

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division**

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JCAR AGENCY REPORT/PACKAGE

1. List names of newspapers in which the notice of public hearing was published and publication dates:

Marquette Mining Journal (September 17, 2021)
Flint Journal (September 17, 2021)
Kalamazoo Gazette (September 17, 2021)

2. List of the name and agency representative(s) attending public hearing:

Adam Fracassi (Bureau of Elections – Designated Agency Representative)
Doug Novak (Department of State – Regulatory Affairs Officer)
Jonathan Brater (Bureau of Elections – Director)
Brian Remlinger (Bureau of Elections – Law Fellow)

3. Persons submitting comments of support:

See below.

4. Persons submitting comments of opposition:

See below.

Name & Organization	Comments Made At: (Public Hearing or Written)	Comments	Rule Number & Citation Changed	Agency Rational for Rule Change
Kristina Karamo	Public Hearing	Expressed concern that rule did not specify whether candidates were required to report prior out-of-state candidacies.	R 168.2(1)	Clarifies that prior candidacies only need to be reported under this rule if they occurred in Michigan.
Kristina Karamo	Public Hearing	Expressed concern that campaign finance records may not be	R 168.2(1)	Clarifies that only prior candidacies for offices for which campaign finances

		available in some cases, including prior candidacies for precinct delegate.		records to be filed need to be reported under this rule.
Rep. Ann Bollin	Written	Expressed concern that candidates would be disqualified solely because the candidate did not include a list of jurisdictions in which they had previously sought office.	R 168.2(1)	Clarifies that a candidate may not be disqualified from the ballot solely because they did not include the list of prior candidacies requested under this rule.

Persons Submitting Written Comments in Support of Proposed Ruleset

Keith Daenzer, Paula Bowman (League of Women Voters of Michigan), Christina Schlitt (League of Women Voters of Michigan), Darlene Paulauski, Lisa Lawitzke (Bellevue Township Clerk).

Persons Submitting Written Comments in Opposition to Proposed Ruleset

Joe Welsh, Tara Kiilunen, Kathy Brooks, Scott George, Leanne Beduhn, Philip Hoffiz, Matt Halonen, Anne Ackerman, Paula Owen, Roseann Callaghan, kyraamellia19@gmail.com, Colleen Mulcahy, Carol Knoblauch, Kari West, Judith Walsh, Andrew Halonen, Gary Metzger, David Halonen, Thomas Konesky, Kathleen Handyside, Jack F. Neveau li, Bruce Jones, Deanne J. Oswald-Debottis, Pam Harpst, G Walsh, Natalie Johnson, Lisa Texas, Leon Kamps, C Fog, Ken Jonkman, Joyce Jonkman, Carol Garcia, Brenda S Branch, Mary S. Vaughan, Cornish Gayle Albano, Wonda F. Branch, Paul Okoniewski, Michele Okoniewski, Sierra Okoniewski, Jessie Okoniewski, Shari Paulsen, Raymond Bryde, Michelle White, James Doner, Kerry Kuzak, Kathleen Parrottino, Judy Hudecz, Lori Levi, Claude Fish, Doug Sharrott, David Martin, John Baldwin, Andrea Smith, Valentin Dumitrescu, Rebecca Simkins, Ryan Serge, Elizabeth Joseph, Daniel Pattison, Shane Ross, Melanie Sage, Denie Perkola, Gary Alan, Broderick Johnson, Colleen Quinn, Shelly Stanley, Mark Jerding, Kimberly Townsend, Melissa Beckley, Dan Nickels, Thomas Sullivan, Rodney Sherwood, John Michalek, Shayne Doorn, Mina Postman, Bonnie Burgess, Susana Bercea, John Buckley, Wendy Baker, Cash Harvey, Anna Pennala, Karen Dennis, Patricia Little, John Harris, Tami Huf, Andrew Kujawiak, Robert Brush, Harriet Austin, Robert Micknak, Randall Vanmourik, Jill Horton, Barbara Carter, Paul Kolb, Ellie Nicoloff, Jackie Gales, Nancy Tiseo, Antoinette Connolly, Charles Wright, David Janman, Stephen O'Neill, Nsncy Faber, Lisa Bruck, Penny Demario, Brenda Branch, Charles Schunck, Nancy Maier, Amy Rice, Kristi Neely, Leo Ohlendorf, Vicky Gorsuch, Barbara Ellsworth, Lise Tetrault, Christy Petill, Stacey Klein, Susan Nickels, Samuel Burkett, Trudy Foley, Ryan Krafft, Leonard Corwin, John Hawkinson, Duane Cross, Bobby Penrod, Cheryl Spotts, Shawn Tidey, Barbara Doyle, Brittney Perkins, Christine Johnson, James Dishman, Sally Barbo, Ellen Brace, Jean Dehaan, Patrick Decker, Kathleen Caldwell, Donald Eichstaedt, Chris Thibodeau, Shannon Faaa, Beth Striegle, Benjamin D. Phenicie, Kathy Jacksey, Sandra

Helzerman, Lisa Luks, Sandra Bonkowski-Koelzer, Amy Waldo, Cari Wiersema, Susan Sterner, Lisa Finn, Ted Vandenberg, Patricia Pickelmann, Michael Koenes, Susann Young, Marven Yatooma, Joseph Cunnings, James Sterner, Shannon McClintock, Shelly Moreland, Jared Allen, Janine Bradbury, Karmen Kinsey, David Richardson, Deborah Barone, Sheila Pomaranski, Lori Bucalo, Constance Hill-Coryell, Meryl Way, Jane May, Bonnie Kendall, Jennifer Kalee, Serena Schwartz, William Hamlin, Amy Goodrich, Nancee Mooney, Michael Dietz, Mary Henman, Stencil Douglas, Martha Radtke, Maria Vulaj, Alex Yarber, Julie Meredith, Ron Foster, Andrea Dumitrescu, John Chapin, Glenn Fye, drkew1@comcast.net, Steve Paquette, Meghan Reckling, Anna Graziosi, Barbara Harburg, John Harburg, Steve Cencich, Anne Langlois, Keith Eichholz, Patricia Fuson, Greg Kett, Nick Kamps, Marilynn Pavlov, Anita Spehar, Ken Stults, Cyndy Ross, Eric Gerwin, Robert Esselink, Bryan Boyl, Susan Rockwell, Martin William, Laurie Katerberg, Susan Watrous, Katie Valencia, Mary Alstead, Cynthia Pettit, Agnes Marko, Kathleen Walega, Wanda Kett, Wanda White, David Thomas, Octavian Dumitrescu, Kathleen Haller, Dean Schrauben, Pat Smith, Shelly Mason, Carol Towns, Saralee Rehkopf, Nancy Dyer, Carol Dukarski, Gary Gerds, James Ashby, Seth Vankoeving, Robert Goryca, Sarah Springer, Jc Bradley, Stephen Lance, Randy Rice, Kathy Yesh, Frank Blake, Beth Anderson, Daniel Dobbins, Devora Dumitrescu, Thomas Berta, Kris Mahoney, Edward Kehoe, Cecile Jean, Michael Laethem, Gloria Hensley, Nita Kitson, Joe Michaels, Denise Thornton, Annette Lebaron, Marsha Young, Brian Young, Joe Torrice, Susan Moss, Gayle Adams, Shannon Kilpela, Joann Mehki, Dianne Schley, Mary Vaughan, Paul Potter, Erin Rockwell, Dawn Steffes, Timothy Quinn, Warren Patton, Kristina Smith, Leonard Knotwood, David Stamp, Diane Sheppard, Kahleen Tenaglia, Bruce Atherton, Jola Britton, Susan Childers, Jennifer Corwin, Lesley Heinonen, Ty W. Krauss, Andrew Warber, Glenn Laffy, Hank Levine, Geri Cerilli, Gregg Kebler, Johannah Smith, Margaret Urban, Taylor Almy, Michelle Dekuiper, Rebecca Marsland-Hill, Daniel Boes, Mark Reiman, Steven Legal, James Bliss, Cindy Ankoviak, Dorthea Harvey, Nathan Tithof, Angela Eckles, Don Kebler, Beverly Postema, Nathaniel Bean, Sarah Schrottenboer, Steven Van Houten, Marie Gravel, Paul Lubienski, Joseph Coyle, Angeline Smith, Jessica Sharpe, Trisha Cuellar, Gina Brooks-Kwolek, Christine Winowiecki, Charles Weddle, Patty Steffes, Linda Martin, Deanna Cypher, Lisa Palmer, Dave Ruhle, Rebecca Dunlavy, Robert Payne, Sharon Hile, Curt Michaels, Pamela Bycraft, Sarah Husman, Sean Kuhl, Marie Barrett, Heather Ciantar, Steve Kincius, Earl Tipper, Dennis Little, Miller Marilyn, Judith Burns, Ross Greenstein, Beth Johnson, Floyd Behmlander, Gloria Folding, Yvonne Rush, Patrick Collings, Dennis Ross, Gina Brewer, Elaine S. Page, Anne Howarth, Jana Leining, Linda Nimmerguth, Kris McBride, Pat Schultz, George Jewett, Maureen Hill, Gloria Zapata, Dorothy Koprowicz, Joe Barge, Sandra Rogowski, Rick Morris, Erick Fair, Kim Corey, Nicholas Robison, Albert Maier, Susan Penegor, Todd Hyde, Lisa Zulcosky, Roland Johnson, Dianna Solmes, Joseph Riker, Tammy Beal, Kelly Farver, Stephen Ghostley, Patricia Denny-Diget, Lynnae Haveman, Julie Redinger, Amanda Horton, Robert Netzel, Connie Langeland, Gail Peura, Jodi Raymond, Susan Wieggers, Denise Wardosky, Patrick Devota, Jennifer Kittredge-Hageman, Karla Perez-King, Mary Jo Marchetti, Betsy Southern, No Change No Change, Rebecca Steele, Kelly Joseph-Tirador, Bronwyn Groeneveld, Patty Preuss, Mark Pallo, Dawn Vollmer, Shannon Setlock, Rachel Pridr, Ryan Anderson, James Barnard, Joel Hugen, Misty Vogel, Kathleen Nelson, Sarah Wyma, Jaime Pilbeam, Lacey Rabie, Lindsey Armstrong, Stephanie Debrabander, Noah Cecil, Esther Fenwick, Dawn Barnhouse, Janie Wakefield, Steve Tugan, Sharon Howdyshell, Dennis Howdyshell, Debbie Sewers, Amie Ackerman, Gerard Essiambre, Judith Martin, Donna Kauzlarich, Brook Burg, Rhea Rinke, Elaine Nabor, Carol Kauzlarich, Hall Derkin, Richard Kirby, Jason Fine, Stephen Sawdon, John Stokes, Patricia Roelofs, Carol Wooten, Mark Outman, Rep. Ann Bollin, Donald P McGaffey, Susan Topoleski, Connie Robinson, Mark Fosdick, Joseph Bridgman, Michele Blond, Todd Hoogland, Mike Dolan (Hamburg Township Clerk), Elizabeth Hundley (Livingston County Clerk), Jeff Witters, David Walus, Larry R. Hull, David G Halford, Lori Shaffer, Marcus Puste, Jason Welter, John Poelstra,

Tammy L. Beal (Marion Township Clerk), Shaun Halaberda, Louis Urban, Madelyn Thomas, Kristie Walls, Leah Riley, Mark Van Den Branden, Tom Caldwell, Beth Donaldson, Jay Donaldson, Laura Shiel, Joy Bos, Theresa Carrier-Torrealba, Yvonne Black, Barbara Giles, Sandra Lafond, Kim Zapor, Paula Seiter, Mark Redford.

Persons Offering Comment at Public Hearing Comments in Opposition to Ruleset

Kristina Karamo, Gabriel Rees, Matthew Rees, Valentin Dumitrescu, Jaki Lovrinice, Ryan Roberts, Rob Remelius, William Lethemon.

No Hearing Comments Offered in Support of Ruleset.



42ND DISTRICT
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MICHIGAN HOUSE OF REPRESENTATIVES

ANN M. BOLLIN

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Oct. 1, 2021

Secretary of State Jocelyn Benson
Richard H. Austin Building
P.O. Box 30204
430 W. Allegan St.
Lansing, MI 48909

Secretary Benson:

The Department of State has proposed rules that will compromise the integrity of Michigan elections. As a former clerk for over 16 years and now serving as a legislator and Chair of the House Elections and Ethics Committee, I find it imperative that these rules not advance until we can ensure that the rules will protect the vote and the voter.

Presidential elections are always anomalies and 2020 was no different. It was an unprecedented election cycle. This was Michigan's first general election since the passage of Proposal 3 with no reason AV's and same day registration, a contentious presidential election cycle, and one that saw a record influx of outside money directly interfering with our elections. These factors, coupled with a pandemic and changes made to our election laws through executive orders or by the bench, eroded public trust and voter confidence. Politics have taken precedence over principles. Personal agendas over good governance and policy.

While Michigan's election is behind us, we need to learn from it. It is clear there are opportunities to improve our elections to help restore voter and candidate confidence.

Creating a pathway to make it easier to cheat or harder to vote should not be our goal. It should be easy to vote and hard to cheat. It is that simple. Our common goal – no matter where you stand politically – should be that every eligible voter can vote freely, secretly, independently, and securely and with confidence that their vote counted.

These proposed rules will erode the public's trust and allow political agendas to take precedence over sound public policy. We simply cannot adopt these rules in current form for the following reasons:

MOAHR 2021-60 – Disqualification from Ballot Based Upon Contents of Affidavit of Identity

The Department of State will be doing a disservice to the people of Michigan if you enact a rule that disqualifies candidates simply because they forget to disclose every single jurisdiction in which they previously sought nomination or election – and without giving them a chance to correct mistakes caught before the filing deadline. It's overly harsh and goes against the goal of encouraging voter participation and expanding competition in races.

This same rule would put cumbersome new requirements on city and township election officials who are not responsible for campaign finance records. Campaign finance reports are filed with the Secretary of State's office or a county clerk's office.

Many campaign finance reports are not available online. This means county, township, and city staff would have to spend time and manpower to manually search records across the state on a quest to try and determine whether a candidate should be disqualified. Having to review potentially thousands of campaign finance records will be a major undertaking that will increase costs and cause delays for clerks' offices that are already understaffed.

MOAHR 2021-61 –Signature Matching for Absent Voter Ballot Applications and Absent Voter Ballot Envelopes

This rule would weaken the signature matching standards that are currently in place for absent voter applications and absent voter ballot envelopes. Signature verification is a hallmark standard that protects the voter. With the elimination of the requirement that a first-time voter must appear in person before an authorized election official since Proposal 3 to validate their identity, it is even more important that we tighten the signature rules, not loosen them.

The proposed rule definition of "signature on file" is not in accordance with state law. MCL 168.761 (2) and MCL 168.766 (2) clearly state that signatures must be compared to the QVF or the mastercard file. It should not include the signature on the absent voter ballot application as a point of reference because that assumes that signature is valid without proper verification techniques being applied. The definition should only include those signatures that are "actually" on file either in the QVF, or the mastercard file.

This proposed rule would also create an automatic presumption that any signature on an absentee voter ballot application and absentee voter ballot envelope is valid. This rule includes overly broad "redeeming qualities" that would allow mismatched signatures to be accepted. It also includes vague "explanations for differences" that would be subject to vastly different interpretations from election officials in communities across our state.

Common sense dictates that the standard that should be followed for signature verification is that the signature should bear a "significant resemblance" to the signature on file. The rule components dealing with redeeming qualities and explanations for differences should default to a "significant resemblance" standard.

Accepting signatures where only part of the signature, a partially printed signature or a person who has changed their signature to only use initials instead of what is on file is not appropriate.

As a former clerk who verified signatures for thousands of voters, it easy to determine that a voter has signed on a rough surface but it is utterly ridiculous to think this standard should carry the same weight in

verifying a voter's signature as signature characteristics that can readily validate a voter's signature. For example, how the I's are dotted, the capital letters are made, the spacing, etc.

We must rely on a "significant resemblance" standard. Signatures must have certain consistent markers. Again, this includes the way capital letters are written, and the way in which the letters "i" and "t" are dotted and crossed.

The makers of these proposed rules would have us believe that this standard of "initial presumption of validity" is common practice. This is false.

This alleged standard was a directive put forth by the SOS last year that resulted in a lot of confusion and potential fraud. This was challenged in Robert Genetski and Michigan Republican Party v. Jocelyn Benson and Jonathon Brater in the Court of Claims. On March 9, 2021 Judge Christopher Murray ruled that the SOS had no authority to provide this directive "because the challenged signature-matching standards were issued in violation of the Administrative Procedure Act."

As for the rules on timing of signature review and notification Rule 168.25, those provisions are set out in statute under MCL 168.761 (2) and MCL 168.765a (6) which were just signed into law last year. It should also be noted that the statute does not require the clerk to notify the voter by phone and email. It states by mail, phone, or email. This was also passed just last year and should remain as an option. Clerks have many responsibilities leading up to the election and with unreliable internet in many parts of state, we need to provide reasonable accommodations for our 1,500-plus clerks.

Rule 168.26 on curing signatures is overly simplistic. It essentially states that if the clerk thinks the signature is mismatched, they contact the voter and request they provide another signature which may also not match the signature on file. More diligence is necessary to cure mismatched signatures. It may even be on a separate piece of paper as written in the proposed rule.

Additionally, these rules should require regular updates of signatures and uniform signature verification training for election officials.

MOAHR 2021-62 Online Absent Voter Ballot Applications

The rules pertaining to online voter ballot applications are also insufficient. Local clerks currently rely upon physical signatures on absent voter applications and ballots to verify that an absentee ballot is being mailed to and voted by the person eligible to receive that ballot. These signatures are compared to the QVF and the master card if necessary. This has been a long-standing practice.

Confirmation that the signature has been checked is required to be noted on the AV application and the ballot before it is forwarded for processing should be incorporated into statute or the rule.

In 2020, the SOS directed voters to simply take a picture of their signature and submit it electronically to the local clerk. These images were often distorted, unreadable and resulted in delays in providing voters with their ballots until the signatures could be cured.

Local clerks were often not equipped with quality printers and supplies to print these "pictures." Signature curing took longer than necessary and resulted in voter confusion, duplicate applications, and disenfranchisement. The SOS's public service announcements were often confusing and misleading.

Electronic uploads via unsecured email portals can lead to voter fraud and serve as a potential identity theft threat. It's just not that hard to find access to another person's name, address, birthday, and driver's license number. Slapping the digital signature of a voter that's already on file with the Secretary of State onto an online absentee ballot application – as Rule 168.33 proposes – strips away this important safeguard. Of course, the two signatures are going to match – they're the same exact file. There should be a two-factor authentication to prevent fraud and ensure absentee voting is a system the public can trust.

There are several other factors that make this practice difficult for clerks. Not all clerks have the same technological capabilities to move away from paper forms and applications. Rule 3 (4) which would allow voters to upload a copy of their physical signature ignores these potential technical limitations. Only a limited number of states have implemented this, and the security risks may not be fully known.

There are multiple ways for individuals to apply for an absentee ballot and with permanent AV application lists, we should not compromise perceived convenience for security.

The impact statement implies that these proposed rules are common practices in the SOS office. However, the idea of an online voter ballot application was only created last year because of a public health pandemic with no input from anyone. Something that has been used only once is not a common practice.

As I have detailed, I have serious concerns about the changes the Department of State is proposing – and so do hundreds of other residents and election officials. I believe we can work together with our local clerks to improve upon these proposed rules and create a better product that both advances democracy AND protects the vote and ensures our elections are secure.

Sincerely,

A handwritten signature in black ink, appearing to read "Ann M. Bollin". The signature is fluid and cursive, written in a professional style.

Ann Bollin
State Representative
42nd House District

CC: Jonathan Brater