of intent to be a write-in candidate in the primary are not permitted to appear on the November ballot as a candidate for office other than the one for which they may have been the successful nominee.

Very truly yours,

DENNIS P. WILL
Prosecuting Attorney
Lorain County, OH

A handwritten signature in black ink, appearing to read 'G. Innes', is written over the typed name of Gerald A. Innes.

Gerald A. Innes
Assistant Prosecuting Attorney
440-329-5398

GAI/jld

cc: Anthony Giardini