

950 CMR 48.00: STATE BALLOT QUESTION PETITIONS

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48.01: Purpose

950 CMR 48.00 governs the format of original state ballot question petition blanks as prepared by the Secretary of the Commonwealth, and copies thereof as defined herein, for the gathering of signatures, as well as the filing of such petitions with the Registrars of Voters for the certification of signatures, and thereafter with the Secretary of the Commonwealth, under the authority of M.G.L. c. 53, § 7. 950 CMR 48.00 shall be interpreted to achieve and maintain accuracy, uniformity and security from forgery and fraud in the procedures for gathering signatures, and to promote the right of eligible voters to sign such petitions, for such signatures to be certified where appropriate, and thereafter be allowed by the Secretary of the Commonwealth, and to therefore facilitate the operation of the initiative and referenda processes.

48.02: Definitions

Disallowed signatures are the number of certified signatures which are in excess of the maximum number of allowable signatures from any one county pursuant to Amended Article 48 of the Massachusetts Constitution.

Disqualified signatures are signatures appearing on state ballot question petitions which are not in compliance with 950 CMR 48.07(2).

Exact copies shall include any copies of an original state ballot question petition blank as prepared by the Secretary of the Commonwealth for each particular state ballot question which contain exactly the text and format, and are printed on the same paper size and paper color, of the original prepared by the Secretary of the Commonwealth for that particular question, and which do not contain extraneous markings.

Extraneous markings shall include any marking on a state ballot question petition, as defined herein, which was not on the original petition blank as provided by the Secretary of the Commonwealth, and which is not information requested on the petition blank placed in the proper location. The names and addresses of persons signing in the designated signature box shall not be considered “extraneous markings.”

State ballot question petitions shall include initiative petitions for laws, initiative petitions for constitutional amendments, and referenda petitions as set forth in the Massachusetts Constitution.

Uncertified signatures are those signatures which are contained on state ballot question petitions which have not been certified by three or more registrars of voters.

48.03: Paper Size and Color

Petition forms shall printed on white paper no larger than 8 ½ inches by 14 inches. The petition shall contain printing on both sides of the paper and such printing shall only be in black ink.

48.04: Format- Front Side of Petition

- (1) Heading. The petition form prepared by the Secretary of the Commonwealth may contain a heading. The heading may include, but is not limited to, the following:
 - (a) the words, “The Commonwealth of Massachusetts”;
 - (b) identification of the type of state ballot question petition (*i.e.*, initiative petition for a law);
 - (c) language identifying the authority for the petition (*i.e.*, “Under Article XLVIII of the Amendments to the Constitution of the Commonwealth”);
 - (d) the State Coat of Arms.

- (2) Filing Deadlines Box. The petition form prepared by the Secretary of the Commonwealth shall include a box containing the applicable filing deadlines, including both:
 - (a) the last day and hour for filing with the local election officials for certification; and
 - (b) the last day and hour for filing with the Secretary of the Commonwealth’s Elections Division.

- (3) Summary. The petition form shall include the summary of the proposed measure, as written by the Attorney General; the summary shall appear above the First Ten Signers and the Signature Gathering Box.

- (4) First Ten Signers.
 - (a) The petition form shall include a box containing the names and addresses of the first ten signers of the petition, as required by the Massachusetts Constitution, and the box shall be identified as such. The names and addresses of the first ten signers, as designated in writing by the filer of the petition at the time of filing, shall appear as they are on the certificates of voter registration provided at the time of filing; however:
 1. Abbreviations of street designations will not be used, *i.e.* street and road shall not be abbreviated.
 2. Where an apartment or unit number is given on the voter registration certificate, it will be included on the petition in the following format:

Name	XX Street Name, # X	City or Town
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 - (b) Accompanying the names and addresses of the first ten signers shall be the following statement of certification: “These names have been certified as names of registered voters in their places of residence. Original petition was filed on (date).” Below such statement shall appear the signature of the Secretary of the Commonwealth of Massachusetts.

- (5) Registrar Use Only Box. The petition form prepared by the Secretary of the Commonwealth may include a box for registrar use only. If included on the petition form, Registrars of Voters must utilize this box to comply with 950 CMR 55.02(1), and must mark the date and time the petitions are received in this box. Registrars of Voters may also place in this box information they deem necessary, including, but not limited to, the following:
 - (a) the name of the person submitting petitions;
 - (b) the telephone number of the person submitting petitions; and
 - (c) the number of petitions received.

- (6) Circulator Information Box. The petition form prepared by the Secretary of the Commonwealth may contain additional printed circulator information, upon written request of the first ten signers of the petition.
 - (a) Such request must be in writing and received at the time the petition is filed with the Secretary of the Commonwealth, and:
 1. The first ten signers shall be designated as “SPONSORS OF THIS PETITION.”
 2. The first ten signers may choose either of the following messages to accompany the above designation:
 - a. MAY BE CONTACTED AT; or
 - b. REQUEST THAT YOU RETURN THIS PETITION TO.
 3. Such circulator information may include an address and telephone number.
 4. The heading for such address and telephone number shall reflect the letter of the petition as assigned by the Secretary of the Commonwealth pursuant to 950 CMR 48.04(10) (*i.e.* “Petition X”).

48.04: continued

5. Sample of format for circulator information:

SPONSORS OF THIS PETITION
MAY BE CONTACTED AT

PETITION X
X STREET NAME
CITY/TOWN, MA XXXXX

(XXX) XXX-XXXX

(7) Circulator and Signer Information Box. The petition form prepared by the Secretary of the Commonwealth may include a box for instructions to circulators and signers. These instructions given by the Secretary of the Commonwealth may include, but are not limited to, the following:

- (a) DO NOT ALTER THIS PETITION IN ANY WAY. Additional markings on this petition will disqualify any signatures on this petition.
- (b) For your signature to be valid, you must be a registered voter in the city or town named below and your signature should be written substantially as registered. Do not sign the same petition more than once.
- (c) If you are prevented by physical disability from writing, you may authorize some person to write your name and residence in your presence.

(8) Signature Gathering Box.

- (a) The petition form prepared by the Secretary of the Commonwealth shall include a box for gathering signatures.
 1. On the left side of the box shall be a consecutively numbered column. At the top of the column shall be the words "REGISTRAR USE."
 2. The next column shall be designated for the signatures of registered voters, and shall be appropriately labeled.
 3. The next column shall be designated for the addresses of those registered voters who signed in the previous column, and shall be appropriately labeled.
 4. The last two columns shall be used for the ward and precinct of the registered voter, respectively, and such columns shall be appropriately labeled.
- (b) The Signature Gathering Box shall continue on the back side of the petition form. The numbering shall continue in consecutive order from the front side of the petition form.
- (c) The number of signature lines contained on the petition form shall be determined by the length of the summary.

(9) Name of City or Town Box. The petition form prepared by the Secretary of the Commonwealth may include boxes for persons soliciting signatures to insert the name of a city or town. Such boxes shall be appropriately labeled, *i.e.* "ONLY REGISTERED VOTERS OF _____ MAY SIGN THIS SHEET."

(10) Petition Designation. Each petition filed with the Secretary of the Commonwealth shall be assigned a designation determined by order of submission and this designation may be placed on the petition form so as to allow for easy identification (*e.g.* A, B, C). Petition forms for supplemental signatures prepared by the Secretary of the Commonwealth shall be assigned a designation based on the original order of submission (*e.g.* AA, BB, CC).

(11) Circulator Petition Sheet Number Box. The petition form prepared by the Secretary of the Commonwealth may include a Circulator Petition Sheet Number Box to be printed on the petition itself, upon written request of the first ten signers of the petition.

- (a) Such request to have a Circulator Petition Sheet Number Box printed on the petition blank must be in writing and received at the time the petition is filed with the Secretary of the Commonwealth.
- (b) The numbering placed in the Circulator Petition Sheet Number Box may contain only numbers and the use of a connector—for example: 1 of 20, or 1/20, or just consecutive numbers. The Circulator Petition Sheet Number Box may not contain any letters other than those in the connector—for example, no initials may be used.

48.05: Format- Back Side of Petition

(1) Attention Voters. The petition form prepared by the Secretary of the Commonwealth may include on the back of the petition form the following, or substantially similar, statement: "ATTENTION VOTERS: Before signing, read signer information on other side."

(2) Below the last line of the Signature Gathering Box shall appear a warning which shall read as follows:

WARNING- criminal penalty for unlawfully signing, altering, defacing, mutilating, destroying, or suppressing this petition: fine of up to \$1,000 or imprisonment for up to one year.

The penalty contained in the warning shall be that found in M.G.L. c. 56, § 11.

(3) Registrar Information Area. petition form prepared by the Secretary of the Commonwealth may include an area containing information and instructions to Registrars of Voters. If such an area is included on a petition form, the codes used by the Registrars of Voters when certifying signatures, found at 950 CMR 55.00, *et seq.*, shall be placed upon the petition form in this area. Further, instructions to Registrars of Voters may include, but are not limited to, the following:

- (a) You must time-stamp or write in date and time these papers are received;
- (b) Check thus \checkmark against the name of each qualified voter to be certified;
- (c) For names not certified, use the code at the right;
- (d) Draw a line through any blank spaces not containing signatures;
- (e) Each sheet must be certified by at least three registrars;
- (f) A facsimile stamp is acceptable; and
- (g) The date on which certification must be completed.

(4) Certification of Signatures Box. The petition form prepared by the Secretary of the Commonwealth shall include a Certification of Signatures Box in which the Registrars of Voters of the certifying municipality shall indicate the name of the city or town, the county in which it is located, and the month and date of certification. Further, the box shall contain the statement "We certify that (number of names certified- use numbers and words) above signatures checked thus \checkmark are names of qualified voters from this city or town."

48.06: Filing State Ballot Question Petitions with Registrars of Voters

(1) Registrars of Voters shall follow procedures for certifying signatures set forth at M.G. L. c. 53, § 7 and 950 CMR 55.00 *et seq.*, and shall not examine the petitions forms for extraneous markings nor determine whether the petition forms are exact copies.

(2) Registrars of Voters must mark each petition form with the date and time the petitions are received as required by 950 CMR 55.02(1). If the Secretary of the Commonwealth includes a box for registrar use only, the Registrars of Voters must mark the date and time within that box. Registrars of Voters may also place in that box information they deem necessary, including, but not limited to, the following:

- (a) the name of the person submitting petitions;
- (b) the telephone number of the person submitting petitions; and
- (c) the number of petitions received.

(3) Registrars of Voters shall not mark the petition forms in any areas other than those in which they are authorized or required to write.

(4) Registrars of Voters shall certify signatures pursuant to 950 CMR 55.00 *et seq.*, on petition forms without regard to the presence of any extraneous markings.

(5) Persons submitting petition forms shall be responsible for retrieving the petition forms from the Registrars of Voters upon completion of certification, and the Registrars of Voters shall not be responsible for forwarding any petition forms to the Secretary of the Commonwealth.

(6) The Registrars of Voters failure to comply with any requirement of 950 CMR 48.06, and the requirements of 950 CMR 55.02 *et seq.* as referenced herein, except 950 CMR 55.02(7), shall not invalidate their certification.

48.07: Filing State Ballot Question Petitions with the Secretary of the Commonwealth

(1) The Secretary of the Commonwealth shall review all submitted petitions forms to ensure that each petition form contains the signatures of three or more Registrars of Voters. Petition forms which fail to contain the signatures of three or more Registrars of Voters will not be counted towards the total number of required signatures. The signatures contained on such petition forms will be designated as “uncertified.”

(2) The Secretary of the Commonwealth shall review all submitted petition forms for extraneous markings and compliance with exact copy requirements. Signatures contained on petition forms which have extraneous markings, or signatures contained on petition forms which are not exact copies, will not be counted towards the total number of required signatures. The signatures contained on such petition forms will be designated as “disqualified.”

(a) Examples of extraneous markings include, but are not limited to, the following:

1. highlighting;
2. underlining;
3. scribbles;
4. doodles;
5. instructional language (*i.e.* “over” or “see other side”);
6. the name or initials of the circulator; or
7. the telephone number of the circulator.

(b) Examples of petition forms which are not exact copies include, but are not limited to, the following:

1. the paper size or color is different than that prepared by the Secretary;
2. the original text is missing or altered;
3. the petition form is one which was sent by facsimile;
4. the petition form contains printing on only one side;
5. the petition form contains two front sides, and therefore there is no box for the Registrars of Voters to certify the number of signatures certified signatures contained thereon; or
6. the petition form contains a different number of signature lines than the number on the original petition form as prepared by the Secretary.

(3) The Secretary of the Commonwealth shall thereafter review all submitted petition forms to determine the total number of certified signatures.

(4) The Secretary of the Commonwealth shall review all submitted petition forms to ensure that no more than $\frac{1}{4}$ of the total number of required signatures is from any one county. The number of certified signatures in excess in any one county shall be designated as “disallowed.”

48.08: Integrity of State Ballot Question Petitions

To ensure the integrity of state ballot question petitions in the process of submission to local election officials and filing with the Secretary of the Commonwealth pursuant to Amended Article 48 of the Massachusetts Constitution, and with reference to the holdings in *Hurst v. State Ballot Commission*, 427 Mass. 825 (1998), and *Walsh v. Secretary of the Commonwealth*, 430 Mass. 103 (1999), state ballot question petitions shall not be a public record in the possession of local election officials. Such petitions shall not be a public record in the possession of the Secretary of the Commonwealth until after the filing deadline set forth in the Massachusetts Constitution and a reasonable time for processing by the Secretary of the Commonwealth. Prior to the deadline for filing state ballot question petitions with the Secretary of the Commonwealth as set forth in the Massachusetts Constitution, the names and addresses of the additional signers shall not be disclosed by either local election officials or the Secretary of the Commonwealth. In no event shall the state ballot question petitions be open for public inspection until the Secretary has provided the first ten signers with a final official count of the number of certified signatures.

950 CMR: OFFICE OF THE SECRETARY OF THE COMMONWEALTH

48.08: continued

Processing by the Secretary of the Commonwealth includes determining the total number of certified signatures, disallowed signatures, and disqualified signatures, pursuant to 950 CMR 48.07 *et seq.*

REGULATORY AUTHORITY

950 CMR 48.00: M.G.L. c. 53, § 7.