



July 17, 2020

The Honorable Alex Padilla
California Secretary of State
1500 11th Street, 6th Floor
Sacramento, CA 95814
Secretary.Padilla@sos.ca.gov
Elections@sos.ca.gov

Via email

Re: Request for the Secretary of State to Promulgate Emergency Regulations in Accordance with AB 1970

Dear Secretary Padilla:

We request that your office comply with the Elections Code ahead of the November 3, 2020, general election by promulgating emergency regulations relating to the processing of vote-by-mail and provisional ballots.¹ We understand that you are focused on addressing new and pressing challenges. However, your office has failed to issue regulations as required by Assembly Bill 1970, and the rate of vote-by-mail ballot rejections has more than doubled since the law took effect in 2017. It is precisely because of the COVID-19 pandemic, which increases the need for vote-by-mail and provisional ballots, as well as inconsistencies with signature verification practices throughout the state and the rising rate of ballot rejections, that the Secretary of State must immediately propose emergency regulations to provide uniform guidance to counties and to avoid voter disenfranchisement. In particular, we request that you propose emergency regulations that standardize training, the processing of vote-by-mail and provisional ballots, signature verification criteria, and notice and cure procedures. To facilitate this process, we have included draft emergency regulations as Exhibit A to this letter.

AB 1970

The Secretary of State has been under a mandatory duty to establish uniform and specific guidelines relating to the processing of vote-by-mail and provisional ballots since 2017.² Yet, almost four years later, you have not issued these guidelines. The authors of AB 1970, Assemblymembers Evan Low and Kevin Mullin, introduced that bill in response to concerns over discrepancies in rejection rates for signature mismatches across counties.³ The bill's authors

¹ See Elec. Code §§ 3026 (vote-by-mail ballots), 14314 (provisional ballots).

² *Id.*; see also Gov't Code § 11342.600 (defining a regulation as a "rule, regulation, order, or standard" adopted by an agency to "implement, interpret, or make specific the law enforced or administered by it[.]").

³ See Assem. Bill 1970 (2016), Bill Analysis, Assembly Committee on Elections and Redistricting, March 30, 2016, at 3, available at https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=201520160AB1970.

hoped that by “providing elections officials with a proper and uniform set of guidelines, there will be [a] decreased number in uncounted [vote-by-mail] ballots and an increased opportunity for citizens to make their vote count.”⁴

Unfortunately, the problem has only grown, and your failure to issue uniform guidance has not been without consequence. Since 2016, the year AB 1970 was signed into law, the state’s ballot rejection rate has more than doubled. In the 2020 primary, 111,361 vote-by-mail ballots were rejected across the state, a 1.58% rejection rate.⁵ This rejection rate is up from 1.0% in the 2018 general election, and 0.69% in the 2016 general election.⁶

While AB 1970 did not set a deadline to promulgate regulations, there remains an obligation for the Secretary to do so. In fact, courts have ordered government agencies to issue regulations in other instances when they have ignored a legislative mandate to draft rules.⁷ Despite that obligation, there does not appear to be any effort by the Secretary to fulfill this obligation. Indeed, promulgating regulations on the processing of provisional and vote-by-mail ballots is absent from the Secretary’s recent CCROV outlining plans to prepare for the election.⁸

Signature Matching Guidance is Essential for Preventing Disenfranchisement

Signature matching can play an important role in verifying the identity of voters. But the lack of uniform signature verification practices from county to county are likely contributing to higher rates of rejection in some counties, especially among Latinx and Asian American voters. Thousands of vote-by-mail and provisional ballots are rejected in California each election cycle because of a perceived signature mismatch.⁹ Often, the failure to successfully compare signatures occurs when a person who is not an expert in signature comparisons attempts to compare images of signatures that may be less than pristine, from voters who were likely unaware that their signature was going to be used for this purpose.¹⁰

Many essential areas of the signature verification process remain undefined. For example, the Elections Code does not prescribe how elections officials should make a determination that

⁴ *Id.*

⁵ Vote-By-Mail Statistics 2003 to 2020, California Secretary of State (accessed July 9, 2020), available at <https://www.sos.ca.gov/elections/voter-registration/vote-mail/vbm-other-elections/>.

⁶ *Id.*

⁷ See, e.g., *Newland v. Kizer*, 209 Cal. App. 3d 647, 652, 656 (Cal. Ct. App. 1989) (holding that an interpretation of a statutory directive that an agency “shall adopt regulations for the administration of this article” to be other than mandatory “would defeat the very purpose of its enactment”).

⁸ Memorandum from Jana M. Lean, Elections Division Chief, to County Clerks/Registrars of Voters, *General Election: Revised Guidance Related to the November Election* (June 30, 2020), available at <https://elections.cdn.sos.ca.gov/ccrov/pdf/2020/june/20135jl.pdf>.

⁹ See, e.g., Michael R. Blood, *California Rejected 100k Mail-in Ballots Because of Mistakes*, Associated Press (July 13, 2020), available at <https://apnews.com/a45421048cd89938df7c882891a97db5>; *California’s Uncounted Vote-by-Mail Ballots: Identifying Variation in County Processing*, UC Davis Center for Regional Change/California Civic Engagement Project (Sept. 2014), available at <http://static1.squarespace.com/static/57b8c7ce15d5dbf599fb46ab/t/5881a1622994ca06fb1484ac/1484890469869/CCEP+VBM+Issue+Brief+2+Revised+%281%29.pdf>.

¹⁰ See, e.g., *Signature Verification and Mail Ballots: Guaranteeing Access While Preserving Integrity*, Stanford Law School Law and Policy Lab 30-32, (May 15, 2020), available at https://www-cdn.law.stanford.edu/wp-content/uploads/2020/04/SLS_Signature_Verification_Report-5-15-20-FINAL.pdf (hereinafter “Stanford Law Report”).

signatures do not compare, nor does it require officials to receive handwriting identification or comparison training.¹¹ While California implemented a requirement to provide voters notice and an opportunity to cure mismatched signatures in 2018 after a court ruled its existing practices were unconstitutional,¹² those notice and cure practices vary across counties as well. A recent report by Stanford Law School's Law and Policy Lab (Law and Policy Lab) surveyed 33 counties across California (representing more than 80% of the state's population) to understand how counties verify ballot signatures and comply with the signature mismatch notice requirements. They found that signature verification criteria and processes used in vote-by-mail ballot processing are not standardized and vary significantly across counties.¹³

County data on rejection rates further demonstrate the impact of these varying criteria for signature matching, and indicate that the opportunity to cure mismatches has not resolved disparities in rejection rates among counties.¹⁴ In the 2018 midterm elections, some counties rejected ballots for perceived signature mismatches at much higher rates than other counties. For example, Merced County rejected 1.51% of all vote-by-mail ballots for signature mismatch, whereas San Francisco rejected only 0.08%.¹⁵

It is critical that signature verification and notice and cure processes are standardized ahead of the November election for two related reasons. First, all active registered voters will be sent a vote-by-mail ballot this November as a result of the pandemic.¹⁶ This means that an increased number of voters will be subject to varying signature match and notice and cure provisions, either because they cast a vote-by-mail ballot, or because they do not surrender their vote-by-mail ballot when they vote in-person and are required to cast a provisional ballot. Second, many voters are wary of vote-by-mail precisely because of concerns about ballot rejections.¹⁷ Studies show that Asian American voters, Latinx voters, Black voters, and voters with disabilities experience higher ballot rejection rates.¹⁸ Standardizing signature verification

¹¹ The only statutory guidance for the signature comparison process is that officials must not invalidate ballots when voters substitute their initials for their first or middle names. Elec. Code. § 3019(a)(4).

¹² See *La Follette v. Padilla*, No. CPF-17-515931, 2018 WL 3953766 (Cal. Super. Mar. 5, 2018).

¹³ Stanford Law Report, supra n.10 at 1-4.

¹⁴ Data sourced from *Election Administration and Voting Survey (EAVS) Datasets, Codebooks, and Survey Instruments*, U.S. Election Assistance Commission, available at <https://www.eac.gov/research-and-data/datasets-codebooks-and-surveys>.

¹⁵ *Id.*

¹⁶ Assem. Bill 860 (2020), available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=2019_20200AB860; Governor Gavin Newsom Executive Order N-64-20, available at <https://www.gov.ca.gov/wp-content/uploads/2020/05/05.08.2020-EO-N-64-20-text.pdf>.

¹⁷ See, e.g., Mindy Romero, Ph.D., *The California Voter Experience: Why African-American Voters Choose to Vote at the Polls or Vote-by-Mail, and How They Perceive Proposed Changes to California's Voting System*, UC Davis Center for Regional Change/California Civic Engagement Project 1-2 (Sept. 2016), available at <https://static1.squarespace.com/static/57b8c7ce15d5dbf599fb46ab/t/57ffe66ff7e0abb9f7b5f3e6/1476388465082/UCDavisCCEPCVEBriefTwo.pdf>; see also Thad Kousser, Mindy Romero, Mackenzie Lockhart, Seth Hill, and Jennifer Merolla, *How Do Californians Want to Cast their Ballots During the COVID-19 Crisis?*, The New Electorate Project at 1 (May 2020), available at <https://static1.squarespace.com/static/57b8c7ce15d5dbf599fb46ab/t/5ed0c49c89d12f1ce6fc85e8/1590740125323/New+Electorate+Study+-+How+Do+Californians+Want+to+Cast+their+Ballots+During+the+COVID-19+Crisis.pdf> (finding that Latinx and African American voters are less likely to prefer voting by mail than Asian American and non-Latino white voters).

¹⁸ See, e.g., Declaration of Paul Mitchell in Support of Plaintiffs' Motion for Writ of Mandate at 3, *La Follette v. Padilla*, No. CPF-17-515931 (Cal. Super. Jan. 19, 2018), available at <https://www.rubenmajor.com/wp-content/up>

and notice and cure procedures to reduce the rejection of valid vote-by-mail ballots will increase voter confidence that their vote will count if they cast a ballot by mail.

Guidelines on the Processing of Provisional Ballots

Elections officials must verify the signatures on provisional ballot envelopes using the same procedures that apply to the comparison of signatures of mail ballots.¹⁹ In addition, elections officials must also confirm that a voter who casts a provisional ballot is entitled to vote in that county.²⁰ Because data from courts about ineligibility related to felony convictions and conservatorships are often incorrect or unreliable, it is key for any regulations on the processing of provisional ballots to include a presumption that voters are entitled to vote unless there is clear and convincing evidence to the contrary.

In most cases, the voter's attestation to their eligibility to vote at the time of their registration is sufficient for the elections office to establish their right to vote.²¹ However, if available, elections officials may consider certain other information in their records when evaluating a voter's right to have their provisional ballot included in the canvass. For instance, an otherwise-eligible person is not entitled to register or vote while they have been found by a court within the context of specified proceedings to be mentally incapable, with or without reasonable accommodations, of expressing a desire to participate in the voting process.²² Similarly, an otherwise-eligible voter in California is disqualified from voting while they are in state or federal prison or on parole for a felony conviction.²³

When a person is disqualified from voting because of mental incapacity or their conviction status, state law requires county courts to send notification of the relevant information to the Secretary of State and county elections officials.²⁴ However, county courts frequently send unreliable notices to elections officials during conservatorship cases and, in many of these cases,

[loads/2018/03/Mitchell-Declaration.pdf](#) (finding higher rates of vote-by-mail ballots rejected for Latinx and Asian American voters); Joanna Lee and Deanna Kitamura, *Asian Americans Face Higher than Average Vote-by-Mail Ballot Rejection Rates in California*, Asian Americans Advancing Justice – California (Aug. 2017), available at <https://www.advancingjustice-la.org/sites/default/files/issuebrief-vbm-FINAL-1.pdf> (finding the vote-by-mail ballot rejection rate for Asian Americans in four populous counties was 15% higher than the overall rejection rate in those counties, and over half of rejected vote-by-mail ballots from Asian Americans had a mismatched signature, compared to 44% for all voters); Anna Baringer, Michael C. Herron, and Daniel A. Smith, *Vote by Mail and Ballot Rejection: Lessons from Florida for Elections in the Age of the Coronavirus* (Apr. 25, 2020), available at https://electionscience.clas.ufl.edu/files/2020/04/Baringer_Herron_Smith_VBM_FL.pdf (finding vote-by-mail ballot rejections impact Black voters, voters with disabilities, and young voters at higher rates); *Voting by Mail is Essential for Voters with Disabilities, but it's Not Enough*, ACLU (July 7, 2020), <https://www.aclu.org/news/votingrights/voting-by-mail-is-essential-for-voters-with-disabilities-but-its-not-enough/> (noting that “[s]ignature match requirements present an additional barrier to voters who have conditions that make it hard to consistently sign their name.”).

¹⁹ Elec. Code § 14310(c)(1).

²⁰ *Id.*

²¹ *See id.* § 14310(c)(2)(i); *see also Fish v. Kobach*, 840 F.3d 710, 738 (10th Cir. 2016) (concluding within the context of voter registration through DMV transactions that the National Voter Registration Act “establish[es] the attestation requirement in every case as the presumptive minimum amount of information necessary for a state to carry out its eligibility-assessment and registration duties”).

²² Elec. Code § 2208; Cal. Const. Art. II § IV.

²³ Elec. Code § 2101; Cal. Const. Art. II § IV.

²⁴ Elec. Code §§ 2209, 2212.

it is not clear that the court made the proper voting rights determination required by law.²⁵ Further, county courts often send over-inclusive lists of people who have been involved with criminal court proceedings to elections officials. In fact, several counties have recently been targets for litigation by civil rights groups after their elections officials relied on faulty information from their local courts to improperly cancel the registrations of thousands of voters who had not been convicted of a prison felony and who were legally eligible to vote.²⁶

Additionally, even when a person was previously eligible to vote while they were in prison or incapable of communicating a desire to vote, their right to vote is legally restored once they complete their parole or they regain the capacity to communicate a desire to vote. Just as voters should not be disenfranchised based on over-inclusive or unclear notices from courts, these newly re-eligible voters should not have their ballots rejected based on stale court notices. Due to reduced operations at county courts during the pandemic, records on file with election officials may be more likely to contain errors or be out-of-date at the time of the upcoming election. Therefore, it is urgent that emergency regulations be put in place before November that include a presumption that a voter is entitled to have their provisional ballot included in the canvass unless there is clear and convincing evidence establishing that they are ineligible.

Secretary Padilla Must Promulgate Emergency Regulations Before the Election

There is insufficient time for your office to promulgate regulations before the November election using the usual regulatory process, but the COVID-19 pandemic, combined with the expected increase in the use of vote-by-mail and provisional ballots this November, necessitates immediate action by the Secretary through emergency regulations.²⁷ Your office already recognized the need for immediate action as a result of the pandemic when just last month it amended regulations on ballot drop boxes using the emergency rulemaking process.²⁸ We ask that your office move with the same level of urgency to ensure that voters who cast vote-by-mail or provisional ballots this November do not risk disenfranchisement.

There is already ample guidance on best practices for signature verification and notice and cure procedures, and we have attached proposed regulation language that incorporates those best practices as Exhibit A to this letter. For further guidance, we have also included Michigan's recently issued three-page guidelines on signature matching as Exhibit B.²⁹ This simple, straightforward guidance can help ensure that voters are treated equitably from county to county. After the November election, your office can permanently adopt these emergency regulations

²⁵ ACLU of Northern California has identified thousands of incomplete, unclear, or inaccurate conservatorship notifications received by the Secretary of State between January 2016 and spring 2020.

²⁶ *All of Us or None Puts Ten CA Counties on Notice Over Unlawful Removal of People with Felony Convictions From Electoral Rolls*, A New Way of Life (Apr. 3, 2018), available at <https://bit.ly/3eyXlaR>.

²⁷ See Gov't Code § 11342.545 (defining emergency as "a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare").

²⁸ Memorandum from Raj Bathla, Sr. Legal Analyst, to County Clerks/Registrars of Voters, *Regulations: Vote-by-Mail Ballot Drop Boxes and Vote-by-Mail Drop-Off Locations – Section 20136* (June 26, 2020), available at <https://elections.cdn.sos.ca.gov/ccrov/pdf/2020/june/20132rb.pdf>.

²⁹ *Absent Voter Ballot Application and Ballot Processing: Signature Verification and Voter Notification*, Michigan Bureau of Elections (accessed July 9, 2020), available at <https://bit.ly/2ZPTS2p>. Michigan's guidance was issued in response to a lawsuit challenging the lack of uniform guidance in the state.

through the regular rulemaking processes, which will provide the public with an opportunity to provide feedback or suggest amendments, as well as address other areas that would benefit from uniform guidance.

Proposed Regulations

We propose that, at a minimum, the regulations include the following guidance:

- **Basic Presumption.** The regulations should require all review of vote-by-mail and provisional ballots to begin with the basic presumption that the signature on the ballot envelope is the voter's signature and that the voter is entitled to vote.
- **Resolutions of Discrepancies.** There should be uniform review processes across counties that includes unanimous determination that a signature does not compare, and the review must include a permanent staff member. Similar characteristics between a voter's signature on a vote-by-mail or provisional ballot envelope and a signature on file should be sufficient to determine a signature is valid. Before rejecting a ballot, reviewers must unanimously find beyond a reasonable doubt that the signature differs in multiple, significant, and obvious respects from all signatures on file for the voter.³⁰
- **Signature Comparison.** The regulations should provide uniform guidelines for signature comparison at all levels of review. This includes a requirement that, upon initial review, officials must seek to eliminate the visibility of identifying information. The regulations should also require qualitative review so that staff consider the many reasons why a person's signatures may vary. Our proposed regulations identify common reasons why a ballot may vary, including the rearrangement of components of a voter's full name common with some voting populations, while Michigan's guidelines provide visual examples of signatures that contain similar characteristics but vary because of, for example, aging or a health condition. We encourage the Secretary to include visual examples in their emergency regulations. Finally, the regulations should waive signature match requirements for voters with disabilities if they certify they have a disability, condition, or illness preventing them from consistently signing their name.
- **Provisional Ballots.** As discussed above, some county courts provide inaccurate information to elections officials about conservatorship and felony convictions. For this reason, staff should not reject provisional ballots unless there is clear and convincing evidence that the voter is not entitled to vote.
- **Notice and Cure.** The regulations should require elections staff to notify voters of a missing signature, a signature mismatch, or, for provisional ballots, a determination that the voter is not eligible to vote, within 24 hours of that determination. Within six days of sending the initial mail notice, elections staff should also be required to attempt to notify voters by phone and email when that information is available. A phone call or email is important because they are more likely to reach some voters with disabilities than printed mail.³¹ Counties should send a follow-up notice of opportunity to cure by mail if a voter

³⁰ Florida similarly requires elections staff to find beyond a reasonable doubt that a signature does not match before rejecting a ballot. Fla. Stat. § 101.68(c)(1)(b).

³¹ Mailed notices are not an effective way to reach people with print related disabilities. The National Federation of the Blind and Disability Rights California recently settled a case with the Internal Revenue Service requiring delinquent tax notices to be sent to blind taxpayers in formats other than mail. *IRS to Implement Process to Provide*

fails to cure within seven days of the county sending the initial notice of opportunity to cure.³² Notice letters should be sent in the voter's preferred language with a pre-paid postage return envelope. Finally, the notification letters should include a notice to voters that the signature used in the signature verification statement will be used to update the voter's signature for future elections if the signatures compare.

- **Timeline.** The regulations should include a uniform timeline for training elections staff, completing the initial signature verification review process, and deadlines for sending out initial and follow-up notices to cure, including a deadline by which counties must send a second notice to cure by mail.
- **Training.** The regulations should require elections staff working on signature verification and notice and cure procedures to receive training on these regulations, and permanent staff should additionally be trained on implicit bias. The California Association of Clerks and Election Officials (CACEO) already conducts training with forensic experts on signature verification.³³ CACEO, community organizations, and voter advocates could be great partners in ensuring that all elections officials receive uniform training ahead of the November election.
- **Election Observers.** Election observers should not be allowed to challenge any individual voter's ballot. This limitation will protect the right of the public to observe the signature verification process, while also removing potential racial, partisan, or other bias from the process and protecting the privacy of voters.

We respectfully request a meeting to discuss your office's progress in complying with AB 1970 and how we can best assist you in promulgating emergency regulations on signature verification and notice and cure processes ahead of the November election. In addition, we request that you let us know no later than July 31, 2020 whether your office plans to move forward with proposing emergency regulations ahead of the November election.

Sincerely,



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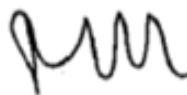
Accessible Tax Notices to the Blind, National Federation of the Blind (July 15, 2020) available at <https://www.nfb.org/about-us/press-room/irs-implement-process-provide-accessible-tax-notices-blind>.

³² The Law and Policy Lab found that a second mail notification was one of the best methods to increase cure rates. Stanford Law Report, supra n.10 at 39.

³³ See, e.g., *Signature Verification Training*, CACEO (last accessed July 9, 2020), available at <https://caceo.memberclicks.net/signature-verification-training>.



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Exhibit A

Proposed California Emergency Regulations on the Processing of Vote by Mail and Provisional Ballots

Purpose

- (a) The purpose of this Chapter is to establish standards and procedures for processing vote by mail ballots and provisional ballots, as required by state law.
- (b) The Chapter shall be liberally construed in favor of vote by mail and provisional voters.
- (c) This Chapter applies to all election officials within the State of California.
- (d) These regulations apply to all elections until permanent regulations on vote by mail and provisional voting are promulgated.
- (e) The Secretary of State shall maintain data on the implementation of this Chapter and report to the legislature annually by December 31.

Presumptions and Resolutions of Discrepancies

- (a) Signature review of vote by mail and provisional envelopes shall begin with the presumption that a voter's signature on a vote by mail or provisional ballot envelope is their signature.
- (b) Exact matches are not necessary to confirm a valid signature.
- (c) Similar characteristics between a signature on a vote by mail or provisional ballot envelope and a signature on file is sufficient to determine a signature is valid.
- (d) A signature shall only be rejected if three reviewers, including at least one permanent county elections office staff member, unanimously find beyond a reasonable doubt that the signature differs in multiple, significant and obvious respects from all signatures on file for the voter.

Methods for Seeking a Signature Comparison

- (a) On initial review, elections officials should seek to eliminate the visibility of identifying information.
- (b) In comparing signatures of vote by mail and provisional envelopes, elections officials shall consider explanations for differences that may include, but are not limited to:
 - (1) Evidence of trembling or shaking in a signature could be health related or the result of aging.

- (2) The voter used a diminutive of their full legal name, including but not limited to use of initials or rearrangement of components of a voter's full legal name, such as reversal of first and last names, use of middle name in place of first name, or omitting a second last name.
 - (3) The voter's signature style may have changed over time.
 - (4) The return envelope signature or electronic signature on file could have been written in haste.
 - (5) A signature on file could have been written with a stylus pen or other electronic signature tool that may result in a thick or fuzzy quality.
 - (6) Creases, breaks, or pauses in a cursive signature could have been written on an uneven surface, such as on top of other papers, a tablecloth, or other partially covered surfaces.
- (c) Before rejecting a signature, reviewers shall consider possible disabilities, age of the voter, age of the signature on file, and a voter's primary language as possible explanations of discrepancies of signatures.
- (d) Voters who certify that they have a disability, condition, or illness preventing them from consistently signing their name shall not be subject to signature comparison requirements.

Processing Provisional Ballots

- (a) When making the determination of whether a provisional ballot voter is entitled to vote and have their ballot counted, elections officials must presume the voter's eligibility to vote unless there is clear and convincing evidence to demonstrate that the voter was not entitled to vote.
- (b) In the event that a provisional ballot voter who has affirmed their eligibility to vote is otherwise flagged as ineligible to vote in the Statewide Voter Registration Database (VoteCal), the elections official must canvass the ballot unless a review of available records clearly and convincingly demonstrates that the voter is ineligible to vote. Examples of records that may be sufficient to demonstrate ineligibility include, but are not limited to:
- (1) Information recently provided by the California State Department of Corrections or a county superior court that clearly and convincingly states that the voter is ineligible to vote because they are currently on parole due to a felony conviction;
 - (2) Information recently provided by a county superior court that clearly and convincingly states that the court has made a determination of incompetency to vote; or

- (3) Information provided by the California Department of Public Health or other sources that clearly and convincingly states that the voter died prior to the date the provisional ballot was cast.

Notice and Cure

- (a) Vote by mail and provisional ballot voters shall be notified by mail within 24 hours of a determination of a missing or mismatched signature and their opportunity to cure the defect.
- (b) Provisional ballot voters who have been determined to be ineligible during review shall be notified within 24 hours and given an opportunity to cure the eligibility issue.
- (c) If an elections office has a phone number or e-mail address for a voter whose ballot has been rejected, the elections office shall attempt to call and e-mail the voter informing the voter of the defect and the need to cure within 6 days of sending the initial mail notice under subsection (a) or (b) of this section.
- (d) Within seven days of sending a notice under subsection (a) or (b) of this section, the elections office shall send a second notice by mail to a voter if the voter has not attempted to cure.
- (e) All notice letters shall be in the voter's preferred language and shall include a pre-paid postage return envelope. For signature verification letters, the notice shall inform the voter that the signature used in the signature verification statement will be used to update the voter's signature for future elections if the signature compares with the signature on file.
- (f) Elections officials are encouraged to proactively request signature samples from voters, especially for voters whose existing samples are more than five years old, and voters whose only signature sample is electronic.

Training

- (a) Before conducting signature comparisons all volunteers, temporary elections staff, or elections office staff shall be trained by an independent expert on signature comparisons, and at least annually in subsequent years.
 - (1) Training shall include at a minimum:
 - (A) Standards established by this Chapter and California law.
 - (B) General handwriting identification principles.
 - (C) Variations in signatures by voters whose primary language uses non-Roman characters.

- (D) Variations in signatures that can be caused by disabilities.
 - (E) Variations in signatures caused by aging of voters.
 - (F) Variations in signatures caused by the collection electronic signatures.
- (b) Any permanent staff involved in signature comparisons shall additionally be trained on implicit bias.

Elections Observers

- (a) Elections observers may not challenge individual ballots for any reason.

Reports

- (a) Counties shall report to the Secretary within 60 days of each election in a format prescribed by the Secretary:
- (1) The number of vote by mail and provisional voters initially determined to have a defect with their ballot.
 - (2) The number of voter by mail and provisional voters contacted and given an opportunity to cure a defect, and the methods used to notify those voters.
 - (3) The number of vote by mail and provisional ballots cured by voters and the methods used to cure.
 - (4) The number of vote by mail and provisional ballots finally rejected for any reason and the reason for rejection.
 - (5) Any cases referred to a district attorney.
- (b) Any voter whose ballot is rejected shall be notified after the election. That notice shall include a request for a new signature sample from voters whose signature was rejected.

Exhibit B

Absent Voter Ballot Application and Ballot Processing: Signature Verification and Voter Notification

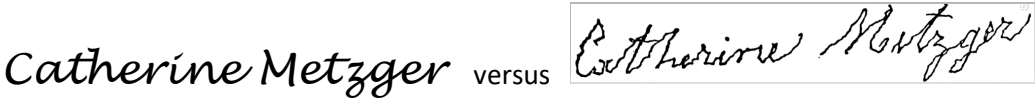
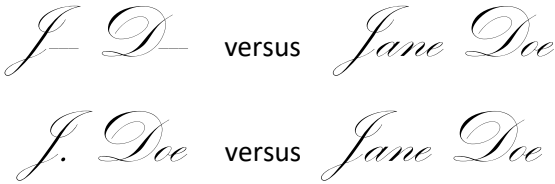
The Michigan Election Law requires absent voter (AV) ballot applications to be signed for an AV ballot to be issued. It also requires election workers to verify that the signature on an AV ballot envelope matches the voter’s signature in the Qualified Voter File (QVF) or the voter’s signature on the AV ballot application for the ballot to be tabulated.



The Bureau of Elections is providing this document in response to questions about these procedures. It includes tools and guidance for signature evaluation based on standards used to validate signatures on petitions filed with the Bureau. This document also provides guidance on the timing of evaluating signatures and notifying the voter of missing or mismatched signatures. The Bureau will be providing additional guidance on these issues following the March 10, 2020, presidential primary.

Signature Review

Signature review begins with the presumption that the voter’s AV application or envelope signature is his or her genuine signature.

1. If there are any redeeming qualities in the AV application or return envelope signature as compared to the signature on file, treat the signature as valid. Redeeming qualities may include but are not limited to similar distinctive flourishes, more matching features than nonmatching features, and Examples 1-5 in the chart below.
2. A voter’s signature should be considered questionable only if it differs in multiple, significant and obvious respects from the signature on file. Slight dissimilarities should be resolved in favor of the voter whenever possible.

#	Defects in AV application or AV envelope signature	Result
1.	Signature appears as if voter’s hand is trembling or shaking, possibly due to a health condition or advancing age: 	Valid signature
2.	Only part of the signature matches the signature on file such as only the first letters of the first and last name match, but rest of signature does not match: 	Valid signature

#	Defects in AV application or AV envelope signature	Result
3.	Signature is partially printed but at the same time, partially matches the signature on file: <i>Alice Robinson</i> versus <i>Alice Robinson</i>	Valid signature
4.	Signature is a recognized diminutive of the voter's full legal name: <i>Bill Smith</i> versus <i>William Smith</i>	Valid signature
5.	Signature style has changed slightly over time: <i>Lucinda Jones</i> versus <i>Lucinda Jones</i>	Valid signature
6.	Signature is entirely printed but signature on file is entirely written in cursive: JAMES DAVIS versus <i>James Davis</i>	Questionable signature
7.	Signature differs in multiple, significant and obvious respects:  versus 	Questionable signature

Procedures for Signature Verification

Voters should be encouraged to sign AV ballot applications and AV ballot return envelopes in a way that reasonably resembles the signature given for driver's license/state ID or voter registration purposes, but it is not necessary for the voter's signature to perfectly match the signature on file. Clerks should presume that a voter's AV application or envelope signature is his or her genuine signature, as there are several acceptable reasons that may cause an apparent mismatch.

Legitimate Explanations for Nonmatching Signatures. The following list includes some possible explanations for signatures that do not match exactly, but keep in mind that other legitimate reasons may exist.

- The ballot application or return envelope signature may be written on an uneven surface, such as on top of other papers, a tablecloth, or other partially covered surface, which may cause the signature to appear creased or cause breaks or pauses in a cursive signature.

- The ballot application or return envelope signature or electronic signature on file could have been written in haste.
- The voter’s medical condition or advancing age may cause the signature to be different.
- The electronic signature on file may be smaller or larger than the signature given on an AV ballot application or AV return envelope.
- The signature may have been written using a pen with a finer tip or one with fading ink as compared to the signature on file.
- Any other plausible reason given by the voter that satisfies the clerk when following up on a questionable signature.

Timing of Signature Review and Notification

Clerks should review absent voter ballot applications and absent voter ballot envelopes immediately upon receipt to determine whether a signature has been provided and whether the signature matches. If an AV ballot or application is missing a signature, or if you determine that an AV ballot or application signature does not match, inform the voter immediately using any and all contact information available.

If you have a phone number or e-mail address for the voter, call and e-mail the voter in addition to mailing the voter a notice informing the voter of the signature deficiency and the need to cure.

Up to Wednesday before the election, notify the voter by end of the next business day following receipt. **Starting Thursday before the election, attempt to reach the voter as soon as possible, especially by phone and email**, in addition to other methods of communication. It’s important to try to reach the voter immediately starting Thursday because critical deadlines begin to pass on Friday.

For **AV applications**, if the application is received near a deadline, inform the voter of the need to cure the signature deficiency and the voter’s options for doing so:

- Cure by mail/e-mail/fax/in person **by 5 p.m. Friday** for a timely mail application.
- Cure in person **by 4 p.m. Monday** for a timely in person application.
- Vote at the precinct on Election Day if **after 4 p.m Monday**.

For **AV ballots**, if an application is received near the election:

- **Up to Saturday at 2 pm before election day**, if a ballot is returned with a missing or mismatched signature, the voter should be informed that he or she has can visit the clerk’s office to provide the omitted signature or corrected signature, or have a new AV ballot issued immediately.
- **After 2 pm Saturday and through election day**, if a ballot is received without a signature or if the signature does not match, the voter should be informed that he or she has until 8pm on election day office to sign the return envelope or provide a corrected signature.