

Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

State

2. Bureau:

Elections & Campaign Finance

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Disqualification from Ballot Based Upon Contents of Affidavit of Identity

5. Rule numbers or rule set range of numbers:

R 168.1 - R 168.20

6. Estimated time frame:

6 months

Name of person filling out RFR:

Alessa Boes

E-mail of person filling out RFR:

BoesA@michigan.gov

Phone number of person filling out RFR:

517-599-3410

Address of person filling out RFR:

430 W. Allegan St
Lansing, MI 48918

7. Describe the general purpose of these rules, including any problems the changes are intended to address.

The purpose of these rules is to clarify required procedures regarding challenges to the contents of a candidate's affidavit of identity.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

MCL 168.31(1)(a) says the secretary of state shall "issue instructions and promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the conduct of elections and registrations in accordance with the laws of this state."

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

MCL 168.31.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

MCL 168.31(1)(a), uses the mandatory "shall" to state that the secretary of state shall "issue instructions and promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the conduct of elections and registrations in accordance with the laws of this state."

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not conflict with or duplicate any similar rules, compliance requirements, or standards adopted at the state, regional, or federal level.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

No.

11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?

No.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional or federal level.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

The rules respond to public confusion around the process for filing challenges to a candidate's affidavit of identity by specifying the timeline for challenges and the requirements for submitting a challenge.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The rules were last evaluated on December 19, 2022. The regulatory activity covered by the rules has not been changed due to technology, economic conditions, or other factors since the last evaluation.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

There are no changes or developments since implementation that demonstrate there is no continued need for the rules or any portion of the rules.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No

Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.