



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

December 19, 2022

NOTICE OF FILING

ADMINISTRATIVE RULES

To: Secretary of the Senate
Clerk of the House of Representatives
Joint Committee on Administrative Rules
State Office of Regulatory Reinvention (Administrative Rule #2021-060-ST)
Legislative Service Bureau (Secretary of State Filing #22-12-01)
Department of State

In accordance with the provisions of Section 46(1) of Act 306, Public Acts of 1969, as amended, and Executive Order 1995-6, this is to advise you that the Michigan Department of Licensing and Regulatory Affairs and the State Office of Regulatory Reinvention filed Administrative Rule #2021-060-ST (Secretary of State Filing #22-12-01) on this date at 1:32 P.M. for the Department of State, entitled "Disqualification from Ballot Based Upon Contents of Affidavit of Identity".

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

Sincerely,

Jocelyn Benson
Secretary of State

Lashana Threlkeld / CLK

Lashana Threlkeld, Departmental Supervisor
Office of the Great Seal

Enclosure



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

CERTIFICATE OF ADOPTION

(By authority conferred on the secretary of state by section 31 of the Michigan election law, 1954 PA 116, MCL 168.31)

R 168.1, R. 168.2, R. 168.3, and R. 168.4 are added to the Michigan Administrative Code, as follows:

Date: January 4, 2022

A handwritten signature in cursive script that reads "Jocelyn Benson".

Jocelyn Benson, Secretary of State



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

ORLENE HAWKS
DIRECTOR

December 19, 2022

The Honorable Jocelyn Benson
Secretary of State
Office of the Great Seal
Richard H. Austin Building – 1st Floor
430 W. Allegan
Lansing, MI 48909

RECEIVED/FILED
MICHIGAN OFFICE OF STATE
2022 DEC 27 PM 2:27
CLERK OF GREAT SEAL

Dear Secretary Benson:

Re: Administrative Rules – Michigan Office of Administrative Hearings and Rules
Administrative Rules #: 2021-60 ST

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated March 7, 2022 for the Department of State “**Disqualification from Ballot Based Upon Contents of Affidavit of Identity**”. We are transmitting these rules to you pursuant to the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6.

Sincerely,

Michigan Office of Administrative Hearings and Rules



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated March 7, 2022, in which the Department of State proposes to modify a portion of the Michigan Administrative Code entitled “**Disqualification from Ballot Based Upon Contents of Affidavit of Identity**” by:

- ◆ Adding R 168.1, R 168.2, R 168.3, and R 168.4.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: December 19, 2022

Michigan Office of Administrative Hearings and Rules

By:

A handwritten signature in black ink that reads "Katie Wienczewski".

Katie Wienczewski,
Attorney



Since 1941

Legal Division

Kevin H. Studebaker, Director

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of State dated March 7, 2022, adding R 168.1, R. 168.2, R. 168.3, and R. 168.4 of the Department's rules entitled "Disqualification from Ballot Based upon Contents of Affidavit of Identity." I approve the rules as to form, classification, and arrangement.

Dated: December 19, 2022

LEGISLATIVE SERVICE BUREAU

By 

Rachel M. Hughart,
Legal Counsel

DEPARTMENT OF STATE

BUREAU OF ELECTIONS

DISQUALIFICATION FROM BALLOT BASED UPON CONTENTS OF AFFIDAVIT
OF IDENTITY

Filed with the secretary of state on December 19, 2022

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the secretary of state by section 31 of the Michigan election law, 1954 PA 116, MCL 168.31)

R 168.1, R. 168.2, R. 168.3, and R. 168.4 are added to the Michigan Administrative Code, as follows:

R 168.1 Definitions.

Rule 1. As used in these rules:

- (a) "Affidavit of identity" or "affidavit" means the filing made pursuant to section 558 of the Michigan election law, 1954 PA 116, MCL 168.558.
- (b) "Compliance statement" means the statement required by section 558(4) of the Michigan election law, 1954 PA 116, MCL 168.558, that the candidate does not owe any statements, reports, fines, or late filing fees.
- (c) "Filing official" means the township, city, or county clerk or the secretary of state with which the affidavit of identity is filed.
- (d) "Notice of error or omission" means the notice issued pursuant to section 16(6) of the Michigan campaign finance act, 1976 PA 388, MCL 169.216.

R 168.2 Statement on the affidavit of identity regarding compliance with the campaign finance act.

Rule 2. (1) For the purposes of the candidate's statement that as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate's election under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282, have been filed or paid, an outstanding notice of error or omission is not a statement, report, late filing fee, or fine for the purposes of section 558(4) of the Michigan election law, 1954 PA 116, MCL 168.558. A candidate with an outstanding notice of error or omission may be disqualified based on the unfiled or unpaid statement, report, late filing fees, or fines upon which the notice was based.

March 7, 2022

(2) When submitting an affidavit of identity, the candidate shall disclose every jurisdiction in the state of Michigan in which the candidate previously sought nomination or election. The candidate is not required to disclose a jurisdiction in which the candidate previously sought nomination or election if the only offices for which the candidate previously sought nomination or election in that jurisdiction are not offices for which candidates are required to file campaign finance statements under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282. A failure to disclose a jurisdiction or jurisdictions in which the candidate previously sought nomination or election shall not be a reason to disqualify a candidate from appearing on the ballot.

(3) The filing official shall examine the campaign finance records of the secretary of state and county clerk for any county in which the candidate previously sought nomination or election, if applicable, to determine whether the candidate made a false statement in the affidavit of identity.

(4) The filing official shall disqualify a candidate who falsely states that as of the date he or she signed the affidavit of identity, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate's election under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282, have been filed or paid. Candidates disqualified on this basis cannot reverse disqualification by filing a corrected affidavit.

(5) A candidate who files a statement of organization and does not request a reporting waiver is presumed to owe the campaign statement for the reporting period that includes the date the candidate committee was formed.

(6) A candidate who, as of the date he or she signed the affidavit of identity, has not responded to a notice of error or omission shall not be disqualified solely for that reason.

R 168.3 Other information on the affidavit of identity.

Rule 3. (1) Subject to subrule (2) of this rule, a candidate who omits information required by section 558(2) of the Michigan election law, 1954 PA 116, MCL 168.558, may correct the omission by filing a new affidavit of identity up until the filing deadline elapses. The filing official shall disqualify a candidate who fails to correct an omission by the filing deadline. For purposes of this subrule, omissions include, but are not limited to, blanks or incomplete information on the affidavit of identity, but do not include omissions on the compliance statement required by section 558(4) of the Michigan election law, 1954 PA 116, MCL 168.558.

(2) The filing official shall disqualify a candidate who provides false information as of the date the candidate signed the affidavit of identity regarding information required by section 558(2) of the Michigan election law, 1954 PA 116, MCL 168.558. Candidates disqualified on this basis cannot reverse disqualification by filing a corrected affidavit.

R 168.4 Date of signing; notarization.

Rule 4. (1) The affidavit of identity must be signed, sworn to, and dated by the candidate. All information given and statements made by the candidate on the affidavit of identity must be true as of the date that the affidavit is signed.

(2) An affidavit of identity must be notarized in accordance with the Michigan law on notarial acts, 2003 PA 238, MCL 55.261 to 55.315.

FILED WITH SECRETARY OF STATE

ON 12/19/22 AT 1:32 P.M.