

STATE OF MAINE
SECRETARY OF STATE

In re: Remand of *Gilbert v. Bellows*, No.
PORSC-AP-2026-10 (Cumb. Cty. Super. Ct.)

RECOMMENDED DECISION

This matter was remanded by the Superior Court (Cashman, J.) to the Secretary of State (“Secretary”) to make additional findings and take other actions concerning the above-captioned challenge to the direct initiative petition to enact “An Act to Designate School Sports Participation and Facilities by Sex” (the “Initiative”). The Secretary designated me to serve as presiding officer and to issue a recommended decision. After consideration of evidence and sworn testimony adduced at hearing and extensive post-hearing briefs by the parties, I recommend that the Secretary make the findings of fact and conclusions of law set forth below and issue the proposed revised determination of validity set forth at the end of this recommended decision. The proposed revised determination would conclude that the direct initiative petition does not meet the constitutional threshold of 67,682 valid signatures and is therefore invalid.

Procedural History

On March 17, 2026, the Secretary issued a decision validating the petition for the Initiative. AR003–006. On March 27, 2026, Maine voters Jane Gilbert, Mark Sayre, and Kaitlin Webber (“Gilbert”) filed a Rule 80C appeal in Superior Court, Cumberland County, appealing the Secretary’s determination. *See Gilbert v. Bellows*, Docket No. AP-2026-10 (Cum. Cty. Super. Ct.). The ballot question committee that supported the initiative, Protect Girls Sports in Maine (“the Committee”) was granted intervenor status.

In her Rule 80C brief, Gilbert raised 21 challenges to the validity of the petition. The Secretary contested some of these challenges, partly or wholly conceded others, and argued that a few others should be remanded for additional factfinding if resolution of the other challenges made these challenges potentially dispositive. The Superior Court agreed with the Secretary's positions in the appeal, both with regard to her arguments against some of the challenges and her concessions as to others. The Court thus ordered a limited remand of the matter back to the Secretary to act in accordance with her concessions as to challenges 3, 6, 9, 12, 13, 14, 15, 16, and 17, and to conduct additional factfinding with regard to challenges 2 and 19. Decision and Order at 8–9, 11–12. The Court's remand order directed the Secretary of State to engage in "further proceedings consistent with this Order, which may include correcting the concessions identified herein, taking new evidence, and developing further findings of fact as necessary." Order at 17. The Court directed the Secretary to issue a new Determination of Validity within 30 days of the Order.¹

The same day as the Court's decision, the Secretary's counsel notified Gilbert's and the Committee's counsel by email that the Secretary intended to hold an evidentiary hearing on May 12, 2026, to hear evidence on the matters remanded to the Secretary. A formal notice of hearing issued April 28, 2026, and an amended notice of hearing issued later that same day. The hearing notice specified that the hearing would be held in accordance with the Maine Administrative Procedure Act., 5 M.R.S.A. § 9051 *et seq.* (MAPA), and that I would serve as the Presiding Officer.

¹ Because the 30th day after the April 24, 2026 order falls on a weekend, the deadline is the following business day, May 26, 2026. M.R. Civ. P. 6(a); 21-A M.R.S.A. § 6.

As permitted by the hearing notice, Gilbert requested issuance of four subpoenas: for Kathleen Dillingham, town clerk of Oxford, and for petition circulators Fritz Jean-Baptiste, Kendrick Jackson, and Rokelle Harris. The Committee objected to issuance of the Dillingham and Harris subpoenas on timeliness and relevance grounds. I overruled those objections but concluded that I was unable to issue MAPA subpoenas to the out-of-state circulators due to the restriction in 5 M.R.S.A. § 9060(1)(A) that subpoenas be issued “only within the territorial limits.” I instead issued letters to these circulators pursuant to their agreement to submit to the jurisdiction of Maine in their circulator affidavits, requesting that they appear at the hearing and give testimony, either in person, by Zoom link, or by telephone. All three circulators appeared, with Jean-Baptiste and Harris appearing by Zoom and Jackson appearing by telephone after attempts to connect by Zoom were unsuccessful.²

The hearing was held as scheduled on May 12, 2026. Gilbert called the following witnesses:³

Jillian McLeod-Tardiff
Mary Henderson
Amy Stubbs
Gabriel LaSalle
Deborah Considine
Cynthia Grimm
Kathleen Dillingham (by subpoena)

² Jackson attempted to appear by Zoom, as evidenced by his appearance in the Zoom waiting room during the hearing. However, he was unable to connect when his turn came to testify, apparently due to a poor connection. The hearing was reconvened on May 13, 2026, so that Jackson could again attempt to connect by Zoom. That effort was unsuccessful, resulting in taking his testimony by telephone. Jackson later testified that the poor connection was the result of his current employment on a ship in the Pacific Ocean. Although Gilbert objected to the testimony by telephone, arguing that it prejudiced her ability to show documents to the witness, I conclude that Jackson acted in accordance with the letter requesting him to testify by methods including phone (to which Gilbert did not object at the time) and, furthermore, appeared to have made good-faith efforts to connect by Zoom before resorting to a telephone connection.

³ This list does not reflect witness order, as some witnesses were taken out of turn to accommodate their schedules.

Nancy Penn

The Committee called the following witness:

Cairo
Susan Mays
Rokelle Harris (by letter request)
Fritz Jean-Baptiste (by letter request)
Kendrick Jackson (by letter request).

In addition, the following exhibits were entered into evidence.

Committee Exhibits:

Committee 1: Corrected State of Maine Circulator Affidavit from Cairo

Gilbert Exhibits:

Gilbert 2: Photo, Topsham
Gilbert 3: Photo, Topsham
Gilbert 4: Video, Topsham
Gilbert 5: Video, Topsham
Gilbert 9: Photo, Biddeford
Gilbert 10: Photo, Biddeford
Gilbert 11: Photo, Biddeford
Gilbert 13: Video, Biddeford
Gilbert 18: Photo, Auburn
Gilbert 19: Photo, Auburn
Gilbert 27: Supplement to Challenge Table 18

Prior to the hearing, Gilbert also circulated some demonstrative exhibits to the parties and the Secretary, which appear to contain excerpts from the Agency Record (AR) filed with the Court. Gilbert used some of these demonstratives to examine witnesses but did not request their admission. In a post-hearing email, the Committee objected to these demonstratives on grounds that they were not admitted to the record. However, the Agency Record is already a part of the hearing record and the Committee makes no argument that the demonstratives are anything more than excerpts from that voluminous record. Because the demonstratives are not themselves evidence, it would have been proper for me to rely upon them in reaching my recommended

decision. I note, however, that other than the extent to which I observed counsel use them at hearing to examine witnesses, I did not in fact rely upon these demonstratives in reaching my conclusions.

After briefly reconvening the hearing on May 13, 2026, to hear the telephone testimony of Mr. Jackson, I closed the evidentiary portion of the hearing. The parties submitted written post-hearing briefs on May 15, 2026.

Based on the credible testimony at hearing by witnesses Nancy Penn and Kathleen Dillingham indicating that two petition forms circulated by Rokelle Harris listed voters who did not sign the petition, I also directed Elections Division staff to review the other signatures on Circulator Harris's petition forms. Upon review of each signature, the Elections Division concluded that all 61 of the signatures collected by Circulator Harris should have been invalidated for ANO, i.e., signed by another. I will be providing the parties with the voter registration applications that the Elections Division used to draw these conclusions, which the parties are directed to refrain from publicly disseminating under 21-A M.R.S.A. § 196-A(1).

Also, based on Gilbert's contention that the Secretary erred in contesting the invalidity of 152 of the signatures challenged in Challenge 14, I further directed the Elections Division to review those 152 signatures pursuant to the Division's usual practices for resolving date discrepancies on petition forms. The Elections Division review determined that 6 of the 152 signatures contested by Gilbert should have been invalidated.

Proposed Findings of Fact

I recommend that the Secretary make the following findings of fact:

Circulation of Petitions at Mt. Ararat High School on November 4, 2025

1. On Election Day, November 4, 2025, a circulator for the Initiative collected signatures at Mt. Ararat High School, the polling place for Topsham. (Test. of McLeod-Tardiff; Test. of Henderson; Test. of Considine; Gilbert Exs. 2–5).
2. The circulator collected signatures at a table set up in a hallway near where voters exited from the gymnasium, where voting was taking place. Two other tables for other causes were set up in the same area. (Test. of McLeod-Tardiff; Gilbert Exs. 2–5).
3. Attached to the circulator’s table, so that they hung in front of the table and would be visible to voters as they passed, were two identical printed color signs, approximately 18” x 24” in size, that invited voters to “Sign the Petition,” followed underneath with “Protect Girls Sports in Maine” in large text. (Gilbert Ex. 3).
4. The circulator was paid a fixed amount for each signature he collected. AR 0051.
5. Three testifying witnesses staffed the two other tables, collectively between the hours of approximately 8:00 a.m. and 3:00 p.m., and were able to observe the circulator during this time. (Test. of McLeod-Tardiff; Test. of Henderson; Test. of Considine).
6. At approximately 8:20 a.m., the circulator left his table, leaving petition forms face up on the table. The circulator went to an unknown location outside the vicinity of the hallway in which the circulating tables were set up. (Test. of Henderson).
7. The circulator was gone from the table for at least several minutes, with no one substituting for him. (*Id.*)

8. While the circulator was gone, one person signed one of the petition forms that the circulator left behind. (*Id.*)

9. The circulator was expected by his supervisor to be circulating petitions the entire day on November 4, 2025, and was disgruntled about the lack of a lunch break. (Test. of McLeod-Tardiff).

10. Around midday, the circulator again left the circulating table, with no one substituting for him. The circulator went to an unknown location outside the vicinity of the hallway in which the circulating tables were set up. (Test. McLeod-Tardiff; Test. of Considine).

11. The circulator left petition forms on the table, attached to two clipboards, turned face down on the table, together with a pen and other papers. (Test. of McLeod-Tardiff; Test. of Considine; Gilbert Ex. 2).

12. The circulator was gone 40 to 45 minutes. (Test. of McLeod-Tardiff; Test. of Considine).

13. While the circulator was gone approximately 7 to 10 people signed the petition form. (Test. of Considine; Test. of McLeod-Tardiff; Gilbert Exs. 2, 4–5).

14. The circulator was male and stated to others present that he was from Texas, specifically Austin. (Test. of McLeod-Tardiff; Test. of Henderson; Test. of Considine).

15. Eight circulators submitted circulator affidavits to the Secretary listing a Texas residence. AR 032605–032926. Circulator Elias Vasquez is the only one of those circulators who submitted signatures from Topsham. (AR 0263–65).

16. Circulator Vasquez listed his residence on his Circulator Affidavit as Hutto, Texas, a town approximately 20 miles from Austin, Texas.⁴ (AR 032911.)

17. Circulator Vasquez submitted a total of 10 petition forms with signatures of Topsham voters, containing a total of 605 signatures validated by the Secretary of State. (AR 0263–65.)

18. All of the signatures Circulator Vasquez collected for the Initiative that were submitted to the Secretary were collected in Topsham on Election Day, November 4, 2025. (AR 0465; Pet. Nos. 6787, 6790, 6792, 6805, 6806, 6807, 6808, 6809, 6810, 6811).

19. No other circulator who submitted signatures from Topsham submitted more than 20 signatures. (*Id.*)

20. Circulator Vasquez is the circulator who left his petition forms unattended twice at Mt. Ararat High School on November 4, 2025, as found above. (Test. of McLeod-Tardiff; Test. of Considine; Test. of Henderson; AR 0465; Pet. Nos. 6787, 6790, 6792, 6805, 6806, 6807, 6808, 6809, 6810, 6811).

21. Circulators are instructed that, if someone signs one of their petition forms outside their presence, the proper procedure is to cross out that signature. (AR 0025).

22. Circulator Vasquez's submitted petitions contain two cross-outs. One was crossed out by the municipal clerk, as evidenced by the use of red ink, likely due to the failure of the voter to list a street address or municipality. Pet. No. 6805. The other cross-out was originally made in black ink (though the municipal clerk also crossed it out in red ink), *see* Pet.

⁴ The distance calculation is from maps.google.com, of which calculation I recommend the Secretary take official notice.

No. 6806, and was coded by the Secretary as WD—withdrawn—meaning that the cross-out could have been done by either the voter or the circulator. (AR 0100).

23. The single cross-out, even if it was done by Circulator Vasquez and not the voter, is not sufficient to account for the number of people who signed the petition while it was unattended. (Test. of Considine; Test. of McLeod-Tardiff).

24. On each of the petition forms Circulator Vasquez submitted, he swore the following oath:

I hereby make oath that I am the Circulator of this petition; that I personally witnessed all of the signatures to this petition; and, to the best of my knowledge and belief, each signature is that of the person whose name it purports to be. If any voter was unable to sign due to a physical disability, I hereby verify that the voter authorized another voter to sign at the voter's direction and in the voter's presence.

(Pet. Nos. 6787, 6790, 6792, 6805, 6806, 6807, 6808, 6809, 6810, 6811).

25. Circulator Vasquez also swore in his circulator affidavit that he “read and understand[s] the information provided by the Secretary of State’s Office to the applicant, pursuant to Title 21-A § 903-A, sub-§3, including the laws and rules governing the circulation of petitions.” AR 032911.

26. The Secretary’s Instructions to Circulators state that “you may not leave the petitions unattended at a location, or attended by someone other than yourself. You must be able to take the oath that is written on the petition and state truthfully that you personally witnessed each person sign the petition.” R0024.

27. At least one, and likely more, of the 10 petition forms circulated by Circulator Vasquez at Mt. Ararat High School on November 4, 2025, contain signatures that Circulator Vasquez did not witness, despite his oath that he witnessed all signatures.

28. On at least those petition forms, Circulator Vasquez could not have reasonably believed his oath to be true and accurate.

Circulation of Petitions at Thornton Academy on November 4, 2025

29. On Election Day, November 4, 2025, Circulator Susan Mays collected signatures for the Initiative at Thornton Academy, the polling place for Saco. (Test. of Mays; Test. of Stubbs; Test. of LaSalle).

30. Circulator Mays submitted a total of 9 petition forms in support of the Initiative, all of which exclusively contained signatures collected on November 4, 2025. The petitions collectively contained 194 validated signatures. (AR 0419; Pet. Nos. 5937, 5938, 5942, 5943, 5959, 5963, 5964, 5965, 5966).

31. On each of the petition forms Circulator Mays submitted, she swore the following oath:

I hereby make oath that I am the Circulator of this petition; that I personally witnessed all of the signatures to this petition; and, to the best of my knowledge and belief, each signature is that of the person whose name it purports to be. If any voter was unable to sign due to a physical disability, I hereby verify that the voter authorized another voter to sign at the voter's direction and in the voter's presence.

(Pet. Nos. 5937, 5938, 5942, 5943, 5959, 5963, 5964, 5965, 5966).

32. Circulator Mays also swore in her circulator affidavit that she “read and understand[s] the information provided by the Secretary of State’s Office to the applicant, pursuant to Title 21-A § 903-A, sub-§3, including the laws and rules governing the circulation of petitions.” AR 032594.

33. Circulator Mays was in fact aware of the requirement that she personally witness all signatures. (Test. of Mays).

34. Circulator Mays collected signatures at a table in a cordoned area of the Thornton Academy gymnasium between the voting area and the exit. Two other tables for other causes were set up in a row with Circulator Mays's table. (Test. of Stubbs; Gilbert Ex. 11).

35. Two testifying witnesses staffed the two other tables, collectively from 10:00 a.m. until after Circulator Mays left for the day and were able to observe the circulator during this time. (Test. of Stubbs; Test. of LaSalle).

36. Circulator Mays was the only circulator staffing the table between approximately 9:00 a.m. and 3:15 p.m. (Test. of Mays; Test. of Stubbs; Test. of LaSalle).

37. Circulator Mays's practice was to place active petition forms on clipboards for voters to sign and had petition forms attached to approximately six clipboards while she was circulating at Thornton Academy. (Test. of Mays).

38. Around noon, Circulator Mays left the gymnasium for approximately 25 minutes to eat lunch. (Test. of Mays; Test. of Stubbs).

39. Circulator Mays took with her clipboards containing petition forms but left on the table stacks of blank petition forms, pens, and signs identical to the signs described in paragraph 3, urging voters to "Sign the Petition." (Test. of Mays; Test. of Stubbs; Gilbert Ex. 9).

40. While Circulator Mays was gone, 25 to 30 people signed one or more of the blank petition forms. (Test. of Stubbs).

41. Later in the afternoon, at approximately 1:50 p.m., Circulator Mays again left the gymnasium for between 15 and 30 minutes. (Test. of Stubbs; Test. of Mays; Gilbert Exs. 9–11, 13).

42. Circulator Mays again left on the table stacks of blank petition forms, pens, and signs urging voters to "Sign the Petition." (Test. of Mays; Test. of Stubbs; Gilbert Ex. 9).

43. While she was gone, as many as 30 more people signed the unattended petition forms on Circulator Mays's table. (Test. of Stubbs; Test. of LaSalle; Gilbert Exs. 10–11, 13).

44. A photograph of Circulator Mays's unattended table shows two distinct stacks of petition forms. One stack was positioned on the left side of the table and one on the right. The right stack had a pen next to it while the left stack had a pen on top of it. Additional pens were in the middle of the table. The petitions were positioned so that two voters could simultaneously approach the table and sign the forms. No petition forms are attached to clipboards in the photograph. (Gilbert Ex. 9).

45. At 1:52 p.m. (the time of the photograph) the top petition form on the right stack contained 20 signatures. (Gilbert Ex. 9).

46. Circulator Mays did not witness any of these 20 signatures. (Gilbert Ex. 9; Test. of Stubbs; Test. of Mays).

47. After the photograph was taken, more people signed one or more unattended petition forms on the table. (Gilbert Ex. 10–11, 13).

48. Although Circulator Mays testified that she sequestered and then destroyed the petition form containing unwitnessed signatures, a comparison of the photograph of Circulator Mays's unattended table to Circulator Mays's submitted petition forms shows that form was in fact submitted to the Secretary for validation, resulting in 24 validated signatures and 1 invalid signature. (Gilbert Ex. 9; Pet. No. 5943).

49. The final petition form submitted to the Secretary contained the 20 signatures shown in the photograph plus 5 more, completely filling the front side of the petition form. (Pet. No. 5943).

50. Circulator Mays swore the circulator's oath for the petition form containing the unwitnessed signatures on the same day, November 4, 2025, attesting that she witnessed all signatures on the form. (Pet. No. 5943).

51. Circulator Mays swore the circulator's oath on an unknown number of additional petition forms with unwitnessed signatures from that day.

52. With regard to at least those petition forms containing unwitnessed signatures, Circulator Mays could not have reasonably believed her oath to be true and accurate.

Circulation of Petitions at the Auburn Tree Lighting and Parade on December 7, 2025

53. Several circulators for the Initiative circulated petitions at a Christmas tree lighting ceremony and parade held in Auburn on December 7, 2025. (Test. of Grimm).

54. During the event, one circulator approached a line of people waiting for hot cocoa, inquired whether people in line would like to sign the petition, and then handed a petition form to the first person in line. (Test. of Grimm).

55. The circulator then moved to a location approximately 15 feet away while the petition form was passed from person to person in the line.

56. The circulator periodically returned to the line, collected the petition form, and then approached a new group of people in line, asking if they wished to sign the petition. (Test. of Grimm).

57. The circulator made inquiries to the people in line to ensure that he was providing them with the proper petition form for their municipality of residence. (Test. of Grimm).

58. In total, the circulator collected several dozen signatures from people of various municipalities using this method. (Test. of Grimm).

59. For periods of indeterminate length while the petition was in the possession of people in line, the circulator had his back turned to the line, using his phone. (Test. of Grimm).

Circulation of Petitions by Rokelle Harris

60. Rokelle Harris is a professional petition circulator who submitted petitions for the Initiative. (Test. of Harris).

61. Circulator Harris was paid \$4 per signature collected. (Test. of Harris; *see* AR 0051).

62. Circulator Harris submitted 14 petition forms to the Secretary, which were initially determined to consist of 61 valid signatures and 16 invalid signatures. (AR 0375).

63. Two signatures were invalidated for ANO, meaning that the signatures did not match the voters' signatures on file with the municipal registrar. An additional 5 signatures were invalidated because the signing voters had signed the petition more than once (DUP). The remaining invalidations were for REG—meaning the voter was not registered. (*Id.*)

64. Circulator Harris's petition form from Hiram contained 8 signatures (7 determined valid). (Pet. No. 3146).

65. One of the signatures on the Hiram petition, for voter Nancy Penn, was a forgery. (Test. of Penn; Pet. No. 3146).

66. Ms. Penn does not know how her signature came to be on the petition and does not know Circulator Harris. (Test. of Penn).

67. Circulator Harris submitted two petition forms containing a total of 8 signatures from Oxford. (Pet Nos. 5122, 5123).

68. The Deputy Clerk for Oxford reviewed and validated 6 of the signatures. Two signatures were invalidated for NR—not registered to vote. (Pet. No. 5122; Test. of Dillingham).

69. Following submission of the petition forms to the Secretary, the Oxford Town Clerk, Kathleen Dillingham, received a complaint from a voter concerning a change of address form they had received as a result of signing the petition. In the course of resolving that complaint, Clerk Dillingham noticed two signatures on the petition forms submitted by Circulator Harris that she deemed suspicious. (Test. of Dillingham).

70. Clerk Dillingham contacted the two voters, Diane Jackson and Robert Plummer. Both voters confirmed that they did not sign the petition. (Test. of Dillingham).

71. Clerk Dillingham then notified the Secretary and conducted a review of the remaining signatures on the petition forms, which she also deemed suspicious. (Test. of Dillingham).

72. A post-hearing review by the Election Division staff comparing signatures contained in the 14 petition forms submitted by Circulator Harris with voters' signatures on their voter registration applications concluded that all 61 validated signatures collected by Harris should have been invalidated for ANO.

Circulation of Petitions by Fritz Jean-Baptiste

73. Fritz Jean-Baptiste circulated 77 petition forms submitted to the Secretary, containing 765 validated signatures and 156 invalidated signatures. (AR 0389–0391).

74. Circulator Jean-Baptiste was paid by the signature. (Test. of Jean-Baptiste).

75. Circulator Jean-Baptiste submitted five petition forms containing 324 signatures collected on Election Day in New Gloucester that had no invalidations. (Pet Nos. 4576, 4577, 4578, 4579, 4580).

76. One of Circulator Jean-Baptiste's petition forms, submitted to the Sanford clerk, was found to contain 9 signatures invalid for ANO—signed by another. That petition also had one duplicate signature and 13 validated signatures. (Pet. No. 6018).

77. Circulator Jean-Baptiste submitted petition forms with three other signatures invalidated for ANO. One was on a petition form submitted to Cumberland that also contained 5 validated signatures and two were on a petition form submitted in Lewiston that had 48 validated signatures, as well as 10 signatures invalidated for NR and 4 signatures invalidated for DUP. (Pet. Nos. 1846, 3726).

78. Circulator Jean-Baptiste had a high number of signatures invalidated for DUP relative to other circulators. AR 0296–0488.

79. A comparison of the duplicate signatures shows that some of them have discrepancies in the signature, handwriting, and spelling of names and addresses, suggesting that the same person did not sign both times.

Circulation of Petitions by Kendrick Jackson

80. Kendrick Jackson circulated 88 petitions containing 955 validated signatures and 162 invalidated signatures. AR 0387–89.

81. Circulator Jackson was paid by the signature at \$3 or \$4 per signature. (Test. of Jackson).

82. Circulator Jackson submitted 10 petition forms collected on Election Day in Gray, with 567 validated signatures and only 8 invalidated signatures. AR 0388.

83. Following Election Day, Circulator Jackson circulated petitions at various events, such as hockey games and a festival in Bangor, in which people from multiple municipalities would be present. (Test. of Jackson).

84. Circulator Jackson did not ask for identification when people signed the petitions. (Test. of Jackson).

85. Circulator Jackson submitted a petition form to Waterville that the municipal clerk concluded contained 20 signatures invalid for ANO as well as 2 signatures invalid for NR. The clerk validated only 3 signatures on that petition form. (Pet. No. 7214).

86. None of Kendrick Jackson's other 87 petitions had any signatures invalidated for ANO. (AR 0387–89).

87. Circulator Jackson had a high number of signatures invalidated for DUP relative to most other circulators. AR 0296–0488.

88. Three petitions Circulator Jackson circulated were found by the Secretary to have between 13 and 20 signatures invalid for DUP. Each of these petitions also had between 40 and 50 valid signatures. (Pet. Nos. 329, 330, 294).

89. A comparison of the duplicate signatures shows that some of them have discrepancies in the signature, handwriting, and spelling of names and addresses, suggesting that the same person did not sign both times.

Circulation of Petitions by Adam Turner

90. Circulator Adam Turner circulated 138 petition forms containing 539 valid signatures and 341 invalid signatures. AR 0458–0461.

91. The vast majority of Circulator Turner's invalidations, 288, were for NR—not registered. (AR 0458–0461).

92. Circulator Turner had 39 signatures invalidated for DUP. (*Id.*)

93. A comparison of the duplicate signatures shows that a few of them have discrepancies in the signature, suggesting that the same person did not sign both times.

Failure to Consent to the Jurisdiction of Maine

94. Cairo circulated 466 petition forms containing 1,472 validated signatures. AR 0319–30.

95. “Cairo” is the circulator’s full legal name. (Test. of Cairo).

96. Cairo’s circulator affidavit, signed and notarized November 4, 2025, and submitted to the Secretary with the petition forms, reflects that she resides in Arizona. However, Cairo did not check the box consenting to the agreement set forth on the affidavit for out-of-state circulators, which includes submitting to the jurisdiction of the State of Maine for any investigation or prosecution of any alleged violation of Maine law. AR 032665.

97. Cairo’s failure to check the box was not inadvertent. Rather, Cairo was concerned that checking the box may require her to appear in court during midterm season and wished to get a better understanding of the requirement before consenting to it. Cairo was never provided with that better understanding and therefore executed the affidavit without checking the box. (Test. of Cairo).

98. Cairo executed a new circulator affidavit on May 6, 2026, in which she did check the box agreeing to the conditions required of an out-of-state circulator. (Test. of Cairo; Committee Ex. 1).

99. Cairo did not agree to the out-of-state circulator conditions until after the petition had been submitted to the Secretary of State on February 2, 2026, and validated by the Secretary on March 17, 2026. (AR 0096, 0002).

100. Cairo appeared by Zoom and testified in this matter at the May 12, 2026 hearing as a voluntary witness for the Committee. (Official Notice).

101. Three other circulators who reside out of state, Kewechi Chukwuma, Albert Jordan, and Hakeem Ummsalaama, did not check the box agreeing to the out-of-state circulator conditions in their circulator affidavits submitted with the petition and have not since submitted corrected affidavits. (AR 032608, 032767, 032674).

Legal Analysis

I. Recommended Resolution of Challenge 2

A. Signatures collected by Elias Vasquez on Election Day in Topsham should be invalidated.

Gilbert presented testimony from three witnesses present at Mt. Ararat High School on Election Day, November 4, 2025, indicating that the sole circulator present to circulate petitions for the Initiative left his petition forms unattended on at least two separate occasions during the day, during which time 8 to 11 people signed the petition forms. I found the testimony of these three witnesses to be credible. Moreover, their testimony was corroborated with photographic and video evidence. The Committee did not call the circulator as a witness to contest the testimony presented by Gilbert or offer any other evidence contradicting those witnesses' accounts. Witness testimony and a review of the petition forms submitted from Topsham make clear that this circulator could only have been Elias Vasquez.

Circulator Vasquez submitted 10 petition forms containing signatures collected on Election Day from Topsham voters. The testimony and evidence establishes that at least one and likely more than one petition form submitted by Circulator Vasquez contained unwitnessed signatures, given the two different times of day he left the petitions unattended in direct violation of the Secretary of State's instructions to circulators and the multiple signings of the petition

form that occurred when he was away. What is more, the testifying witnesses were only present until 3:00 p.m. while the circulator indicated that he was assigned to stay the entire day. Given the circulator's demonstrated pattern of leaving petitions unattended and the lack of any backup, it is very possible that he left the petitions unattended additional times after the witnesses left and before polls closed at 8:00 p.m.

Although the evidence is clear that Circulator Vasquez submitted signatures with unwitnessed signatures in violation of his circulator's oath, the evidence at hearing did not establish which of the 10 petition forms submitted by Circulator Vasquez from that day contain the unwitnessed signatures. The question presented is whether this lack of proof prevents the Secretary from invalidating any signatures or whether, as Gilbert urges, the circulator's course of conduct is sufficient to allow invalidation of all signatures collected by Circulator Vasquez on that day or, even, during the entire petition drive.⁵

Maine statute largely does not specify the circumstances under which the Secretary may invalidate signatures on a petition form, providing only that the Secretary "shall determine the validity of the petition" and "may invalidate a petition if the Secretary of State is unable to verify the notarization of that petition." 21-A M.R.S.A. § 905. Despite the dearth of express statutory guidance, it is "well established that the Secretary has the authority to invalidate petitions *in toto* when the circulator has not complied with statutory or constitutional requirements." *Maine Taxpayers Action Network v. Sec'y of State* ("MTAN"), 2002 ME 64, ¶ 12, 795 A.2d 75. The requirement that circulators witness all signatures on a petition is both a statutory and a constitutional requirement. Me. Const. art. IV, pt. 3, § 20 (requiring circulator oath that "all of

⁵ It turns out that this distinction is moot as a practical matter since Circulator Vasquez only circulated petitions on Election Day.

the signatures to the petition were made in the presence of the circulator”); 21-A M.R.S.A. § 902 (circulator must take an oath that “the circulator personally witnessed all of the signatures to the petition”). The Legislature has underlined the importance of this requirement by making it a Class E crime to willfully swear that a signature was made in the circulator’s presence when it was not. 21-A M.R.S.A. § 904(5). So too has the Law Court recognized the importance of the circulator’s oath, calling it “critical to the validation of a petition,” since it serves to help verify that “a signing voter actually signed the petition.” *MTAN*, 2002 ME 64, ¶ 13, 795 A.2d 75.

The Law Court has confirmed that flaws in the circulator’s oath generally require at least invalidation of all signatures on the petition form containing the flaw. *See Palesky v. Sec’y of State*, 1998 ME 103, ¶ 11, 711 A.2d 129 (failure to take circulator’s oath before a notary required invalidation of the petition); *MTAN*, 2002 ME 64, ¶ 18, 795 A.2d 75 (circulator’s use of a false name required invalidation of all petition forms circulated under that name). In *MTAN*, the Law Court concluded that invalidation of all petitions with the false circulator name was permissible because “the Secretary had ample authority and reason to question the authenticity of the signatures” collected by the circulator. 2002 ME 64, ¶ 21, 795 A.2d 75. What is more, there is no constitutional requirement that the Secretary find fraud before she may invalidate full petitions for noncompliance with statutory or constitutional requirements. *Knutson v. Dep’t of Sec’y of State*, 2008 ME 124, ¶ 26, 954 A.2d 1054.⁶

⁶ The Legislature has provided more detailed instructions for when *candidate* petition forms should be invalidated. Under the current version of that test (which was amended after the *Knutson* decision), petition forms may be invalidated in full only if (1) the circulator did not “reasonably believe[]” their circulator oath to be true when taken, or (2) there is “proof of fraud or a knowingly false statement by the circulator.” 21-A M.R.S.A. §§ 335(8); 354(9). These provisions do not apply to direct initiative petitions. *See* 21-A M.R.S.A. § 902 (incorporating subsections 3 and 4 of § 354 into the direct initiative process but not subsection 9). And, in any event, even if they did, they would not prevent invalidation of full petition forms, since any subjective belief Circulator Vasquez might have had in the truth and accuracy of his circulator oath was not reasonable given his conduct.

The question posed by the facts here is novel: what is the appropriate remedy when it is proven that a circulator left his petitions unattended, resulting in multiple unwitnessed signatures that the circulator then swore he witnessed, but the specific petition forms containing the unwitnessed signatures cannot be determined? It is my recommendation that, in the factual circumstances presented here, the proper remedy is invalidation of all signatures collected by Circulator Vasquez on November 4, 2025.

Here, the evidence established that Circulator Vasquez left his petitions unattended more than once on November 4, 2025, suggesting a general practice at least on the day in question where he was circulating alone and expected by his supervisor to stay the entire day. The evidence further established that more than one of the 10 petition forms circulated by Circulator Vasquez likely had unwitnessed signatures. And the evidence left no doubt that the circulator who engaged in this misconduct was Circulator Vasquez. Under these circumstances, I conclude that the circulator's oath on each of the 10 petition forms that Circulator Vasquez circulated that day is sufficiently untrustworthy to warrant invalidation of the signatures contained on each of those petition forms. I further conclude that failure to invalidate signatures despite proven serial misconduct by the circulator, based solely on an inability to pinpoint the exact petition forms affected, would reward improper conduct and undermine public confidence in the direct initiative process. What is more, given that Circulator Vasquez engaged in clear misconduct by leaving his petition forms unattended, leading to unwitnessed signatures, my recommendation does not depend on whether Circulator Vasquez was consciously aware that his petition forms contained unwitnessed signatures when he took the circulator's oath. Even if he had a subjective belief in the truth of his circulator oath, that belief would have been unreasonable in light of his conduct.

Although the issue is moot in this case since Circulator Vasquez only circulated petitions on one day, I note that my recommendation is deliberately cabined to the petitions submitted from the day in question. The evidence at hearing established a course of circulator conduct in a particular circumstance—collecting signatures at a polling place over a long day with no backup. Recognizing the important rights of voters that are at stake in petition validation decisions, I would be reluctant to extend my recommendation to invalidating petition forms collected by Circulator Vasquez on different days under different circumstances, absent some evidence or testimony that the course of conduct witnessed on Election Day had repeated itself.

In short, I recommend that the Secretary invalidate all signatures collected by Circulator Vasquez on November 4, 2025.

B. Signatures collected by Susan Mays on Election Day in Saco should be invalidated.

My analysis is similar with regard to petitions circulated by Susan Mays at Thornton Academy in Saco on Election Day. As with Topsham, credible witnesses staffing tables adjoining Circulator Mays's table testified that she left petition forms unattended twice during the day, during which time many people signed the petition. As with Topsham, their testimony was corroborated by photo and video evidence. Unlike with Topsham, however, Gilbert submitted photographic evidence confirming that one of the petition forms that Circulator Mays left unattended on the table, which contained 20 signatures at the time of the photograph, was submitted to the Secretary for validation.

Although Circulator Mays, unlike Circulator Vasquez, testified at the hearing, I found her testimony to be largely not credible, other than her admission against interest that she left blank petition forms unattended on two occasions. Most troublingly, Circulator Mays testified that she knew that she was not permitted to submit unwitnessed signatures and therefore, when she

returned from one of her absences and found a form containing an unwitnessed signature, she sequestered it in a Tupperware container and later destroyed it. Photographic evidence admitted at hearing, however, establishes that at least one petition form circulated by Circulator Mays that contained many unwitnessed signatures⁷ was not destroyed, but instead submitted to the Secretary for validation. Circulator Mays also gave shifting accounts of what happened that day. She testified that only a single person signed the petition form while she was away, and then later indicated that it was multiple people. She testified about her interaction with a person staffing a table promoting a candidate after she returned from an absence, despite the photos and videos in evidence showing no table where she claimed it was located and no other witnesses describing such a table. Given the inconsistencies within her testimony and between her testimony and the credible evidence submitted by Gilbert, I have declined to credit the exculpatory aspects of Circulator Mays's testimony in reaching the proposed findings above.

Moreover, while photographic evidence establishes that one petition form was almost certainly submitted to the Secretary with unwitnessed signatures, the evidence further showed that it is highly likely that other petition forms from that day with unwitnessed signatures were also submitted. Circulator Mays left the area twice at different times for significant periods of time. Witness testimony, video, and photographs establish that many people signed the petition forms she left behind during those periods. The petition form containing the 20 unwitnessed signatures was photographed at the start of Circulator Mays's second break, after which many additional people signed the petition. Gilbert Exhibit 9 shows that the front of the petition form

⁷ Circulator Mays testified that she circulated petitions on clipboards and that when she left the table she would take the clipboards with her but not the stacks of blank petition forms that she also kept on the table. That the unattended petition form in the photograph is on top of a stack of petition forms and not attached to a clipboard is thus strong evidence that none of the signatures on that form were witnessed by Circulator Mays.

was already almost full at that point, with 20 of the 25 available signature lines filled in. Given the number of people observed to have signed the petition during Circulator Mays's absence (as many as 30), and the fact that five prospective signers are pictured waiting in line to sign the petition in one photograph alone, it is highly likely that signers filled the remaining five lines on that petition and then moved on to the next blank petition form—possibly the one arranged to face prospective signers just to the left of the partially filled one (with a pen placed on top). What is more, Gilbert's witnesses provided estimates of the total number of unwitnessed signatures they observed that day ranging between 35 and 60 people. Even the lowest estimate—35 people—exceeds the 25 signatures contained on the petition form affirmatively identified as containing unwitnessed signatures. In short, more than one petition form with unwitnessed signatures was likely submitted to the Secretary.

This fact pattern is remarkably similar to the fact pattern in Topsham: a sole circulator left petitions unattended multiple times while tabling on Election Day, resulting in numerous unwitnessed signatures spanning multiple petition forms, at least some of which cannot be specifically identified. If anything, the case for invalidation is even stronger here, where the circulator testified that she understood she could not submit unwitnessed petitions and claimed to have destroyed a form containing unwitnessed signatures, despite photographic evidence showing that one of her petition forms containing unwitnessed signatures was submitted to the Secretary for validation. Under this specific set of facts, I again conclude that none of the circulator oaths taken by Circulator Mays for petitions circulated on this day are trustworthy and

therefore recommend that the petition forms submitted by Circulator Mays containing signatures gathered on November 4, 2025, be invalidated.⁸

C. The evidence is insufficient to invalidate any signatures collected in Auburn on December 7, 2025 for failure to witness signatures.

Gilbert also seeks the invalidation of all petition forms circulated by a circulator that Gilbert contends to be Adam Turner⁹ based on conduct observed by a single witness at an outdoor Christmas event in Auburn on December 7, 2025. Specifically, Circulator Turner is alleged to have allowed his petition forms to be passed from person to person in lines of people waiting to purchase hot cocoa and other things while he was standing some distance away with his back turned, while he was operating his phone, or both.

In assessing this challenge, I recommend that the Secretary apply the longstanding two-part framework for assessing whether a petition was signed in the “presence” of a circulator: whether there was both “physical proximity” and “awareness.” *See Knutson*, 2008 ME 124, ¶ 12, 954 A.2d 1054. Under this test, if the circulator is “too far away to see the voters sign their names,” *id.*, or, alternatively, within range but not actually observing the signing process, due to distractions or otherwise, the petition is not signed in the circulator’s “presence” as required by the Maine Constitution and statute. Me. Const. art. IV, pt. 3, § 20; 21-A M.R.S.A. § 902.

Here the evidence indicated that the circulator was positioned roughly 15 feet from the signers. That distance, while perhaps further than ideal, would not appear to be so far away as to

⁸ As with Circulator Vasquez, this amounts to all of Circulator Mays’s petition forms. But as with Topsham, my recommended remedy would not have extended beyond signatures gathered on the day in question, absent evidence of misconduct on other days.

⁹ The testimony indicated that there were multiple circulators present at the event in question and the witness did not identify the circulator as Adam Turner. Gilbert contends that I could rely on the photographs in the record and social media accounts belonging to Mr. Turner to identify him. Because I do not recommend invalidating signatures based on this challenge, I need not consider whether it would be appropriate for me to take official notice of a private citizen’s social media account.

violate the “presence” criteria. Moreover, while Gilbert presented evidence suggesting that the circulator displayed lapses in “awareness” of the signatures, by turning away from the petition signers or operating his phone, this evidence was markedly weaker than the evidence presented in support of the Topsham and Saco challenges. Gilbert presented only a single witness who testified to the circulator’s conduct. Moreover, the witness, who was waiting in line for hot cocoa with her daughter, testified that her view was obstructed. When asked on direct “Had you taken any photographs of the circulator?” the witness responded “No, I was trying to, but it was impossible to get an angle from where I was sitting. There were people in the way.” Although the witness later testified on cross-examination that the issue was being unable to get the circulator and petition forms in the same frame due to “people who were not involved in the way” or being “too far apart,” it seems clear that the witness had a less than ideal view of the circulator and petition-signers from her position in line. Gilbert was unable to present any additional witnesses to the alleged behavior or any video or photos that might have corroborated the witness’s testimony.¹⁰

While I do not doubt that the witness observed the circulator at various points with his back turned to the line, taking video with his phone, or otherwise operating his phone, I conclude that the evidence is insufficient to recommend finding that the circulator was engaged in those actions continuously while the petition forms were circulating through the line, such that he generally lacked awareness of who was signing his forms. At most, the evidence establishes that the circulator’s attention was diverted enough that he lacked awareness of what was happening with the petition at a few specific points in time. Such an infraction might warrant invalidation

¹⁰ There is no dispute that the two photos of the circulator admitted to the record were taken after he completed his circulating efforts.

of any signatures collected during these lapses, or possibly even a full petition form containing such signatures if it could be affirmatively identified, but it does not, in my view, warrant the more severe remedy of invalidation of all of the circulator's petition forms collected on December 7, 2025. Since the evidence does not establish any specific problematic signatures or petition forms, I recommend that no signatures be invalidated under this challenge.

To be clear, this recommendation is not to condone the circulator's actions. Circulators who fail to actively observe their petition forms while they are being signed risk invalidation of those signatures and potentially all others that they have collected on that form or even on other forms. However, given the relative weakness of the evidence, and in absence of any evidence of specific unwitnessed signatures on specific forms, I do not recommend invalidating any signatures in response to this challenge.

D. The evidence is insufficient to invalidate any signatures collected by Circulator Jean-Baptiste for failure to witness signatures.

Gilbert seeks to invalidate all signatures collected by Fritz Jean-Baptiste during the entire campaign based on his testimony that "There were times where the petition was placed on a table, and there was a crowd of some people, and I did my best to witness *most* of the signatures, yes" (Test. of Jean-Baptiste (emphasis added)), and further testimony that he sometimes allowed his form to be passed amongst a crowd of people and did not follow it around the crowd, though he was "there within the crowd." *Id.*

Circulator Jean-Baptiste's testimony is concerning. The circulator's obligation is to witness *all* signatures, not "most." And, as discussed above, passing a petition form through a crowd creates risks that not all signatures will be made in the presence of the circulator if the circulator is inattentive or too far away. However, with that said, there is no evidence in the record that would allow me to pinpoint which signatures or petition forms might be subject to

invalidation based on Circulator Jean-Baptiste's testimony. The only option would be to invalidate all of Circulator Jean-Baptiste's 77 petition forms. I do not believe such a remedy is appropriate based on a few concerning but vague sentences of testimony. I therefore recommend that the Secretary invalidate no signatures under this challenge.

II. Recommended Resolution of Challenge 19

A. Signatures collected by Rokelle Harris should be invalidated.

At hearing, a voter who appeared on Rokelle Harris's petition form for Hiram, Nancy Penn, testified credibly under oath that she never signed the petition and, indeed, had never heard of it. In addition, Oxford Town Clerk Kathleen Dillingham credibly testified that she identified two suspicious signatures on Circulator Harris's petition forms for Oxford and those two voters, Diane Jackson and Robert Plummer, then personally confirmed to Clerk Dillingham that they had never heard of the petition and were very sure that they did not sign it. Clerk Dillingham further testified that she also found the remaining signatures on the petition form to be suspicious, and the record reflects that she reported those considerations to the Secretary of State's Elections Division while it was in the process of validating the petition.¹¹ AR 0074.

Based on this testimony, I directed the Elections Division to review all the signatures on the two Oxford and one Hiram petition forms circulated by Circulator Harris.¹² Elections staff

¹¹ The Election Division was apparently unable to review Clerk Dillingham's concerns at the time, likely due to the extreme workload that comes with reviewing a direct initiative petition for validity within the 30-day statutory time period.

¹² While the Elections Division is not required to review petition signatures under the statutory and constitutional scheme—and it is therefore not reversible error if it fails to do so—it is certainly permitted to review such signatures if there are sufficient indicia of fraud or other misconduct. Moreover, nothing in the Superior Court's remand order prevents the Elections Division from conducting additional investigation to supplement the evidence in the hearing record where, as here, the evidence at hearing strongly indicated a need for additional investigation.

determined that none of the signatures on these three petition forms matched the voters' signatures on their voter registration applications. Elections staff reviewed the signatures based on the image of the application contained in CVR or, if no image was available, by requesting a copy of the original registration application from the relevant clerk. Based on the results of this review, I asked the Elections Division to extend their review to Circulator Harris's remaining 11 petition forms. They concluded that each of the validated signatures collected by Harris on these forms also should have been invalidated for ANO.

The conclusion of the Elections Division is obviously very concerning. However, for purposes of this remand proceeding I need not determine whether Circulator Harris committed fraud, or the resulting legal question raised by the Committee of whether such a finding must be made by clear and convincing evidence. Rather, because a signature-by-signature review of Circulator Harris's petition forms indicated that 100% of Circulator Harris's signatures should have been invalidated for ANO, I recommend invalidation of those 61 signatures on the straightforward basis that those signatures were not made by the named voters.

B. The discrepancies identified in the remaining circulators' petition forms, while sometimes troubling, are insufficient to prove fraud.

Gilbert also challenges all of the petition forms circulated by three circulators, Fritz Jean-Baptiste, Kendrick Jackson, and Adam Turner, on a theory that all three circulators engaged in fraud. Gilbert's theory of fraud however, is constructed solely around a paper review of these circulators' petition forms combined with cross examinations of Circulators Jean-Baptiste and Jackson in which they did not admit to fraud.

Gilbert correctly points out that these three circulators had unusually high rates of invalidated signatures, including a notable number of invalidations for DUP (duplicate signature) and, in the cases of Jean-Baptiste and Jackson, also a notable number of invalidations for ANO

(signed by another). Circulator Jackson submitted a single petition form to Waterville in which 20 signatures of 25 were invalidated for ANO. Similarly, Circulator Jean-Baptiste submitted a petition form to Sanford in which 9 signatures were invalidated for ANO. Gilbert's paper review of the petitions of Jean-Baptiste and Jackson uncovered some troubling entries, such as duplicates in which the handwriting or signatures diverged or in which names or addresses were spelled wrongly in one version of the duplicate. Moreover, Gilbert has correctly pointed out that certain aspects of these circulators' testimony, such as their claim that they never pre-filled information on their petition forms despite visual evidence seemingly to the contrary on some of the forms, called into question their credibility.

Ultimately, while Gilbert's paper review of the petitions suggests that some signatures on these two circulators' petitions were not made by the named voter, I conclude that the evidence did not rise to the level of proving that either circulator engaged in forgery or other fraudulent conduct. Neither circulator asked petition signers for identification, nor were they required to do so. The alleged forgeries identified by Gilbert are not—or at least not obviously—written by the same hand. Notably, with the exception of Jackson's Waterville petition form, even those petition forms submitted by these circulators with unusually high invalidation rates were found to contain mostly valid signatures. It is thus unclear without more evidence how any scheme by the circulators to forge signatures on the petitions would have worked in practice.¹³

¹³ Of the petition forms at issue, the most troubling form remains the petition form submitted by Jackson containing 20 signatures invalidated for ANO, and only 3 valid signatures. However, Jackson submitted a total of 88 petition forms and had no other signatures on any of those forms invalidated for ANO. It is hard to know what to make of this discrepancy. Without more supporting evidence, I am unable to recommend finding that Jackson forged 20 signatures on a single petition form, despite apparently not repeating that conduct on any of the 87 other forms.

In addition, unlike in her challenge to petition forms circulated by Rokelle Harris, Gilbert did not present any testimony from witnesses, such as other circulators, observers, municipal clerks, or voters whose names appeared on these circulators' petitions that might have helped establish circulator misconduct. For example, testimony from the Sanford and Waterville clerks who invalidated multiple signatures for ANO concerning their level of certainty that the signatures were not those of the voters, or any interactions they may have had with the circulators, may have been probative. Testimony from voters confirming that a given signature was not theirs would also have been potentially probative. The lack of such testimony may be understandable given the expedited nature of this proceeding and the resulting limited time for the parties to prepare and present evidence. But given the lack of any direct evidence of misconduct by the circulators and the existence of other explanations for the petition discrepancies that do not involve circulator misconduct, I cannot recommend concluding that seeming discrepancies in a relatively small number of petition forms submitted by Circulators Jean-Baptiste and Jackson establish that either circulator engaged in fraud.

Finally, while Gilbert's paper review of Circulators Jean-Baptiste's and Jackson's petition forms identified some substantial issues, her challenge to the petition forms of Circulator Turner is weaker. A review of Turner's forms shows that, while he had an unusually high invalidation rate, the vast majority of his invalidations were for NR—not registered. While such invalidations might theoretically be an indication of fraud, they may also simply reflect circulation of petitions in settings in which a large number of non-voters are likely to be present. I do not recommend invalidating any signatures collected by Circulator Turner on the basis of alleged circulator fraud.

III. Recommendations concerning corrections to the Secretary’s concessions.

A. The Secretary’s concession that some signatures should be invalidated under Challenge 14 should be corrected from 43 to 49 signatures.

Gilbert’s Challenge 14 seeks to invalidate signatures on grounds that the signature is dated after the circulator oath. In the proceedings above, the Secretary opposed most of Gilbert’s proposed invalidations on grounds that the date discrepancy was due to obvious typographical errors. However, the Secretary conceded that, in 43 cases, it could not be discerned from context that the signature was made before the circulator’s oath, and that those signatures should therefore be invalidated. Gilbert contends in her post-hearing brief that the Secretary should have invalidated an additional 152 signatures according to this contextual approach.

Given the Superior Court’s directive that the Secretary may “correct[]” her concessions to the Superior Court, Order at 17, I directed Elections Division staff to review the 152 signatures that Gilbert continues to challenge. Upon review, staff determined that the six signatures listed below should also be invalidated due to an inability to confirm from context that the signature was dated before the circulator’s oath. I recommend that the Secretary invalidate these six signatures in addition to the 43 already identified in her Superior Court brief.

Petition #	Line #
224	7
634	65
1792	1
2241	2
5027	3
6402	3

B. The Secretary’s remaining concessions should remain unchanged.

1. *The Secretary’s partial concession of Challenge 15 should not be corrected.*

Gilbert argues that the Secretary should revisit her legal position that signatures lacking dates should not be invalidated if it can be determined from context that the date was within the

circulation period. I recommend that the Secretary reject this argument for the reasons set forth in the Secretary's Rule 80C brief filed with the Superior Court.

2. The Secretary's rejection of Challenges 1, 5, 15, 18, 20, and 21 should not be revisited.

Gilbert argues, somewhat perfunctorily, that the Secretary should revisit her litigation positions with regard to Challenges 1, 5, 15, 18, 20, and 21. The Secretary successfully opposed these challenges in Superior Court and, as Gilbert concedes, they are not within the scope of the Court's remand order. I recommend that the Secretary conclude that consideration of these challenges is outside the scope of the Court's remand order and, alternatively, that the challenges are meritless for the reasons set forth in the Secretary's Rule 80C brief in Superior Court.

3. The Secretary's concession that signatures of circulators who failed to consent to the jurisdiction of the State should stand.

The Committee urges the Secretary to reconsider her position on Challenge 3, challenging the validity of petitions collected by out-of-state circulators who failed to check the box on their circulator affidavit consenting to the jurisdiction of the State of Maine. In her Superior Court brief, the Secretary confessed error in not invalidating these signatures but took no position in that brief as to whether the circulators might be able to correct their failure by submitting a corrected circulator affidavit on remand. Circulator Cairo, who circulated a considerable number of petitions, submitted such a corrected affidavit, dated May 6, 2026, and the Committee makes various arguments in its post-hearing brief that none of the petitions circulated by the four circulators who initially failed to consent to Maine's jurisdiction should have their signatures invalidated. Committee Ex. 1. I recommend that the Secretary maintain her initial position that all signatures collected by these circulators are invalid.

The statute requiring a circulator affidavit specifies a deadline for submitting that affidavit: the circulator "shall file" the affidavit "at the time the petition is filed." 21-A M.R.S.A.

§ 903-A(4). Title 21-A expressly states that “the words ‘shall’ and ‘must’ are used in a mandatory sense to impose an obligation to act in the manner specified by the context.” *Id.* § 7. During the validation process, Elections staff are instructed to invalidate all petition forms by a circulator who fails to submit a circulator affidavit using the code AFF. AR 0098. And although the instructions are not specific on this point, an affidavit that does not contain essential required elements cannot be deemed to satisfy the filing requirement.

As the Secretary explained in her Superior Court brief, the requirement that out-of-state circulators consent to Maine’s jurisdiction is a substitute for the previous requirement that all circulators be registered Maine voters. The United States District Court authorized Maine to impose this requirement by limiting its injunction of Maine’s ability to enforce the residency requirement to circumstances in which the circulator fails to consent to Maine’s jurisdiction. In other words, Maine may treat out-of-state circulators as unauthorized to the extent they fail to consent to the jurisdiction of the State.

There is no dispute that three of the circulators at issue, Kewechi Chukwuma, Albert Jordan, and Hakeem Ummsalaamah, did not and have never consented to the jurisdiction of Maine. The Committee did not offer any testimony or corrected affidavits from these circulators. I recommend that the Secretary invalidate these petition forms on remand.

The Committee did, however, offer the testimony of Cairo, as well as a corrected affidavit dated May 6, 2026, in which she checked the box consenting to Maine’s jurisdiction. Cairo’s testimony, however, revealed that she did not inadvertently fail to check the box consenting to jurisdiction but, rather, had concerns about the implications of agreeing to Maine’s jurisdiction, concerns that were apparently not assuaged by the time she executed her circulator affidavit. While I would conclude that even an inadvertent failure to check the box would render

the affidavit invalid under 21-A M.R.S.A. § 903-A(4), I recommend concluding that Cairo’s error was, at the time she submitted the affidavit, *not* an inadvertent failure to express her agreement to the terms on the affidavit, but a substantive lack of agreement to those terms. Given that failure to agree, under the U.S. District Court’s consent judgment, the Elections Division should have treated Cairo (and the other three circulators) as in violation of the requirements of 21-A M.R.S.A. § 903-A(4)(C) and Me. Const. art. IV, pt. 3, § 20, requiring circulators to be Maine residents. The Secretary has historically invalidated all signatures collected by non-resident circulators for violation of these provisions. *See, e.g., Hart v. Sec’y of State*, 1998 ME 189, ¶ 13, 715 A.2d 165. The same result should have occurred here.

The Committee objects to this result as elevating “form over substance.” Committee Br. at 21. But a circulator’s submission to the jurisdiction of Maine is no mere academic exercise. Courts have recognized that it is a requirement narrowly tailored to furthering the state’s compelling interest in “policing the integrity of the petition process.” *We the People PAC v. Bellows*, 519 F. Supp. 3d 13, 33 (D. Me. 2021), *aff’d*, 40 F.4th 1 (1st Cir. 2022). Indeed, the misconduct described earlier in this recommended decision—all committed by out-of-state circulators—demonstrates the importance of requiring these circulators to consent to Maine’s jurisdiction and agree to the other terms contained in the circulator’s affidavit, such as maintaining up-to-date contact information.

What is more, the timing of this agreement matters. While submitting to Maine’s jurisdiction three months after the petition was filed with the Secretary still has some value—in that it facilitates investigation of the circulator in a remand proceeding like this one or a criminal prosecution under 21-A M.R.S.A. § 904—it omits the most crucial part of the petition review process: the 30 business days during which the Secretary is determining as an initial matter

which signatures on the petition forms should be validated. 21-A M.R.S.A. § 905(1). During this time, it is essential that the Secretary be able to obtain information and conduct investigations concerning circulators to the extent questions arise as to whether they collected signatures in conformity with Maine's direct initiative laws.

It is no answer that Cairo, in this case, voluntarily appeared at the hearing, such that her intentional failure to submit to Maine's jurisdiction at the time of petition filing caused no harm. While there may have been no harm in this case, universalizing such a "no harm no foul" rule would effectively negate, in most cases, the requirement that circulators consent to Maine's jurisdiction. Circulators could refuse to agree at the time of petition filing (perhaps because, like Circulator Cairo, they were concerned about having to appear in court during a particularly busy time), and the Secretary would have no recourse unless the circulator happened to become subject to investigation and failed to reconsider their refusal once they were summonsed by the Secretary or a Court. And that hypothetical assumes that the circulator could even be located, given they would be under no obligation to keep their contact information current with the Secretary. What is more, even if the circulator were located, the only available remedy for a failure to appear for a hearing or investigation would be to invalidate the circulator's signatures. But that remedy would only be available for as long as the validity of the petition was not finally determined. Once the petition's validity became final the circulator would have no incentive whatever to file a corrected affidavit if Maine wished to, say, investigate them for potential criminal violations discovered after litigation over the petition's validity had concluded.

The Committee's "no harm no foul" argument fails with regard to the other three circulators for the same reasons. These circulators still to this day have not submitted to Maine's jurisdiction, making it plainly appropriate under the U.S. District Court's consent judgment to

treat their signatures as invalid under the statutory and constitutional residency requirements. While the Committee is correct that Gilbert did not challenge the signatures of these three circulators, a rule that a circulator need not submit to Maine’s jurisdiction unless they become subject to investigation would be unworkable and would substantially impair Maine’s interest in policing its direct initiative petition process, especially with regard to potential criminal investigations or prosecutions occurring after petition validity is finally determined.

The Committee further argues that the Secretary cannot enforce the residency requirement in the manner permitted by consent judgment because the enforcement approach permitted by the Court violates the Maine Constitution and is “ultra vires.” Committee Br. at 22–24. To the extent the Secretary might have authority to decide these constitutional questions on remand, I recommend that she reject these arguments. The enforcement approach to the residency requirement set forth in the Consent Order does not contradict the Maine Constitution’s prohibition on out-of-state circulators. Rather, it narrows the scope of that prohibition, allowing enforcement against only those out-of-state circulators who decline to agree to certain terms meant to allow Maine to enforce its other circulator requirements. Precisely because the Consent Order merely narrows the scope of the Constitution’s prohibition to a subset of out-of-state circulators most likely to cause enforcement challenges—those who fail to agree to consent to the State’s jurisdiction—there is no serious question that the framers of that provision would have preferred that “half a loaf” to no loaf at all.

4. *The Secretary’s concession of Challenge 6 should not be corrected.*

The Committee argues that the Secretary should reconsider her concession of Challenge 6, which demonstrated that two notaries public notarized circulator petitions after circulating petitions. The Committee argues that the statutes restricting notaries from notarizing circulator oaths after performing campaign services are not authorized by the Maine Constitution and

violate the First Amendment rights of the conflicted notaries. Assuming the Secretary may properly consider this constitutional question at the agency level, I recommend that she reject these challenges. The Law Court gave its imprimatur to the Secretary’s invalidation of such signatures in *Reed v. Sec’y of State*, 2020 ME 57, ¶ 17, 232 A.3d 202. Although that decision did not involve a constitutional challenge, it nonetheless recognized that invalidation of such signatures “rationally advances the legislative purpose of discouraging fraudulent notarizations by prohibiting the use of notaries who have a demonstrable conflict of interest at the time of their notarial acts in connection with the campaign.” *Id.* at ¶ 12. Any minor expressive or associational burden placed on notaries by the challenged statutes is easily justified by, and narrowly tailored to, this compelling governmental interest in ensuring valid circulator oaths.

What is more, the Maine Constitution allows the Legislature to enact “further laws not inconsistent with the Constitution applying the . . . direct initiative.” Me. Const. art. IV, pt. 3, § 22. The notarial conflict of interest laws challenged by the Committee, 21-A M.R.S.A. § 903-E and 4 M.R.S.A. § 1904(5), specify the circumstances under which the constitutionally required circulator’s oath may be deemed to have been validly taken before “a person authorized by law to administer oaths,” Me. Const. art. IV, pt. 3, § 20, and therefore fall squarely within this constitutional authorization of initiative-related legislation.

5. *The Secretary’s concession of Challenge 17 should not be corrected.*

The Committee argues that the Secretary should reconsider her concession that signatures containing ditto marks in the date field should be invalidated, characterizing such invalidations as hyper-technical. Committee Br. at 27. I acknowledge that these invalidations are in some tension with the Secretary’s treatment of other date discrepancies in the petition forms. However, the Legislature has prohibited the use of ditto marks in direct initiative petitions, other than for residence address and municipality. *See* 21-A M.R.S.A. §§ 354(4); 902. That statutory

prohibition would seem to cabin the Secretary’s discretion to apply her usual contextual approach to determining signature date. Moreover, such a prohibition is a reasonable way to prompt each petition signer to independently determine the date and not simply add to a column of ditto marks that may or may not have been made on the same day. I therefore recommend that the Secretary leave unchanged her concession that these signatures be invalidated.

IV. Recommended Amended Determination of Validity

Based on my proposed findings and recommendations above, I recommend that the Secretary issue a revised Determination of Validity in the following form:

**STATE OF MAINE
OFFICE OF THE SECRETARY OF STATE**

**Revised Determination of the Validity of a Petition Upon Remand
for Initiated Legislation Entitled:**

“An Act to Designate School Sports Participation and Facilities by Sex”

1. On February 2, 2026, 8,067 petition forms containing 79,692 signatures were submitted to the Secretary of State pursuant to the Constitution of Maine, Article IV, Part Third, Section 18 on behalf of the above-entitled initiated legislation.¹⁴
2. Following a review of these 8,067 petition forms, I find the following signatures to be invalid for the following reasons:
 - A. 5,066 signatures are invalid because they were not certified by the registrar as belonging to a registered voter in that municipality. (REG)
 - B. 1,930 signatures are invalid because they are duplicates of signatures already counted. (279 of these signatures were invalidated during the remand). (DUP)
 - C. 675 signatures are invalid because they were dated after the date that the circulator’s oath was completed in the presence of the notary or the voter’s signature was not dated and it could not be determined that the voter signed the petition before the circulator took the oath. (171 of these signatures were invalidated during the remand). (DATE)

¹⁴ An additional 3 petition forms were submitted that contained only signatures that were certified as invalid by municipal registrars or included no municipal certification. The Secretary of State did not complete a full review of signatures included on these 3 petition forms and these signatures were not included in the final tally of signatures that culminated in this Determination of Validity.

- D. 2,813 signatures are invalid because the circulator did not file a valid circulator's affidavit at the time the petitions were filed with the Secretary of State. (2335 of these signatures were invalidated during the remand). (AFF)
 - E. 278 signatures are invalid because the voter's signature was crossed out on the petition form. (WD)
 - F. 233 signatures are invalid because the voter failed to provide a signature. (SIG)
 - G. 152 signatures are invalid because the circulator's oath was not completed prior to submitting the petition to the registrar for certification. (PRIOR)
 - H. 162 signatures are invalid because the registered voter's signature was made by another. (61 of these signatures were invalidated during the remand). (ANO)
 - I. 1,127 signatures are invalid because the circulator's oath was not complete, not administered properly, or untrustworthy. (1,037 additional signatures were invalidated during the remand).(OATH)
 - J. 64 signatures are invalid because of material alterations to the petition. (ALT)
 - K. 29 signatures are invalid because the certification of the registrar was not completed. (CERT)
 - L. 9 signatures are invalid because the petition was not on the approved form. (FORM)
 - M. 4 signatures are invalid because the petition forms were received by the municipal office after the municipal filing deadline. (AMD)
3. For the reasons set forth above, on the 8,067 petition forms filed with the Secretary of State, I find that 67,150 signatures are valid and 12,542 signatures are invalid. The number of signatures required to determine the petition to be valid is 67,682. Because the number of valid signatures is short of the required number by 532 signatures, I find the petition to be invalid.

Opportunity to Object

Any party may file an objection to this recommended decision for consideration by the Secretary of State. Objections must be filed by email no later than **11:59pm on Saturday, May 23.**

/s/ Katherine McBrien
Katherine McBrien
Chief Deputy Secretary of State
Presiding Officer