Michigan Office of Administrative Hearings and Rules

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AGENCY REPORT TO THE
JOINT COMMITEE ON ADMNINISTRATIVE RULES (JCAR)

1. Agency Information

Agency name:

State

Division/Bureau/Office:

Elections & Campaign Finance

Name of person completing this form:

Adam Fracassi

Phone number of person completing this form:

517-241-3280

E-mail of person completing this form:

FracassiA@michigan.gov

Name of Department Regulatory Affairs Officer reviewing this form:

Doug Novak

2. Rule Set Information

MOAHR assigned rule set number:

2021-61 ST

Title of proposed rule set:

Signature Matching Standards for Absent Voter Ballot Applications and Absent Voter Ballot Envelopes

3. Purpose for the proposed rules and background:

To create process for determining whether signatures on absent voter ballot applications or ballot return envelopes agree sufficiently with signature on file.

4. Summary of proposed rules:

MCL 24.242 and 24.245

Before receiving an absent voter ballot, a voter must submit an application which is signed by the voter. The signature on the application is compared by the local clerk and their staff to the signature on file in the Qualified Voter File. If the signature is determined to sufficiently match the signature on file, the voter will be sent an absent voter ballot. The voter must then return the ballot in the envelope provided by the clerk which is signed. That signature is then compared to the absent voter ballot application and/or the qualified voter file.

Currently, city and township clerks review each of these signatures. The rule is designed to provide uniform standards for city and township clerks to utilize when comparing the signature in order to determine if the signature on the absent voter ballot application and envelope sufficiently matches the signature contained in the voter's registration profile.

5. 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)

6. Date of publication of rules and notice of public hearing in Michigan Register:
9/15/2021

7. Date, time, and location of public hearing:
10/1/2021 09:00 AM at Cadillac Place Room L-150 , 3044 W. Grand Blvd. Detroit, MI 48202

8. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:
https://ARS.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1319

9. List of the name and title of 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)

10. Persons submitting comments of support:
see attached

11. Persons submitting comments of opposition:
see attached

12. Identify any changes made to the proposed rules based on comments received during the public comment period:

MCL 24.242 and 24.245

	Name & Organization	Comments made at public hearing	Written Comments	Agency Rationale for change	Rule number & citation changed
1	Rep. Ann Bollin		Identified that the proposed ruleset did not incorporate references to the voter registration master card.	Rep. Ann Bollin WrittenIdentified that the proposed ruleset did not incorporate references to the voter registration master card.R 168.21Added a subsection defining master card and edited the subsection defining "signature on file" to explicitly include the signature on the voter registration master card.	R 168.21

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2	Rep. Ann Bollin		Expresses concern that, as drafted, the ruleset allowed a signature on an absentee voter ballot application that had not been verified against the signature in the Qualified Voter File to serve as a signature for verifying a signature on an absent voter ballot envelope.	Rep. Ann Bollin WrittenExpresses concern that, as drafted, the ruleset allowed a signature on an absentee voter ballot application that had not been verified against the signature in the Qualified Voter File to serve as a signature for verifying a signature on an absent voter ballot envelope.R 168.21 Added language clarifying that signatures on absent voter ballot applications can only be used to verify signatures on absent voter ballot envelopes if the signature on the application has been checked against and determined to match the signature in the Qualified Voter File.	R 168.21
3	Shira Roza, on behalf of Promote the Vote		Identifies an inconsistency in the statute references and the language used in the ruleset.	Added a second statutory reference to clarify that the ruleset applies to both absent voter ballot applications and absent voter ballot envelopes.	R 168.22(1)

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| 4 | Sen. Ruth Johnson | | Expresses concern that the ruleset would prevent an election official from rejecting a signature that the official believes is invalid by requiring a the election official to presume the validity of the signature. | Adds language clarifying that the election officials retain discretion to make the final determination regarding a signature's validity, and clarifying that the ruleset sets out a process to follow in determining validity but does not require election officials to accept signatures the election official believes is invalid. | R 168.22(1) |
| 5 | Ronna McDaniel, on behalf of the Republican National Committee | | Expresses concern that the draft ruleset would require an obviously non-matching signature to be accepted if there was only one major difference from the signature on file, rather than multiple differences. | Adds a subsection explicitly clarifying the ability of the clerk to contact a voter prior to making a determination regarding the validity of a signature. | R 168.22(3) |

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6	Sen. Ruth Johnson		Expresses concern that a clearly non-matching signature must be accepted if a redeeming feature is present.	Clarifies that redeeming qualities must be considered when determining whether a provided signature matches the signature on file, but that the presence of a redeeming quality does not require an election official to accept an obviously invalid signature.	R 168.23(1)
7	Shira Roza, on behalf of Promote the Vote		Shira Roza, on behalf of Promote the VoteWritten Identifies concern that the subsection will be interpreted to apply only to absent voter ballot envelopes, rather than both envelopes and absent voter ballot applications. R 168.24(d) Removes the reference to provisional ballot envelopes to clarify the subsection applies to both envelopes and applications.	Removes the reference to provisional ballot envelopes to clarify the subsection applies to both envelopes and applications.	R 168.24(d)

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8	Shira Roza, on behalf of Promote the Vote		Identifies possible ambiguity in the use of the term "immediately" without providing a definition of "immediately."	Added subsections clearly specifying timelines for various election official responsibilities under the ruleset	R 168.25
9	Shira Roza, on behalf of Promote the Vote		Expresses concern that a uniform signature cure process will not be available across the state.	Adds language clarifying that all clerks must accept the signature cure form created by the Secretary of State.	R 168.26(1)
10	Mark McWilliams, on behalf of Disability Rights Michigan		Expresses concern that the ruleset does not explicitly provide protections for voters with disabilities.	Adds a subsection clarifying that clerks are permitted to make the same accommodations for the signature cure process that they may make for collecting absent voter ballot envelopes.	R 168.26(3)

13.Date report completed:

12/1/2021

MCL 24.242 and 24.245