



STATE OF UTAH

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GOVERNOR

OFFICE OF THE LIEUTENANT GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

October 7, 2024

Auditor General Kade R. Minchey
Office of the Legislative Auditor General

Dear Mr. Minchey,

It has been a pleasure to work with you and your team. I appreciate your efforts to listen, learn, and gain a complete understanding of the complexity of the nomination petition process. I also want to recognize the Davis County Clerk's Office for their service in performing this important signature verification work on behalf of my office and the voters of this state. As you have noted in the report, my office and the Davis County Clerk's Office fully complied with all requests made during this audit.

As noted in the audit, *"While transparency and controls over the existing verification process could be improved, it was able to reasonably identify significant instances of invalid signatures."* All elections officers and verifiers should be proud of their rate of success as found by your audit and commended for their professionalism and success. The signature errors identified in the audit were likely due to the subjective nature of the signature verification process and can be corrected going forward as these recommendations are implemented.

The nomination process, of which candidate nomination petitions are a part, is the result of careful and deliberate efforts by the Legislature over many years to *"ensure full opportunity for persons to become candidates and for voters to express their choice"* in nominating candidates for office (See Utah Code 20A-9-401(1)).

My office consistently strives to improve election processes and procedures and are consistent with our Election laws. We are never satisfied with the status quo. To that end, we appreciate the findings and recommendations of this audit—many of which we stand ready to implement. We look forward to working with the Legislature to continue our shared commitment to strengthening Utah's elections.

Sincerely,

A handwritten signature in black ink that reads "Deidre M. Henderson". The signature is fluid and cursive, with a long horizontal flourish at the end.

Deidre M. Henderson
Lieutenant Governor

Recommendation 1.1: *The Office of the Lieutenant Governor should establish and follow a quality control process for calculating an error rate on signature verification of candidate petition packets and factoring that error rate into the number of signatures that must be verified for each candidate.*

Response: The Office of the Lieutenant Governor agrees with this recommendation, but also notes that this audit does not identify two changes necessary to Administrative Rule 623-4 that would preclude implementation of recommendation 1.1. The proposed changes to the administrative rule below would minimize the risk posed by any error rate in nomination petition signature verification.

Changes to Administrative Rule 623-4

R623-4-4(D)(3) states, ***“The filing officer shall verify each signature of a nomination petition until the candidate has sufficient signatures to meet the qualification threshold.”*** This could be changed to allow election officers to continue signature verification until candidates have enough verified signatures to meet the qualification threshold and verify a reasonable number of additional signatures to exceed any error rate.

R623-4-4(A)(5)(d) states, ***“The filing officer shall reject a submission if: (d) the candidate has already met the qualification threshold.”*** This could be changed to allow candidates to submit as many additional signatures as they so choose, up through the deadline described in 20A-9-408(9)(b)(ii) regardless of how many signatures have already been verified.

Nonetheless, the Office of the Lieutenant Governor will develop a plan to audit a sample of verified signatures to calculate an error rate to give reasonable assurance that candidates who submit signatures have more than enough to meet the threshold. This can be done in a written policy.

Documentation: Written policy and amendments to R623-4

Timetable: The written policy will be completed by August of 2025 along with proposed changes to R623-4 so the changes will be in effect before the end of 2025 in preparation for the 2026 election cycle.

Who: Ryan Cowley, Director of Elections - Office of the Lieutenant Governor, 801-538-1041

Recommendation 1.2: *The Office of the Lieutenant Governor should require training to be done based on the errors that are identified in the quality control process in Recommendation 1.1*

Response: The Office of the Lieutenant Governor agrees with this recommendation. As part of the error rate calculation in recommendation 1.1, the Office of the Lieutenant Governor will establish a process for providing additional training to workers based on the errors identified. Workers who continue to have above average error rates after additional training shall be removed from signature verification.

Documentation: Written policy and possible amendments to R623-4

Timetable: The written policy will be completed by August of 2025 along with any proposed changes to R623-4 so the changes will be in effect before the end of 2025 in preparation for the 2026 election cycle.

Who: Ryan Cowley, Director of Elections - Office of the Lieutenant Governor, 801-538-1041

This process will be identified by August 2025 and added to Rule 623-4 as applicable.

Recommendation 1.3: *The Office of the Lieutenant Governor should further clarify what “substantially similar” and “reasonably consistent” mean in the context of signature verification.*

Response: The Office of the Lieutenant Governor agrees that “substantially similar” can be further clarified.

The Office of the Lieutenant Governor has created required signature verification training in consultation with a forensic documents examiner that provides insight into the characteristics of signatures. The training incorporates concepts identified in this audit by the state of Washington which says that those verifying signatures “(m)ust utilize the following: ‘agreement in style and general appearance...agreement in the proportions of individual letters, height to width...irregular spacing, slants, or sizes of letters that are duplicated in both signatures.’”

The Office of the Lieutenant Governor will review its signature training module to identify ways it can further clarify what “substantially similar” signatures mean. This review will be completed by August 2025. Additional characteristics will be added to the R623-4 in conjunction with recommendations 1.1 and 1.2.

Documentation: Updated training (if updates are deemed necessary) and amendments to R623-4 to further establish what characteristics help establish a substantially similar signature for a candidate nomination petition.

Timetable: The training review will be completed and updates made by August of 2025 along with proposed changes to R623-4 so the changes will be in effect before the end of 2025 in preparation for the 2026 election cycle.

Who: Ryan Cowley, Director of Elections - Office of the Lieutenant Governor, 801-538-1041

Recommendation 1.4: *The Office of the Lieutenant Governor should make the standards, assumptions, and characteristics that are utilized by election officials to determine the validity of signatures in administrative and training sources publicly accessible.*

Response: The Office of the Lieutenant Governor agrees with this recommendation. The changes and standards that will be in amended R623-4 will be publicly available and can be referenced in material produced by the Office of the Lieutenant Governor.

Documentation: R623-4 will be amended and in place by the end of 2025. This rule and the standards will be shared and referenced in materials produced by the Office of the Lieutenant Governor.

Timetable: Proposed change to rule 623-4 will be prepared by August 2025 so the changes will be in effect before the end of 2025 in preparation for the 2026 election cycle.

Who: Ryan Cowley, Director of Elections - Office of the Lieutenant Governor, 801-538-1041

Recommendation 1.5 *The Legislature should consider options for improving controls over the signature verification process.*

Recommendation 1.6 *The Legislature should consider options to make signature verification for candidate petitions more transparent.*

Response: Recommendations 1.5 and 1.6 are to the Legislature. The Office of the Lieutenant Governor welcomes the opportunity to work with the Legislature to facilitate and implement any new legislation. We recommend the Legislature clarify the code to ensure that poll watchers can observe the signature verification process.

This report makes comparisons between candidate nomination petitions and processes currently in place for initiatives and referendums. As discussions occur regarding potential legislation, we urge the Legislature to carefully consider the inherent difference between types of petitions, their purposes, and the tight timelines that exist in the nomination process so that challenges to candidacy can timely occur with time for resolution prior to candidate certification for a primary election. The Office of the Lieutenant Governor is willing to provide information as needed.

Recommendation 1.7 *The Office of the Lieutenant Governor should formalize and follow chain of custody processes for candidate petition packets, including batching and activity logs.*

Response: The Office of the Lieutenant Governor agrees with this recommendation.

The Office of the Lieutenant Governor will formalize the chain of custody practices already in place for candidate nomination petitions. Much of this is in place but can be formalized in written policy. The current chain of custody practices includes requiring that packets be submitted to the clerk of the county where they will be verified. Signature packets are verified in a secure environment with security cameras and are boxed up after verification. The boxed signature packets are then transported by two election workers and placed into storage. To facilitate the new recommendation for calculating an error rate, the packets could be stored in numeric order and then sealed once the verification threshold has been met.

Documentation: The chain of custody can be formalized in written policy.

Timetable: The chain of custody written policy will be completed by August 2025.

Who: Ryan Cowley, Director of Elections - Office of the Lieutenant Governor, 801-538-1041