

DENNIS WHITLEY III, <i>et al.</i> ,	*	IN THE
	*	COURT OF APPEALS
<i>Appellants,</i>	*	
v.	*	OF MARYLAND
	*	
MARYLAND STATE BOARD OF	*	September Term, 2012
ELECTIONS, <i>et al.</i> ,	*	
	*	No. 133
<i>Appellees.</i>	*	

* * * * *

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**IN THE
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(Ronald A. Silkworth, Judge)
Pursuant to a Writ of Certiorari to the Court of Special Appeals of Maryland

**BRIEF OF APPELLEES MARYLAND STATE BOARD OF ELECTIONS,
JOHN P. MCDONOUGH, AND LINDA LAMONE**

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STATEMENT OF THE CASE

Under Article XVI of the Maryland Constitution (the “Referendum Amendment”), “the people of Maryland reserved to themselves the power to have submitted to the voters any act or part of an act of the General Assembly.” *McGinnis v. Board of Supervisors of Elections*, 244 Md. 65, 69 (1966). This case involves a petition to submit to the voters

Chapter 1 of the 2011 Special Session (the “Redistricting Act”), which was enacted by the Maryland General Assembly and signed by the Governor on October 20, 2011. The Maryland State Board of Elections (the “State Board”) certified that the petition was “legally sufficient” and “satisfied the requirements to place the question on the November 2012 ballot.” (App. 20.) The Circuit Court for Anne Arundel County, in a decision entered on August 10, 2012, upheld the decision of the State Board. (App. 18.)

Five registered voters and the Maryland Democratic State Central Committee filed a complaint for judicial review and declaratory and injunctive relief in the Circuit Court for Anne Arundel County against the State Board, the State Administrator of Elections, and the Secretary of State (collectively, the “State defendants”). In the complaint, the plaintiffs sought a declaration that the petition did not satisfy all the legal requirements necessary to refer an act to the 2012 General Election Ballot and requested the court to reverse the State Board’s determination that the petition met those requirements. The plaintiffs also asked the court to enjoin the Secretary of State from certifying the Redistricting Act to the State Board in accordance with § 7-103 of the Election Law Article. The petition’s sponsor, MDPetitions.com, intervened as a defendant.

The plaintiffs moved for summary judgment on all claims, and both sets of defendants filed cross-motions for summary judgment. The circuit court held a hearing on August 10, 2012, and the same day issued a memorandum opinion rejecting all of the plaintiffs’ claims. The court entered a contemporaneous order and declaratory judgment in which the court: (1) denied the plaintiffs’ motion for summary judgment and entered

summary judgment for the State defendants and MDPetitions.com on the merits¹; (2) declared that the petition is legally sufficient to refer the Redistricting Act to the 2012 General Election ballot; and (3) ordered that the Redistricting Act be placed on the 2012 General Election ballot. The five registered voters appealed the decision to the Court of Special Appeals. On August 13, 2012, this Court granted the registered voters' petition for a writ of certiorari.

QUESTION PRESENTED

Did the State Board correctly refuse to impose on the signers and circulators of a referendum petition additional elements that are not required by the pertinent constitutional and statutory provisions when the Board accepted as valid:

- (a) petition signatures by registered voters who did not personally print or type their address and date of birth on the petition, but instead used an automated system that displayed the correct information on the petition form and
- (b) petition signatures by registered voters who attested to the authenticity of their signature rather than having a different person provide the attestation?

¹ The circuit court granted partial summary judgment to MDPetitions.com on its challenge to the plaintiffs' standing to bring this action. The court held that the Maryland Democratic Central Committee lacks standing, but that the five registered voters have standing. (App. 8.)

STATEMENT OF FACTS

The Referendum Amendment and the Implementing Statutes and Regulations.

The Referendum Amendment was ratified by the voters on November 2, 1915. *See Cole v. Secretary of State*, 249 Md. 425, 434 (1968). Under § 3(a) of the Referendum Amendment, a successful petition to submit a law to referendum must be signed by a number of qualified Maryland voters equal to at least three percent of the total number of votes cast for Governor at the last preceding gubernatorial election. The Referendum Amendment, in its current form, requires that each signature page contain the full text, or an accurate summary, of the legislation that is the subject of the proposed referendum, and describes certain other requirements for the format of the petition:

There shall be attached to each paper of signatures filed with a petition an affidavit of the person procuring those signatures that the signatures were affixed in his presence and that, based upon the person's best knowledge and belief, every signature on the paper is genuine and bona fide and that the signers are registered voters at the address set opposite or below their names. The General Assembly shall prescribe by law the form of the petition, the manner for verifying its authenticity, and other administrative procedures which facilitate the petition process and which are not in conflict with this Article.

Md. Const. art. XVI, § 4.²

² In 1915, the corresponding text of § 4 was as follows:

[T]here shall be attached to each such paper an affidavit of the person procuring the signatures thereon that of the said person's own personal knowledge every signature thereon is genuine and bona fide, and that the signers are registered voters of the State of Maryland, and of the City of Baltimore, or County, as the case may be, as set opposite their names, and no other verification shall be required.

As authorized by the Referendum Amendment, the General Assembly has adopted provisions governing the petition process in Title 6 of the Election Law Article. The State Board is responsible for overseeing the petition process and certifies an act or part of an act of the General Assembly to be placed on the next statewide general election ballot if the petition calling for that law's referendum satisfies the requirements of both the Referendum Amendment and Title 6 of the Election Law Article. *See* Md. Code Ann., Elec. Law §§ 2-102, 6-207, 6-208. The State Board has adopted regulations to implement the statutory requirements for petitions, which are set forth in Title 33, subtitle 06 of the Code of Maryland Regulations. *See* COMAR 33.06.01.01 (Terms Defined in Election Law Article); COMAR 33.06.03.05 (Statement of Signers' Support and Eligibility); COMAR 33.06.03.06 (Signer Identification); COMAR 33.06.03.07 (Circulator Identification); COMAR 33.06.03.08 (Circulator's Signed and Dated Affidavit).

A “[s]ponsor” of a petition is “the person who coordinates the collection of signatures on a petition.” Md. Code Ann., Elec. Law § 6-101(j). When the sponsor files a petition for referendum of an Act of the General Assembly, the State Board must review the petition, first to determine its legal sufficiency and second, to validate and verify the signatures. *See* Md. Code Ann., Elec. Law §§ 6-206, 6-207.

In 1976, the voters ratified an amendment to § 4, which allowed a summary of the legislation to be shown on the petition in lieu of its full text and which relaxed the affidavit requirement by permitting the attestation to be made to “the person’s best knowledge and belief.” The voters ratified the current version of § 4 in 1982.

Title 6 of the Election Law Article establishes a two-step validation and verification process for counting petition signatures. *See Maryland State Bd. of Elections v. Libertarian Party of Md.*, 426 Md. 488, 496 (2012) (describing two-step validation and verification process for counting petition signatures). Validation and verification of signatures are “separate procedures.” *Id.* (citing *Doe v. Montgomery County Bd. of Elections*, 406 Md. 697, 732 (2008)). “The purpose of validation, relating to whether the signature is sufficient, is to provide additional means by which fraudulent or otherwise improper signatures upon a referendum petition may be detected, while the purpose of signature verification, relating to the existence of registration of the voter and the signature count, is to ‘ensure that the name of the individual who signed the petition is listed as a registered voter.’” *Doe v. Montgomery County Bd.*, 406 Md. at 732 (quoting Md. Code Ann., Elec. Law § 6-207; other internal quotation marks and citations omitted).

As part of the signature validation process, § 6-203 enumerates certain requirements that a voter must fulfill when signing a petition. Specifically, “[t]o sign a petition, an individual shall”:

- (1) sign the individual’s name as it appears on the statewide voter registration list or the individual’s surname of registration and at least one full given name and the initials of any other names; and
- (2) include the following information, printed or typed, in the spaces provided:
 - (i) the signer’s name as it was signed;
 - (ii) the signer’s address;
 - (iii) the date of signing; and
 - (iv) other information required by regulations adopted by the State Board.

Md. Code Ann., Elec. Law § 6-203(a); *see Libertarian Party*, 426 Md. at 496 (describing the signature requirements as part of the validation process).

Consistent with § 4 of the Referendum Amendment, the Election Law requires that each signature page shall “contain an affidavit made and executed by the individual in whose presence all of the signatures on that page were affixed and who observed each of those signatures being affixed.” Md. Code Ann., Elec. Law § 6-204(a). Although the constitutional provision does not use the term “circulator,” the Election Law gives that name to the “individual who attests to one or more signatures affixed to a petition.” Md. Code Ann., Elec. Law § 6-101(d). “A circulator must be at least 18 years old at the time any of the signatures covered by the affidavit are affixed.” Md. Code Ann., Elec. Law § 6-204(c). The State Board’s regulations require that the affidavit state the following:

- (1) All of the information given by the circulator under Regulation .07 [“Circulator Identification”] of this chapter is true and correct;
- (2) The circulator was 18 years old or older when each signature was affixed to the page;
- (3) The circulator personally observed each signer as the page was signed;
and
- (4) To the best of the circulator’s knowledge and belief, all:
 - (a) Signatures on the petition are genuine, and
 - (b) Signers are registered voters in the State.

COMAR 33.06.03.08.

The State Board’s regulations also require each signature page to “contain a statement of the signers’ support and eligibility, as required by Election Law Article,

§ 6-201(c)(3).” COMAR 33.06.03.05. The regulations specify both required information and optional information to be provided by signers. Tracking the requirements set forth in § 6-203(a), the regulations require each signer to:

- (1) Sign the individual’s name as it appears on the Statewide voter registration list or the individual’s surname of registration and at least one full given name and the initials of any other names; and
- (2) Provide the following information, to be printed or typed in the appropriate spaces:
 - (a) Date of signing,
 - (b) Signer’s name as it was signed, and
 - (c) Current residence address, including house number, street name, apartment number (if applicable), town, and ZIP code.

COMAR 33.06.03.06B. The regulations also provide that a signer may—but is not required to—include the signer’s date of birth:

C. Optional Information.

- (1) The circulator shall ask each signer to also provide the signer’s date of birth or, at a minimum, month and day of birth.
- (2) A signer’s failure to provide this birth information does not invalidate the signature.

COMAR 33.06.03.06C.

The General Assembly has established criminal penalties for any person who willfully and knowingly “sign[s] the name of any other person to a petition”; “falsif[ies] any signature or purported signature to a petition”; “circulate[s], cause[s] to be circulated, or file[s] with an election authority a petition that contains any false, forged or fictitious signatures.” Md. Code Ann., Elec. Law § 16-401(a)(4), (5), (7). “Each violation of this

section shall be considered a separate offense.” § 16-401(b). “A person who violates this section is guilty of a misdemeanor,” § 16-401(c), and is subject to a fine and imprisonment of not less than 30 days nor more than 6 months, or both, for each violation, § 16-1001(a). A circulator must swear or affirm under penalty of perjury that he or she “personally observed each signer or signer as he or she signed this page”; and “to the best of my knowledge and belief: (i) all signatures on this page are genuine and (ii) all signers are registered voters of Maryland. A circulator, including a so-called self-circulator, who swears or affirms falsely is guilty of the misdemeanor of perjury and is subject to imprisonment for not more than 10 years. Md. Code Ann., Crim. Law § 9-101(b).

The Petition to Refer the Redistricting Act to Referendum

On October 20, 2011, the Maryland General Assembly enacted and the Governor signed the Redistricting Act, establishing new boundaries for the State’s eight congressional districts, based on the results of the 2010 United States census. 2011 Md. Laws Spec. Sess. ch. 1. Intervener MDPetitions.com organized and sponsored an effort to collect the 55,736 signatures required to place the Redistricting Act on Maryland’s 2012 General Election ballot.³

³ This figure is based on the number of votes cast for Governor in the 2010 election. *See* Md. Const. art. XVI, § 3 (requiring signatures of “three percent of the qualified voters of the State of Maryland, calculated upon the whole number of votes cast for Governor at the last preceding Gubernatorial election, of whom not more than half are residents of Baltimore City, or of any one County”).

On July 20, 2012, the State Board notified the petition sponsor of the Board's determination that the petition was "legally sufficient" and "satisfied the requirements to place the question on the November 2012 ballot." The letter stated that the State Board had accepted 59,201 valid petition signatures as of July 18, 2012.

Some of the petition's signers used the website of MDPetitions.com (located at www.mdpetitions.com), an interactive website that enables registered Maryland voters to generate their own copy of a referendum petition. Using the website, a registered Maryland voter proceeds through a series of steps that eventually prompt the website to generate a petition that the voter can print, sign, and mail to the petition's sponsor. (App. 23.)

First, after logging on to the MDPetitions.com website, the voter clicks on a "Sign the Petition" icon. (App. 25.) The website then displays a screen requesting that the voter enter certain unique, identifying information: first name, last name, suffix, email address, phone number, date of birth, and zip code. (App. 25.) The website also asks whether to display information for other household members who are registered voters. (App. 27.) The voter enters this information and clicks on a "Next" icon to proceed to the next step. (App. 27.) This action prompts the website to display the voter's name and the name of any other registered Maryland voters in the voter's household. (App. 27.) To proceed, the voter clicks on the displayed name or names and another "Next" icon. (App. 27.) The website then displays a screen informing the voter that he or she can download and print a petition. (App. 27-28.) This screen also provides instructions to the voter regarding how to print, sign, date, and mail in the petition, how to execute the

Circulator's Affidavit, and how to complete the petition when more than one registered voter residing at the same address wishes to sign the petition. (App. 27-28.) The voter next clicks on a "Download" icon, which prompts the website to generate and display a petition. (App. 28.) The displayed petition shows the voter's full name, residence address, city, zip code, and date of birth, which is information that the website retrieves from a database derived from the State Board's voter registration list. (App. 26, 28.) The petition also displays the name, address, and telephone number of the voter next to the Circulator's Affidavit. (App. 28.) The phone number comes information that the voter has entered when he or she initially prompted the website to generate the petition. To complete the process, the voter prints, signs, and dates the petition, executes the Circulator's Affidavit, and mails the petition to the sponsor. (App. 28-29.)

A second category of the petitions contained the signature of a voter who also signed as the circulator of the petition. This category includes some petitions generated using the MDPetitions.com website and also includes petitions that were not generated in this way, where the voter's identifying information was typed or printed by the voter, or perhaps another person who filled out this portion of the form for the voter.

Although the State Board does not concede the accuracy of the plaintiffs' claims as to either (1) the number of signers who used MDPetitions.com to include their information or (2) the number of signers who attested to his or her own signature under penalty of perjury (the so-called "self-circulated" petitions), the State Board agrees that if either of these categories of signatures were deemed legally insufficient, the petition

would lack sufficient validated and verified signatures to qualify for certification for the general election ballot.

The circuit court rejected the plaintiffs' claims, based on its determination that the plain language of the Referendum Amendment, the Election Law, and the implementing regulations do not require the elements that the plaintiffs seek to impose on the petition process. (App. 12, 16.) The circuit court explained that “[n]othing in the Constitution, the statute, or the promulgated regulations requires that the affidavit be by someone other than the person signing the petition” (App. 12) and that “[n]either the statute nor the regulation requires that each person must physically print or type th[e] information [required under § 6-203(a)(2)] on the petition.” (App. 16.)

SUMMARY OF ARGUMENT

The State Board is charged by statute with the duty and authority to validate and verify the signatures on a petition. But, as this Court recently held, the State Board is not permitted to impose any “additional elements” on the “signature component” of the petition. In this case, the plaintiffs seek to have the State Board impose two such additional elements on the petition process: (1) a requirement that a petition signer personally print or type his or her identifying information on a petition and (2) a requirement that a petition signer's signature be attested to under penalty of perjury by someone other than the signer. Because these elements are present in neither the Referendum Amendment nor the Election Law Article, their imposition would be “unduly burdensome.” The circuit court therefore correctly upheld the State Board's

application of the governing law and the Board's refusal to impose these additional burdens on the petition process.

Even assuming the law were ambiguous on either point, the Board's "interpretation and application of the statute . . . should be given considerable weight by reviewing courts." The Board has never required voters to personally print or type the required information and has consistently accepted petitions of "self-circulators," who must sign under penalty of perjury. This practice comports with the purposes of the constitutional and statutory requirements. The purpose of the signature requirement is to provide the signer's personal attestation of support for the petition. The additional information, by contrast, has the purpose of providing "identifying information" that enables the Board of Elections "to determine the validity of a petition entry" and "to subsequently verify the eligibility of the petition signer to support the petition." The purpose of the attestation "is to 'assure the validity of the *signatures* and the fairness of the petition process.'"

The State Board's interpretation effectuates the requirements of both the Election Law and § 4 of the Referendum Amendment. The General Assembly has mandated that "citizen convenience" be "emphasized in all aspects of the election process." Md. Code Ann., Elec. Code § 1-201(c). Requiring a citizen to manually print or type his or her identifying information would defeat this purpose. It would also prevent the disabled or educationally disadvantaged from participating in the petition process in contravention of the legislative intent. Requiring an individual signer to obtain a separate witness to execute the required oath under penalty of perjury would be inconvenient to the citizen.

It is not required by § 4 of the Referendum Amendment, which requires only that the individual procuring the signature execute the required affidavit. At the time of ratification, the commonly understood meaning of “procure” was “to contrive, effect, bring about; to cause.” Clearly, an individual can effect, cause or bring about the placement of his own signature on a petition. Therefore, the imposition of the requirement of a second witness would conflict with the command of § 4 that the implementing statutes may not conflict with the terms of the constitutional provision.

Imposition of this additional element would not further the purposes of preventing fraud, either. This is because the individual signer, who like any circulator must sign under penalty of perjury, is in the best position to “assure the validity” of his or her own signature, and thus prevent fraud, as he or she can rely on *actual* knowledge, as opposed to “best knowledge and belief,” that the signature is “genuine and bona fide.”

ARGUMENT

I. STANDARD OF REVIEW

A court’s review of the action of an administrative agency like the State Board is narrow. *See People’s Counsel for Baltimore County v. Loyola College*, 406 Md. 54, 66-67 (2008). “The court’s task on review is not to substitute its judgment for the expertise of those persons who constitute the administrative agency.” *Id.* (quoting *United Parcel Serv., Inc. v. People’s Counsel for Baltimore County*, 336 Md. 569, 576-77 (1994) (quotation marks and citations omitted)); *see also Liddy v. Lamone*, 398 Md. 233, 247 (2007) (discussing deferential standard of review applied to decision of State Board of

Elections). Rather, the court’s role “‘is limited to determining if there is substantial evidence in the record as a whole to support the agency’s findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law.’” *Marzullo v. Kahl*, 366 Md. 158, 171 (2001) (quoting *Board of Physician Quality Assurance v. Banks*, 354 Md. 59, 68-69 (1999)).

This Court has instructed that “the expertise of the agency in its own field should be respected” by a reviewing court. *Banks*, 354 Md. at 69 (citing *Fogle v. H & G Restaurant*, 337 Md. 441, 455 (1995); *Christ v. Department of Natural Res.*, 335 Md. 427, 445 (1994); *Board of Educ. for Dorchester County v. Hubbard*, 305 Md. 774, 792 (1986)). The authority delegated to an administrative agency, like the State Board, “may include a broad power to promulgate legislative-type rules or regulations” in order for the agency to implement its statute. *Christ*, 305 Md. at 445. “Such rules or regulations will often, of necessity, embody significant discretionary policy determinations.” *Id.*

When interpreting statutory language, a court’s “primary goal is always ‘to discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by a particular provision.’” *Doe v. Montgomery County Bd.*, 406 Md. at 712 (quoting *Barbre v. Pope*, 402 Md. 157, 172 (2007); *General Motors Corp. v. Seay*, 388 Md. 341, 352 (2005)). “[I]n interpreting a statute, the context in which the statute appears must be considered.” *Mayor & City Council of Baltimore v. Chase*, 360 Md. 121, 129 (2000). This context includes “related statutes, pertinent legislative history and ‘other material that fairly bears on the . . . fundamental issue of legislative purpose or goal.’” *Id.*

(quoting *Kaczorowski v. Mayor & City Council of Baltimore*, 309 Md. 505, 515 (1987); other citations omitted).

Courts “begin [the] analysis by first looking to the normal, plain meaning of the language of the statute, reading the statute as a whole to ensure that no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory.” *Doe v. Montgomery County Bd.*, 406 Md. at 712 (internal quotation marks and citations omitted). If the statutory language is “clear and unambiguous,” the analysis ends. *Id.* “If, however, the language is subject to more than one interpretation, it is ambiguous, and [courts] endeavor to resolve that ambiguity by looking to the statute’s legislative history, case law, [and] statutory purpose, as well as the structure of the statute.” *Id.*

In addition to respecting the judgment and expertise of the agency, where the statute administered by the agency is ambiguous, a reviewing court should accord “a degree of deference” to an administrative agency’s “interpretation and application of the statute which the agency administers” and should ordinarily give that interpretation and application “considerable weight.” *Marzullo*, 366 Md. at 172 (quoting *Banks*, 354 Md. at 69); *see also McCullough v. Wittner*, 314 Md. 602, 612 (1989) (“The interpretation of a statute by those officials charged with administering the statute is, of course, entitled to weight.”); *Howard County Citizens for Open Gov’t v. Howard County Bd. of Elections*, 201 Md. App. 605, 617-18 (2011) (stating deferential standard of review “to an agency’s interpretations of laws or regulations that the agency itself has either promulgated or administers” where the statutory meaning is not clear).

Under Rule 2-501, summary judgment is appropriate “if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.” *Barclay v. Briscoe*, ___ Md. ___, No. 41, Sept. Term, 2011, 2012 Md. LEXIS 385, at *16 (June 27, 2012) (quoting Rule 2-501(f)). In analyzing whether the decision of the State Board was “premised upon an erroneous conclusion of law,” the Court should take the expertise of the State Board “into consideration and its decision should be afforded appropriate deference in [the] analysis.” *Marzullo*, 366 Md. at 173 (quoting *Banks*, 354 Md. at 68).

II. THE STATE BOARD CORRECTLY REFUSED TO IMPOSE ON THE SIGNERS AND CIRCULATORS OF THE REFERENDUM PETITION ADDITIONAL ELEMENTS THAT ARE NOT REQUIRED BY EITHER THE REFERENDUM AMENDMENT OR THE ELECTION LAW ARTICLE.

The Referendum Amendment authorizes the General Assembly to “prescribe by law the form of the petition, the manner for verifying its authenticity, and other administrative procedures which facilitate the petition process,” provided that they do not conflict with the constitutional provision. Md. Const. art. XVI, § 4. The General Assembly has adopted provisions governing the petition process, and it has delegated to the State Board the responsibility for overseeing the petition process and certifying an act or part of an act of the General Assembly for referendum. *See* Md. Code Ann., Elec. Law §§ 2-102, 6-207, 6-208. The Election Law Article directs the State Board to determine whether a petition is legally sufficient and to validate and verify the signatures on a petition. *See* Md. Code Ann., Elec. Law §§ 6-206, 6-207. Consistent with these statutory

directives, the State Board has adopted regulations that implement the statutory requirements for petitions. *See* COMAR, Title 33, subtitle 06.

As this Court recently held, the State Board is not permitted to impose any “additional elements” or “unduly burdensome” requirements on the “signature component” of the petition process. *Montgomery County Volunteer Fire-Rescue Ass’n v. Montgomery County Bd. of Elections*, 418 Md. 463, 476, 480 (2011). In certifying the Redistricting Act for the 2012 General Election ballot, the State Board followed this Court’s admonition against imposing either additional elements or undue burdens on the petition process.

In this case, however, the plaintiffs seek to have the Court require the State Board to impose two such additional elements on the petition process: (1) a requirement that a petition signer personally print or type his or her identifying information on a petition and (2) a requirement that a petition signer’s signature be attested to under penalty of perjury by someone other than the signer. Because these “additional elements” are present in neither the Referendum Amendment nor the Election Law Article, their imposition would be “unduly burdensome.” *Fire Rescue Ass’n*, 418 Md. at 476 & n.14, 480. The circuit court therefore correctly upheld the State Board’s application of the governing law and the Board’s refusal to impose these additional burdens on the petition process.

A. The Statute Does Not Require the Signer of a Petition to Personally Print or Type the Required Identifying Information.

The General Assembly has never required the signer of a petition for referendum to personally print or type his or her printed name, residence, or date of signing. Indeed,

the General Assembly did not enact any requirements for printing or typing until 1941, when it adopted legislation requiring that “there *shall be appended* to the signature of each signer his residence, the precinct or district wherein he is registered as a voter, and immediately below the signature of any such signer, *there shall be either printed or typed*, the name of such signer.”⁴ See *Barnes v. State*, 236 Md. 564, 570 (quoting 1941 Md. Laws, ch 335, § 315A) (emphasis added); see also, e.g., Md. Ann. Code art. 33, § 23-3 (1982) (emphasis added); Md. Ann. Code art. 33, § 207 (1951) (there *shall be appended* to the signature of each signer his residence, his occupation, the precinct or district wherein he is registered as a voter, and his place of business, and immediately below the signature of any such signer, *there shall be either printed or typed*, the name of such signer); compare Md. Ann. Code art. 33, § 23-2 (1997) (providing signers of a “petition for the election of a charter board” “shall place to the right of his or her name as and when signed, the date of such signature *in his or her own handwriting*” (emphasis added)). In *Barnes*, after taking “judicial notice of the fact that many signatures are illegible,” this Court held that the statutory requirement that the “name of the signer” be “printed or typed” is a reasonable requirement. *Id.* at 572. In reaching that conclusion, the Court accepted the lower court’s assessment that the purpose of the requirement was to enable the Secretary of State to confirm that a signer with an illegible signature was a registered voter. See *id.* As the lower court had observed, “It is not going to help the

⁴ The General Assembly used similar language in a pre-ratification statutory provision governing nomination of candidates by petition. See Md. Ann. Code art. 33, § 43 (1911) (requiring that “[e]ach signer shall append to his signature his residence, occupation, and place of business”)

Secretary of State to find out whether a particular person is a registered voter if he does not know his name.” *Id.*

In 1982, the General Assembly, in conjunction with a constitutional amendment to Article XVI, § 4, replaced these requirements with the general provision that “[t]he State Administrative Board of Election Laws shall prescribe the form for petitions filed under . . . Article XVI of the Constitution of Maryland.” Md. Ann. Code art. 33, § 23-3 (1983).

The General Assembly enacted the current form of the statute in 1998 as part of a reorganization and revision of the Election Code based on the recommendations of the Report of the Commission to Revise the Election Code (the “Commission Report”), issued in December 1997.⁵ *See* 1996 Md. Laws ch. 431 § 1 (directing the Commission to make a comprehensive revision of the election code). The Commission made clear that the proposed revision to the provisions that are pertinent here effected no substantive changes to the Election Law Article. *See* Commission Report, App. C at 55. (Apx. 24.) The final version differed somewhat from the Commission’s proposal but also effected no substantive change in the prior election law, requiring the signer to sign the petition and to include certain other information: identifying information, the date of signing, and “other information required by regulations adopted by the State Board.” Md. Code Ann., Elec. Law § 6-203(a)(1). The General Assembly also delegated to the State Board the authority to “prescribe the form and content of petitions.” Md. Code Ann., Elec. Code

⁵ Excerpts of the Commission’s voluminous Report are included in the appendix to this brief.

§ 6-103(a). Consistent with these directives, the State Board has never required signers to personally print or type the required information but only to “provide” it. COMAR 33.06.03.06B(2).

Section 6-203 of the Election Law Article contains only two distinct affirmative commands: that the individual (1) “sign” the petition and (2) “include” certain information that can be “printed or typed.” As to the first of these commands, the plain language of the statute requires the signer himself to “sign” the petition—that is, to “affix one’s signature,” Webster’s II New Riverside University Dictionary (“Webster’s”) 1083 (1988). Only the voter signing the petition, not a person or machine assisting the voter, could perform this act and thereby “provide a *personal* attestation, as a signature is often used, to evidence support for the petition.” *Fire-Rescue Ass’n*, 418 Md. at 479 (emphasis added). In contrast, the plain language of the statute does not expressly provide *how* the individual must “include” his printed or typed name, address, and date of signing, or *who* must print or type the information.

The General Assembly could have directed expressly that the individual shall personally print or type the required information, but it did not. Instead, it enacted language that requires only that the signing individual “include” that information. This is consistent with the General Assembly’s directive that “citizen convenience” be “emphasized in all aspects of the election process.” Md. Code Ann., Elec. Law § 1-201(5). Under the plain statutory language, so long as the signer “include[s]” the relevant information on the petition—that is, “ha[s it]. . . as a part,” Webster’s at 619, the signer is in compliance with state law. Because the plain language of the statute lacks

“any express requirements” that the signer himself must print or type the information, the State Board may not “impose such a strict requirement [that] reaches beyond the scope of the statute.” *Fire-Rescue Ass’n*, 418 Md. at 471 n.8, 476. Finally, the statutory history, which includes the Commission’s Report and draft legislation, confirms that the General Assembly did not intend to require that the signer himself enter the additional identifying information but, rather, that the signer merely “include” it. *See Gomez v. Jackson Hewitt, Inc.*, __ Md. __, No. 72, Sept. Term, 2011, 2012 Md. LEXIS 376, at *81 (June 22, 2012) (stating that the legislative history confirmed the Court’s interpretation of the plain meaning of the statutory language); *Anderson v. United States*, __ Md. __, Misc. No. 14, Sept. Term, 2011, 2012 Md. LEXIS 374, at *8-9 (June 22, 2012) (same); *Chase*, 360 Md. 121, 131 (2000) (stating that “resort to legislative history is a confirmatory process; it is not undertaken to contradict the plain meaning of the statute”).

In any case, the MDpetitions.com website’s only innovation is the option to print the signer’s identifying information directly onto a petition form rather than requiring the user to enter it manually. Even if the statutory language were ambiguous on this point, the Board’s interpretation that a signer need not manually enter the additional information fits with the General Assembly’s directive to assure that “citizen convenience is emphasized in all aspects of the election process.” Md. Code Ann., Elec. Law § 1-201(5). It also furthers the purpose served by the information that the voter is required to “include”—to provide “identifying information” that enables the Board of Elections “to determine the validity of a petition entry” and “to subsequently verify the eligibility of the petition signer to support the petition.” *Fire-Rescue Ass’n*, 418 Md. at

479-80; *see also Barnes v. State*, 236 Md. at 571 (explaining that these informational requirements “pertain only to the *identification* of the signer” (emphasis added)). Thus, unlike a signature, which signifies the signer’s actual support for the petition, the additional information serves only to facilitate validation and verification of the entry, and manual entry of the information does not assist in that process. Rather, the additional identifying information serves its functional purpose regardless of whether the individual manually enters the information, asks a spouse or friend to do it, dictates the information to a circulator, or, as in this case, prompts Mdpetitions.com to fill in the information by downloading a petition for himself or another registered voter at the same residence. In all of these situations, the signer, by signing a petition containing this additional information, has in fact “include[d],” Md. Code Ann., Elec. Law § 6-203(a)(1), and “provide[d],” COMAR 33.06.03.06B(2), the information on the petition, and has thus presented the Board with the sort of “identifying information” needed to verify the signer’s eligibility.⁶ The likelihood of a false petition signature is unaffected by the use of either a pre-printed or handwritten form.

⁶ The State Board has never “expressed agreement” with the appellants’ argument and does not do so in the State Board’s “Frequently Asked Questions” (“FAQ”) posting, which addresses the hypothetical query whether a circulator could use “pre-printed signature pages.” *See* Brief at 22. In making this erroneous claim, the appellants overlook the critical distinction between a “walking list,” a voter registration list including all voters in an area in street number order, on the one hand, and the type of household list generated by the user-initiated Mdpetitions.com website, on the other. That program does not “pre-fill” a petition or pre-print forms, but rather prints the voter’s identifying information in response to interactive prompts. Thus, it fills in the required information only after the signer or someone in that household has begun the process by requesting to download a petition from the site.

Interpreting the statute to allow a third-party to enter the additional information does not frustrate the ability of the Board or others to detect “fraudulent or otherwise improper signatures.” *Doe v. Montgomery County Bd.*, 406 Md. at 733; *see also Barnes*, 236 Md. at 574. There is no functional difference between using the additional information that a signer prints or types to validate and verify a signature and using that same information for the same purpose when a third-party (or automated system) enters it at the voter’s direction.

Voter registration records are public documents that anyone may inspect, and the voter list is available to any registered voter for any non-commercial, electoral use.⁷ Moreover, voter or precinct lists have been used for decades in the petition process and for other legitimate purposes. Anyone who knows the name and address of a registered voter— information that is publicly available and easily obtainable—has the capability to commit fraud by including this information on a petition alongside a fraudulent signature. The use of the website does not increase the likelihood of fraud, because, if the computer-generated forms were rejected, anyone could still use the voter list information to complete handwritten or typed entries. While this might result in a loss of convenience to the (hypothetical) fraudulent circulator, it would also result in a loss of convenience to (real) voters and greater difficulty for elections officials and others who must decipher entries printed by hand.

⁷ Indeed, the State Board encourages voters to use the voter lookup tool on the State Board’s website to check the sufficiency of signature entries.

B. The Constitution Permits a Voter Signing a Petition to Attest to His or Her Signature under Penalty of Perjury.

Article XVI, § 4 of the Maryland Constitution requires that an “affidavit of the person procuring [petition] signatures” be attached to each petition attesting “that the signatures were affixed in his presence and that, based upon the person’s best knowledge and belief, every signature on the paper is genuine and bona fide and that the signers are registered voters at the address set opposite or below their names.” In 1915, when the voters first ratified the constitutional provision, the commonly understood meaning of “procure” was “to contrive, effect, bring about; to cause.” *Bouvier’s Law Dictionary and Concise Encyclopedia* 2733 (8th ed. 1915, F. Rawle ed.). The contemporary understanding is consistent with modern usage of the word “procure.” *See Webster’s Third New International Dictionary of the English Language (Unabridged)* 1809 (Merriam-Webster 2002) (defining “procure” to mean, among other things, “to cause to happen or be done,” “bring about,” “effect”). Clearly, an individual can effect, cause, or bring about the placement of his own signature on a petition. There is no textual justification for creating a statutory requirement for a *second* witness, which would conflict with the command of § 4 that the implementing statutes “facilitate the petition process.”

The reliability and accountability of the circulator is critical to ensuring the authenticity of petition signatures, and the constitutional provision consequently focuses attention on the circulator’s role. A circulator who commits fraud, or who allows it to occur, undermines the fundamental purpose of the petition process, which is to provide

evidence that the subject of the petition is supported by the required number of registered voters.⁸ Yet, by a complete failure of logic, plaintiffs challenge two categories of signatures as to which the circulator's accountability is at its highest.

Typically, a circulator may lack personal knowledge of the identities of the persons whose names appear on the petition. If, upon review of the petition entries by "interested persons," a signature entry is discovered to be fraudulent and was not in fact signed by the registered voter identified on the petition, it will frequently be difficult to ascertain whether the circulator was responsible for the fraud. The circulator in many cases will be able simply to disavow knowledge that the entry was false by asserting that a person unknown to the circulator signed the petition purporting to be the registered voter whose name appears on the signature page. In this situation, it may be impossible to prove otherwise, and the circulator therefore avoids being held accountable for the fraud.

By contrast, where the signature entry belongs to a member of the circulator's own household, or to the circulator himself, the circulator cannot credibly assert that the purported signer's identity was unknown to the circulator. Accordingly, where a circulator attests to either his own signature or the signatures of members of his

⁸ The plaintiffs' analogy to the requirement that the testator of a will sign his name in the presence of two additional witnesses (Brief at 15) fails for obvious reasons. If there is doubt about the validity of the testator's signature at the time of the will's probate, the *now-deceased* testator will be unavailable to confirm that he signed the document. If the signing and attesting voter is deceased at the time that the State Board validates and verifies signatures, his signature cannot be counted. Because he is deceased, he is no longer a registered voter.

household, confidence in the genuineness of those signatures should be at its highest. The plaintiffs' contention that the State Board's practice of accepting these categories of signatures increases the risk of fraud is therefore not only illogical and incorrect, but completely backwards.

In any case, both the statutory provisions and the implementing regulations fulfill the constitutional command of "facilitat[ing] the petition process," and do so without imposing the additional elements that the plaintiffs demand. Section 6-204(a) of the Election Law Article requires only that "[e]ach signature page shall contain an affidavit made and executed by the individual in whose presence all of the signatures on that page were affixed and who observed each of those signatures being affixed." *See also* COMAR 33.06.03.08B(3) (requiring that the circulator affidavit contain a provision that "[t]he circulator personally observed each signer as the page was signed").

The constitutional, statutory, and regulatory provisions speak to the substantive requirements of the attesting individual's *affidavit* and say nothing about that individual's *identity*. In fact, the only provision describing who can or cannot be a "circulator" of a petition is an age requirement providing that the attesting witness be "at least 18 years old at the time any of the signatures covered by the affidavit are affixed." Md. Code Ann., Elec. Law § 6-204(c); *see also* § 6-101(d) (defining "Circulator" consistently with the constitutional language to mean "an individual who attests to one or more signatures affixed to a petition"). The absence of any "express requirement[]" that someone other than a signer serve as circulator prohibits the State Board from reading the plain language

of the constitutional, statutory, or regulatory text to require it. *Fire-Rescue*, 418 Md. at 471 n.8, 476.

C. The State Board’s Interpretation Is Consistent with the Constitution and Furthers the Legislative Intent.

Even if the law were ambiguous on either point, the State Board’s “interpretation and application of the statute . . . should be given considerable weight by reviewing courts.” *Banks*, 354 Md. at 69. The State Board has never required voters to personally print or type the required information and has consistently accepted petitions of “self-circulators,” who must sign under penalty of perjury. This practice comports with the purposes of the constitutional and statutory requirements. As discussed above, and as this Court’s precedents establish, the purpose of the signature requirement is to provide the signer’s personal attestation of support for the petition, *see Fire-Rescue Ass’n*, 418 Md. at 479, whereas the additional information has the purpose of providing “identifying information” that enables the State Board “to determine the validity of a petition entry” and “to subsequently verify the eligibility of the petition signer to support the petition.” The purpose of the attestation “is to ‘assure the validity of the *signatures* and the fairness of the petition process.’” *Fire-Rescue Ass’n*, 418 Md. at 478-79 (quoting Md. Code Ann., Elec. Law § 6-204(b)) (emphasis added).

The State Board’s interpretation effectuates the requirements of both § 4 of the Referendum Amendment and the Election Law Article. The General Assembly has mandated that “citizen convenience” be “emphasized in all aspects of the election process.” Md. Code Ann., Elec. Law § 1-201(c). Requiring a citizen to manually print or

type his or her identifying information would undermine this purpose. It would also prevent the disabled or educationally disadvantaged from participating in the petition process in contravention of the legislative intent. Requiring an individual signer to obtain a separate witness to execute the required oath under penalty of perjury would be inconvenient to the citizen. Section 4 of the Referendum Amendment does not require a second witness but instead requires only that the individual who causes the signatures to be placed on a petition page execute the required affidavit that appears on that page. Imposition of the additional element of a second witness would not further the purposes of preventing fraud, either, because the individual signer—like any other circulator—must sign under penalty of perjury, and is moreover in the best position to “assure the validity” of his or her own signature. The individual is in the best position to attest to a signature, and thus prevent fraud, as he or she can rely on *actual* knowledge, as opposed to “best knowledge and belief” that the signature is a “genuine and bona fide” signature of a qualified registered voter. Md. Const. art. XVI, § 4.

CONCLUSION

The judgment of the Circuit Court for Anne Arundel County should be affirmed.

Respectfully submitted,

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PERTINENT PROVISIONS

Constitution of Maryland, Article XVI

Section 1. Reservation of power of referendum in people; article self-executing; additional legislation

(a) The people reserve to themselves power known as The Referendum, by petition to have submitted to the registered voters of the State, to approve or reject at the polls, any Act, or part of any Act of the General Assembly, if approved by the Governor, or, if passed by the General Assembly over the veto of the Governor;

(b) The provisions of this Article shall be self-executing; provided that additional legislation in furtherance thereof and not in conflict therewith may be enacted.

Section 2. When laws to take effect; effect of filing of referendum petition

No law enacted by the General Assembly shall take effect until the first day of June next after the session at which it may be passed, unless it contains a Section declaring such law an emergency law and necessary for the immediate preservation of the public health or safety and is passed upon a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly. The effective date of a law other than an emergency law may be extended as provided in Section 3(b) hereof. If before said first day of June there shall have been filed with the Secretary of the State a petition to refer to a vote of the people any law or part of a law capable of referendum, as in this Article provided, the same shall be referred by the Secretary of State to such vote, and shall not become a law or take effect until thirty days after its approval by a majority of the electors voting thereon at the next ensuing election held throughout the State for Members of the House of Representatives of the United States. An emergency law shall remain in force notwithstanding such petition, but shall stand repealed thirty days after having been rejected by a majority of the qualified electors voting thereon. No measure changing the salary of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be enacted as an emergency law. No law making any appropriation for maintaining the State Government, or for maintaining or aiding any public institution, not exceeding the next previous appropriation for the same purpose, shall be subject to rejection or repeal under this Section. The increase in any such appropriation for

maintaining or aiding any public institution shall only take effect as in the case of other laws, and such increase or any part thereof specified in the petition, may be referred to a vote of the people upon petition.

Section 3. Number of signers necessary for petition; effect of petition signed by more than one third required number; time for filing petitions; meaning of “passed” and “enacted”; signing after passage

(a) The referendum petition against an Act or part of an Act passed by the General Assembly, shall be sufficient if signed by three percent of the qualified voters of the State of Maryland, calculated upon the whole number of votes cast for Governor at the last preceding Gubernatorial election, of whom not more than half are residents of Baltimore City, or of any one County. However, any Public Local Law for any one County or the City of Baltimore, shall be referred by the Secretary of State only to the people of the County or City of Baltimore, upon a referendum petition of ten percent of the qualified voters of the County or City of Baltimore, as the case may be, calculated upon the whole number of votes cast respectively for Governor at the last preceding Gubernatorial election.

(b) If more than one-third, but less than the full number of signatures required to complete any referendum petition against any law passed by the General Assembly, be filed with the Secretary of State before the first day of June, the time for the law to take effect and for filing the remainder of signatures to complete the petition shall be extended to the thirtieth day of the same month, with like effect.

If an Act is passed less than 45 days prior to June 1, it may not become effective sooner than 31 days after its passage. To bring this Act to referendum, the first one-third of the required number of signatures to a petition shall be submitted within 30 days after its passage. If the first one-third of the required number of signatures is submitted to the Secretary of State within 30 days after its passage, the time for the Act to take effect and for filing the remainder of the signatures to complete the petition shall be extended for an additional 30 days.

(c) In this Article, “pass” or “passed” means any final action upon any Act or part of an Act by both Houses of the General Assembly; and “enact” or “enacted” means approval of an Act or part of an Act by the Governor.

(d) Signatures on a petition for referendum on an Act or part of an Act may be signed at any time after the Act or part of an Act is passed.

Section 4. Form of petition; verification of authenticity

A petition may consist of several papers, but each paper shall contain the full text, or an accurate summary approved by the Attorney General, of the Act or part of Act petitioned. There shall be attached to each paper of signatures filed with a petition an affidavit of the person procuring those signatures that the signatures were affixed in his presence and that, based upon the person's best knowledge and belief, every signature on the paper is genuine and bona fide and that the signers are registered voters at the address set opposite or below their names. The General Assembly shall prescribe by law the form of the petition, the manner for verifying its authenticity, and other administrative procedures which facilitate the petition process and which are not in conflict with this Article.

Annotated Code of Maryland, Election Law Article

§ 6-101. Definitions

(a) *In general.* -- In this title the following words have the meanings indicated.

(b) *Affidavit.* -- "Affidavit" means a statement executed under penalty of perjury.

(c) *Chief election official.* -- "Chief election official" means:

- (1) as to the State Board, the State Administrator; or
- (2) as to a local board, the election director.

(d) *Circulator.* -- "Circulator" means an individual who attests to one or more signatures affixed to a petition.

(e) *Election authority.* -- "Election authority" means:

- (1) the State Board; or
- (2) as to a local petition, the local board for that county.

(f) *Legal authority.* -- "Legal authority" means:

- (1) the Attorney General; or

(2) as to a local petition, the counsel to the local board appointed under § 2-205 of this article for that county.

(g) *Local petition.* -- “Local petition” means a petition:

(1) on which the signatures from only one county may be counted; and

(2) that does not seek to:

(i) refer a public local law enacted by the General Assembly; or

(ii) nominate an individual for an office for which a certificate of candidacy is required to be filed with the State Board.

(h) *Page.* -- “Page” means a piece of paper comprising a part of a petition.

(i) *Petition.* -- “Petition” means all of the associated pages necessary to fulfill the requirements of a process established by the law by which individuals affix their signatures as evidence of support for:

(1) placing the name of an individual, the names of individuals, or a question on the ballot at any election;

(2) the creation of a new political party; or

(3) the appointment of a charter board under Article XI-A, § 1A of the Maryland Constitution.

(j) *Sponsor.* -- “Sponsor” means the person who coordinates the collection of signatures for a petition and who, if the petition is filed, is named on the information page as required by § 6-201 of this title.

§ 6-102. Applicability

(a) *In general.* -- Except as provided in subsection (b) of this section, this title applies to any petition authorized by law to place the name of an individual or a question on the ballot or to create a new political party.

(b) *Not applicable to municipal petitions.* -- This title does not apply to a petition filed pursuant to Article 23A of the Code.

(c) *Title construed consistent with Maryland Constitution.* -- This title may not be interpreted to conflict with any provision relating to petitions specified in the Maryland Constitution.

§ 6-103. Regulations; guidelines; forms

(a) *Regulations.* --

(1) The State Board shall adopt regulations, consistent with this title, to carry out the provisions of this title.

(2) The regulations shall:

(i) prescribe the form and content of petitions;

(ii) specify procedures for the circulation of petitions for signatures;

(iii) specify procedures for the verification and counting of signatures;
and

(iv) provide any other procedural or technical requirements that the State Board considers appropriate.

(b) *Guidelines, instructions, and forms.* --

(1) The State Board shall:

(i) prepare guidelines and instructions relating to the petition process;
and

(ii) design and arrange to have printed sample forms conforming to this subtitle for each purpose for which a petition is authorized by law.

(2) The guidelines, instructions, and forms shall be provided to the public, on request, without charge.

§ 6-201. Content of petitions

(a) *In general.* -- A petition shall contain:

(1) an information page; and

(2) signature pages containing not less than the total number of signatures required by law to be filed.

(b) *Information page.* -- The information page shall contain:

(1) a description of the subject and purpose of the petition, conforming to the requirements of regulations;

(2) identification of the sponsor and, if the sponsor is an organization, of the individual designated to receive notices under this subtitle;

(3) the required information relating to the signatures contained in the petition;

(4) the required affidavit made and executed by the sponsor or, if the sponsor is an organization, by an individual responsible to and designated by the organization; and

(5) any other information required by regulation.

(c) *Signature page.* -- Each signature page shall contain:

(1) a description of the subject and purpose of the petition, conforming to the requirements of regulations;

(2) if the petition seeks to place a question on the ballot, either:

(i) a fair and accurate summary of the substantive provisions of the proposal; or

(ii) the full text of the proposal;

(3) a statement, to which each signer subscribes, that:

(i) the signer supports the purpose of that petition process; and

(ii) based on the signer's information and belief, the signer is a registered voter in the county specified on the page and is eligible to have his or her signature counted;

(4) spaces for signatures and the required information relating to the signers;

(5) a space for the name of the county in which each of the signers of that page is a registered voter;

(6) a space for the required affidavit made and executed by the circulator; and

(7) any other information required by regulation.

(d) *Petition relating to questions.* -- If the petition seeks to place a question on the ballot and the sponsor elects to print a summary of the proposal on each signature page as provided in subsection (c)(2)(i) of this section:

(1) the circulator shall have the full text of the proposal present at the time and place that each signature is affixed to the page; and

(2) the signature page shall state that the full text is available from the circulator.

(e) *Signature page to meet requirements at all times.* -- A signature page shall satisfy the requirements of subsections (c) and (d)(2) of this section before any signature is affixed to it and at all relevant times thereafter.

§ 6-203. Signers; information provided by signers

(a) *In general.* -- To sign a petition, an individual shall:

(1) sign the individual's name as it appears on the statewide voter registration list or the individual's surname of registration and at least one full given name and the initials of any other names; and

(2) include the following information, printed or typed, in the spaces provided:

(i) the signer's name as it was signed;

(ii) the signer's address;

(iii) the date of signing; and

(iv) other information required by regulations adopted by the State Board.

(b) *Validation and counting.* -- The signature of an individual shall be validated and counted if:

(1) the requirements of subsection (a) of this section have been satisfied;

(2) the individual is a registered voter assigned to the county specified on the signature page and, if applicable, in a particular geographic area of the county;

(3) the individual has not previously signed the same petition;

(4) the signature is attested by an affidavit appearing on the page on which the signature appears;

(5) the date accompanying the signature is not later than the date of the affidavit on the page; and

(6) if applicable, the signature was affixed within the requisite period of time, as specified by law.

(c) *Removal of signature.* --

(1) A signature may be removed:

(i) by the signer upon written application to the election authority with which the petition will be filed if the application is received by the election authority prior to the filing of that signature; or

(ii) prior to the filing of that signature, by the circulator who attested to that signature or by the sponsor of the petition, if it is concluded that the signature does not satisfy the requirements of this title.

(2) A signature removed pursuant to paragraph (1)(ii) of this subsection may not be included in the number of signatures stated on the information page included in the petition.

§ 6-204. Circulators; affidavit of the circulator

(a) *In general.* -- Each signature page shall contain an affidavit made and executed by the individual in whose presence all of the signatures on that page were affixed and who observed each of those signatures being affixed.

(b) *Requirements.* -- The affidavit shall contain the statements, required by regulation, designed to assure the validity of the signatures and the fairness of the petition process.

(c) *Age of circulator.* -- A circulator must be at least 18 years old at the time any of the signatures covered by the affidavit are affixed.

Code of Maryland Regulations

33.06.01

.01 Terms Defined in Election Law Article.

In this subtitle, the following terms have the meanings stated in Election Law Article, § 6-101, Annotated Code of Maryland:

- A. Affidavit;
- B. Circulator;
- C. Local petition;
- D. Page;
- E. Petition; and
- F. Sponsor.

33.06.03.

.05 Statement of Signers' Support and Eligibility.

Each signature page shall contain a statement of the signers' support and eligibility, as required by Election Law Article, § 6-201(c)(3), Annotated Code of Maryland.

.06 Signer Identification.

A. In General. Each signature page shall contain labeled spaces for providing, adjacent to each signature, the information specified in this regulation.

B. Required Information. When signing the signature page, each signer shall:

- (1) Sign the individual's name as it appears on the Statewide voter registration list or the individual's surname of registration and at least one full given name and the initials of any other names; and
- (2) Provide the following information, to be printed or typed in the appropriate spaces:

- (a) Date of signing,
- (b) Signer's name as it was signed, and
- (c) Current residence address, including house number, street name, apartment number (if applicable), town, and ZIP code.

C. Optional Information.

- (1) The circulator shall ask each signer to also provide the signer's date of birth or, at a minimum, month and day of birth.
- (2) A signer's failure to provide this birth information does not invalidate the signature.

.07 Circulator Identification.

A. Identification Required. Each signature page shall include an identification of an individual circulator, as required by this regulation.

B. Information To Be Provided. The identification of the circulator shall include that individual's:

- (1) Printed or typed name;
- (2) Residence address, including house number, street name, apartment number (if applicable), town, and ZIP code; and
- (3) Telephone number.

.08 Circulator's Signed and Dated Affidavit.

A. Affidavit Required. Each signature page shall include an affidavit to be signed and dated by the circulator, as required by:

- (1) Election Law Article, § 6-204(a), Annotated Code of Maryland; and
- (2) This regulation.

B. Scope and Tenor. The affidavit shall state that:

- (1) All of the information given by the circulator under Regulation .07 of this chapter is true and correct;
- (2) The circulator was 18 years old or older when each signature was affixed to the page;

(3) The circulator personally observed each signer as the page was signed;
and

(4) To the best of the circulator's knowledge and belief, all:

(a) Signatures on the petition are genuine, and

(b) Signers are registered voters in the State.

APPENDIX