



## **DIRECTIVE 2021-21**

December 20, 2021

To: All County Boards of Elections  
Board Members, Directors, and Deputy Directors

Re: Instructions Regarding the Review, Examination, and Verification of the Petition  
Proposing an Initiated Statute (An Act to Control and Regulate Adult Use Cannabis)

### **SUMMARY**

This Directive provides instructions to county boards of elections on the review, examination, and verification of signatures on the petition proposing an initiated statute.<sup>1</sup> Each board of elections must complete its review, examination, and verification consistent with [Chapter 11](#) and [Chapter 14](#) of the Ohio Election Official Manual and return its certification to the Secretary of State's Office no later than **12:00 noon on Thursday, December 30, 2021**.

### **PETITION SUBMITTED**

On Monday, December 20, 2021, the Secretary of State's Office received a petition for an initiated statute. Boards of elections must examine each part-petition to determine the number of qualified electors who signed the petition.

### **VERIFYING THE VALIDITY OF PART-PETITIONS AND SIGNATURES**

The board must carefully read this Directive, [Chapter 11](#), and [Chapter 14](#) of the Election Official Manual before the board examines the petitions sent to your county.

1. The board must process all new, valid voter registrations, and changes of names and addresses to existing registrations received by the board or from the Secretary of State's Office as of the date the petition was filed with the Secretary of State before verifying the signatures on the part-petitions. These registrations are effective as of the date the petition was filed with the Secretary of State.<sup>2</sup>
2. The board must verify all petition signatures, electronically record decisions on the validity or invalidity of each signature on the voter registration record, track for duplicate signatures, and ensure that the voter registration record is updated with voter activity credit if the signature and address match.

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<sup>1</sup> [R.C. 3501.11\(K\)](#).

<sup>2</sup> [R.C. 3501.38\(A\)](#), *State ex rel. Oster vs. Lorain Cty. Bd. of Elections*, 93 Ohio St.3d 480 (2001).

3. The board must check each part-petition to determine whether the circulator’s statement on the part-petition was properly completed. The entire part-petition may be invalid if the circulator’s statement is not completed as required by law.<sup>3</sup> However, no board may invalidate a part-petition solely because a circulator statement includes a number that is lower than the number of signatures the part-petition actually contains,<sup>4</sup> so long as there is no indication of fraud or material misrepresentation.<sup>5</sup>
4. A circulator must indicate the number of signatures on the part-petition and attest under penalty of election falsification that they witnessed the affixing of every signature.<sup>6</sup> Thus, a board may invalidate a part-petition when it has evidence that a circulator committed fraud or material misrepresentation.<sup>7</sup> Moreover, the board must document and notify elections counsel through legal intake, if it has evidence that a circulator committed fraud.

### **COMPLETING PART-PETITION SPREADSHEETS**

If a board receives a part-petition with a majority of signatures from another county, that board of elections must not verify that part-petition. Instead, the board must promptly follow the steps below, complete the following two spreadsheets accompanying this Directive, and return the spreadsheets in the envelopes provided when all part-petitions are returned to the Secretary of State’s Office:

1. Part-Petitions Sent Spreadsheet (Original Part-Petition(s)), and
2. Part-Petitions Received from Another Board Spreadsheet (Scanned Part-Petition(s)).

If a board of elections receives a part-petition(s) that belongs to another county:

1. Contact the Director or Deputy Director at the other county board by phone to notify them that your board will forward a scanned copy of a part-petition(s).
2. Log the transfer of the part-petition(s) going to another county on the “Part-Petitions Sent” spreadsheet.
3. Send the copy of the part-petition(s) via email to the Director and Deputy Director.
4. Return the original part-petition(s) with the “Part-Petitions Sent” spreadsheet in the marked envelope included with the original part-petitions. When the board returns its reviewed part-petitions to the Secretary of State’s Office, place the envelope with the part-petition and respective spreadsheet enclosed on top of the reviewed part-petitions so it can be easily located and retrieved from the box.

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<sup>3</sup> [R.C. 3501.38](#).

<sup>4</sup> See *State ex rel. Ferrara v. Trumbull Cty. Bd. Of Elections*, Slip Opinion No. 2021-Ohio-3156.

<sup>5</sup> See *Ohio Mfrs.’ Assn. v. Ohioans for Drug Price Relief Act*, 147 Ohio St.3d 42, 2016-Ohio-3038, 59 N.E.3d 1274, ¶19.

<sup>6</sup> [R.C. 3501.38\(E\)\(1\)](#).

<sup>7</sup> “And nothing in [*Ferrara*] disturbs the litany of caselaw providing that evidence of fraud triggers full invalidation of a part-petition.” *Ferrara* at ¶22.

If a board of elections receives a scanned copy of a part-petition from another county:

1. Log the part-petition(s) that the board receives on the “Part-Petitions Received” spreadsheet.
2. Print and process the part-petition(s).
3. Return the emailed part-petition(s) with the “Part-Petitions Received” spreadsheet to the Secretary of State’s Office in the marked envelope included with the original part-petitions. When the board returns its reviewed part-petitions to the Secretary of State’s Office, place the envelope with the part-petition and respective spreadsheet enclosed on top of the reviewed part-petitions so it can be easily located and retrieved from the box.

**Note:** Even if a board does not email a copy of a part-petition to another county and/or does not receive a copy of a part-petition from another county, the board must enter the county name and mark the box (X) in the top right-hand corner of the spreadsheet and place it in the correct envelope. When the board returns its reviewed part-petitions to the Secretary of State’s Office, place both envelopes on top of the reviewed part-petitions so they can be easily located and retrieved from the box.

### **SCANNING THE PART-PETITIONS**

After the board finishes checking the signatures on the part-petitions, the board must electronically scan each part-petition. A copy of the scanned images must be uploaded to the Secretary of State’s SharePoint site (using the instructions accompanying this Directive). Each board must retain an electronic copy of the images for the board’s records.

### **FULFILLING PUBLIC RECORDS REQUESTS**

Boards of elections may receive public records requests for copies of the part-petitions. Boards should consult with their statutory legal counsel, the county prosecuting attorney, before rejecting, fulfilling, or responding to any public records request.

### **CERTIFICATION & RETURN OF PETITIONS**

As soon as the board finishes verifying the signatures on the part-petitions, the board must:

1. Complete and submit the certification form electronically by clicking the “submit” button on the bottom of the form;
2. Verify that the form received a timestamp;
3. Print and save a copy of the completed certification form containing the timestamp;
4. Have the Director and Deputy Director sign the time stamped certification form; and
5. Upload the signed certification form to the SharePoint site.<sup>8</sup>

**If upon submitting the form via Elect Collect the board does not receive a timestamp, immediately contact this office at 1-614-466-2585. All certification forms and scanned images**

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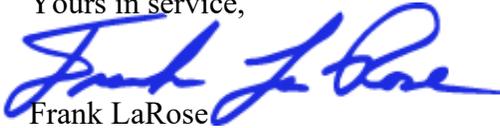
<sup>8</sup> If a board has not appointed a Deputy Director or Director, then the Board Chairperson or a board member of the opposite party, respectively, must sign the certification forms.

**of petitions must be submitted through SharePoint by 12:00 noon on Thursday, December 30, 2021.**

After submitting the certification forms, county boards of elections must promptly return the original part-petitions to the Secretary of State's Office, Elections Division, 22 North Fourth Street, Columbus, Ohio 43215-3668 via trackable delivery method. **All original part-petitions must be received by the Secretary of State's Office no later than Friday, January 7, 2022.**

If you have any questions concerning this Directive, please contact the Secretary of State's elections counsel at (614) 728-8789.

Yours in service,



Frank LaRose  
Ohio Secretary of State