

No. 26-

IN THE
Supreme Court of the United States

PROTECT GIRLS SPORTS IN MAINE,
A REGISTERED BALLOT QUESTION
COMMITTEE IN THE STATE OF MAINE,

Petitioner,

v.

SHENNA BELLOWS, SECRETARY OF STATE
FOR THE STATE OF MAINE, AND JANE GILBERT,
MARK SAYRE, AND KAITLYN WEBBER,

Respondents.

**ON PETITION FOR A WRIT OF CERTIORARI TO THE STATE OF
MAINE SUPREME JUDICIAL COURT, SITTING AS THE LAW COURT**

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

This case presents a question arising from a hot social topic pervading girls’ and women’s sports, namely the right of citizens to put forward initiatives or referenda banning transgender persons from girls’ and women’s sports. Petitioner’s case concerns the exercise of their right to participate in the legislative process authorized by Maine’s initiative and referenda amendments. Me. Const. art. IV, pt. 3, §§ 17-22 (the “Initiative Amendments”).

In 2022, art. IV, pt. 3, § 20 of Maine’s Constitution and 21-A M.R.S. §903-A, banning out-of-state circulators from circulating petitions for citizen initiatives and referenda, was adjudicated as violative of the First Amendment to the United States Constitution in *We the People PAC v. Bellows*, 519 F. Supp. 3d 13 (D. Me. 2021), *aff’d*, 40 F. 4th 1 (1st Cir. 2022). Neither the Maine legislature, nor the electors in Maine, have amended art. IV, pt. 3, § 20 of the Maine Constitution or 21-A M.R.S. §903-A, and they remain unconstitutional and unenforceable. However, the Maine Supreme Judicial Court issued a final decision, holding that a Consent Order and Judgment entered in the *We the People PAC v. Bellows*, *infra.*, is state law and, the Secretary can impose unenacted legal standards to invalidate otherwise valid elector signatures on petitions circulated by out-of-state circulators who do not comply with the terms of the *We the People PAC* Consent Order and Judgment.

The questions presented are:

Whether a federal district court’s Consent Order and Judgment can modify, amend, or narrow an inseverable provision of a state’s Constitution and statute? And,

Whether Maine's unenacted standard found in a federal district court's Consent Order and Judgment to require out-of-state petition circulators to submit to the jurisdiction of the State of Maine by checking a jurisdictional box, violates the First and Fourteenth Amendment to the United States Constitution?

PARTIES TO THE PROCEEDINGS

Petitioner, Protect Girls Sports in Maine, a Registered Ballot Question Committee in the State of Maine, was the Intervenor-Appellant below.

Respondent, Shenna Bellows, Secretary of State for the State of Maine, was the Respondent-Appellee below.

Respondents, Jane Gilbert, Mark Sayre, and Kaitlyn Webber, were the Petitioners-Appellees below.

CORPORATE DISCLOSURE STATEMENT

Petitioner, Protect Girls Sports in Maine, is a registered Ballot Question Committee in the state of Maine and pursuant to Rule 14(b)(i) it does not have a stock ticker symbol. Pursuant to Rules 14(b)(ii) and 29.6, Petitioner is not owned by any parent corporation, and no publicly traded company owns 10% or more of Petitioner.

STATEMENT OF RELATED PROCEEDINGS

The following proceedings are directly related to this case within the meaning of Rule 14.1(b)(iii):

- *Gilbert, et al. v. Shenna Bellows*, Secretary of State, State of Maine Supreme Judicial Court Sitting as the Law Court, Docket No. Cum-26-288, Judgment entered on July 10, 2026, and reported at 359 A.3d 650.
- *Gilbert, et al. v. Shenna Bellows*, Superior Court of Cumberland County, PORSC-AP-2026-10, Decision and Order entered on June 11, 2026, and reported at 2026 WL 1771808.
- *Cairo, Jason McNeill, Matt Couture, and Sofia Pride v. Shenna Bellows, Secretary of State*, United States District Court for the District of Maine, Case No. 2:26-cv-00335-SDN, Order Denying Motion for Preliminary Injunction issued on August 20, 2026, and reported at 2026 WL 2445204.
- *Cairo, Jason McNeill, Matt Couture, and Sofia Pride v. Shenna Bellows, Secretary of State*, First Circuit Court of Appeals, Civil Case No. 26-1958, appeal pending from Order Denying Motion for Preliminary Injunction.

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PETITION FOR A WRIT OF CERTIORARI

Banning or limiting transgender persons from participation in girls' and women's sports has become a heavily debated topic over the last several years. As such, both local and state legislatures have debated the issue resulting in some states taking legislative action. This is true also in the State of Maine. Over the course of the last two legislative sessions the topic has been raised, debated, and has resulted in no action being taken by the legislature. Therefore, an eight-thousand-member group of "girl dads" decided to utilize Maine's citizen initiative and referendum process to put the issue to a vote by the electors of Maine. This grass roots group of "girl dads" formed a Registered Ballot Question Committee in order to promote their own citizen initiative entitled "An Act to Designate School Sports Participation and Facilities by Sex" ("the Ballot Initiative").

Maine's Constitution bans out-of-state-circulators from participating in the circulation of petitions for citizen initiatives and referenda. *See* Me. Const. art. IV, pt. 3, § 20. In 2022, both Me. Const. art. IV, pt. 3, § 20 and 21-A M.R.S. §903-A, banning out-of-state circulators from circulating petitions for citizen initiatives and referenda were adjudicated as violative of the First Amendment to the United States Constitution in *We the People PAC v. Bellows*, 519 F. Supp. 3d 13 (D. Me. 2021), *aff'd* 40 F.4th 1 (1st Cir. 2022). Neither the Maine legislature, nor the electors in Maine, have amended art. IV, pt. 3, § 20 of the Maine Constitution or 21-A M.R.S. §903-A, and today remain unconstitutional and unenforceable.

Petitioner utilized both Maine residents and out-of-state petition circulators to gather over 80,000 signatures. The Secretary of State, Shenna Bellows, initially determined that Petitioner had met the threshold number of valid elector signatures and placed the initiative on the November 3, 2026, general election ballot. After a challenge to the Secretary of State's determination, Petitioner's ballot initiative was removed from the November general election ballot because the Secretary, and ultimately the Maine Supreme Judicial Court found that the Secretary had the authority to require out-of-state circulators to check a "consent-to-jurisdiction" box on their circulator affidavit before submitting their petitions. This authority according to the Maine Supreme Judicial Court comes from a Consent Order and Judgment entered in *We the People PAC v. Bellows*, 519 F. Supp. 3d 13 (D. Me. 2021), aff'd *We the People v. Bellows*, 40 F. 4th 1 (1st Cir. 2022), and treated the terms of the Consent Order as enacted state law. Because a federal district court retains jurisdiction over its Consent Orders, the Maine Supreme Judicial Court's holding effectively put Maine's ballot initiative process into a permanent federal receivership. This Court should grant certiorari.

OPINIONS BELOW

The Maine Supreme Judicial Court's decision and judgment is reported at 359 A.3d 650 and reproduced at App. 1a-20a.

The Decision and Order, Superior Court of the State of Maine, Cumberland County, Docket No. PORSC-AP-2026-10 (June 11, 2026) reported at 2026 WL 1771808 and reproduced at App. 21a-38a.

Final Decision, Secretary of State for the State of Maine (May 26, 2026) (with attached Recommended Decision and Revised Determination) is unreported and reproduced at App. 39a-97a.

JURISDICTION

The State of Maine Supreme Judicial Court issued its decision and judgment on July 10, 2026, and this Court has jurisdiction pursuant to 28 U.S.C. §1257 and Rule 10(c) of the Rules of the United States Supreme Court.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The relevant Constitutional and statutory provisions are set forth below: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” U.S.C.A. Const. Amend. I.

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” U.S.C.A. Const. Amend. XIV, § 1 (Due Process and Equal Protection Clauses).

“As used in any of the 3 preceding sections or in this section the words “electors” and “people” mean the electors of the State qualified to vote for Governor; “recess of the Legislature” means the adjournment without day of a session of the Legislature; “statewide election” means any election held throughout the State on a particular day; “measure” means an Act, bill, resolve or resolution proposed by the people, or 2 or more such, or part or parts of such, as the case may be; “circulator” means a person who solicits signatures for written petitions, and who must be a resident of this State and whose name must appear on the voting list of the city, town or plantation of the circulator’s residence as qualified to vote for Governor; “written petition” means one or more petitions written or printed, or partly written and partly printed, with the original signatures of the petitioners, or, as authorized by law, the alternative signatures of persons with physical disabilities that prevent them from signing their own names, attached, verified as to the authenticity of the signatures by the oath of the circulator that all of the signatures to the petition were made in the presence of the circulator and that to the best of the circulator’s knowledge and belief each signature is the signature of the person whose name it purports to be, and accompanied by the certificate of the official authorized by law to maintain the voting list or to certify signatures on petitions for voters on the voting list of the city, town or plantation in which the petitioners reside that their names appear on the voting list of the city, town or plantation of the official as qualified to vote for Governor. The oath of the circulator must be sworn to in the presence of a person authorized by law to administer oaths.” Me. Const. art. IV, Pt. 3d, § 20.

A person who circulates a petition shall execute an affidavit that must include:

A. The circulator’s printed name, the physical address at which the circulator resides and the date the circulator signed the affidavit;

B. That the circulator read the information provided by the Secretary of State pursuant to subsection 3 and understands the laws governing the circulation of petitions in the State;

C. That the circulator was a resident of the State and a registered voter in the State at the time of circulating the petition; and

D. That the circulator understands that the circulator can be prosecuted under section 904 for violating the laws governing the circulation of petitions, including the requirement that the circulator truthfully executed the affidavit. The circulator shall file the affidavit with the Secretary of State at the time the petition is filed. 21-A M.R.S. §903-A(4).

STATEMENT OF THE CASE

a. Legal Background:

The circulation of petitions involves “core political speech.” *Buckley v. Am. Const. Law Found.*, 525 U.S. 182, 186-187 (1999) (citing *Meyer v. Grant*, 486 U.S. 414, 422 (1988)); *We the People PAC v. Bellows*, 40 F. 4th 1, 10 (1st

Cir. 2022); *We the People PAC v. Bellows*, 519 F. Supp. 3d 13, 39 (D. Me. 2021) (noting also that First Amendment protections are at their “zenith” when engaging in core political speech).

In 1909, dissatisfied with their elected representatives, the people of Maine amended the Maine Constitution to reinvest themselves with powers to initiate and to veto legislation. Me. Const., art. IV, pt. 3, §§ 17-22 (“the ‘Initiative Amendments’”). The Ballot Initiative is the exercise by Maine voters of their sovereign lawmaking authority pursuant to Me. Const. art. IV, pt. 3, § 18. “The ‘direct initiative’ process empowers Maine citizens to propose legislation which, if the Maine Legislature does not adopt verbatim by the next legislative session, is placed on the general election ballot to be considered by the voters for adoption.” *We the People PAC*, 519 F. Supp. 3d at 19-20 (citing Me. Const. art. IV, pt. 3, § 18, *McGee v. Secretary of State*, 896 A.2d 933, 940 (Me. 2006)). The District Court recognized, “[S]ection 18 cannot be said merely to *permit* the direct initiative of legislation upon certain conditions. Rather, it reserves to the people the *right* to legislate by direct initiative if the constitutional conditions are satisfied.” *Id.* at 20 (quoting *McGee*, 896 A.2d at 940 (emphasis in original)). In order to gain placement on the ballot, citizen-initiated legislation must garner a sufficient number of valid signatures from Maine voters, termed electors. Me. Const. art. IV, pt. 3, §§ 18, 20. The Maine Constitution establishes Maine voters’ status as “electors” and invests them with certain protections in the exercise of their rights and duties as such. Me. Const. art. II, §§ 1-3; *see also id.*, art. IV, pt. 3, § 20 (defining “elector”).

In 2022, art. IV, pt. 3, § 20 of Maine’s Constitution and 21-A M.R.S. §903-A, banning out-of-state circulators from circulating petitions for citizen initiatives and referenda was adjudicated as violative of the First Amendment to the United States Constitution in *We the People PAC v. Bellows*, 519 F. Supp. 3d 13 (D. Me. 2021), *aff’d* 40 F.4th 1 (1st Cir. 2022). Neither the Maine legislature, nor the electors in Maine, have amended art. IV, pt. 3, § 20 of the Maine Constitution or 21-A M.R.S. §903-A, and today remain unconstitutional and unenforceable. However, the Maine Supreme Judicial Court issued a decision and Judgment on July 10, 2026, holding that Paragraph 2(a) of a Consent Order and Judgment entered in the *We the People PAC v. Bellows*, *supra.*, is state law and, the Secretary can impose unenacted legal standards on out-of-state petition circulators, and invalidate otherwise valid elector signatures on petitions circulated by out-of-state circulators who do not comply with the terms of Paragraph 2(a) of the *We the People PAC* Consent Order and Judgment. *See, Gilbert, et al. v. Bellows*, 359 A.3d 650.

Central to Petitioner’s Petition is the burden on their First Amendment rights, freedom of speech and the right to petition the government, that, as construed by the Maine Supreme Judicial Court, Paragraph 2(a) imposes on out-of-state circulators not a party to that litigation and those Maine electors who sign their petitions or who, for the effectiveness of their signatures, are otherwise dependent on the ability of out-of-state circulators to do so.

b. Factual and Procedural Background:

1. Although this Petition arises from a final Judgment of the Maine Supreme Judicial Court, the

factual and procedural background of this Petition is inextricably linked to an earlier federal district court case, namely, *We the People PAC v. Bellows*, 519 F.Supp.3d 13 (*We the People PAC I*), *aff'd* 40 F.4th at 27 (*We the People Pac II*). In 2021, *We the People PAC* wanted to enlist out-of-state circulators to obtain signatures for a Maine citizens' initiative. However, the Maine Constitution and Maine statutory law barred out-of-state circulators from circulating petitions. The *We the People PAC* plaintiffs filed a complaint in the U.S. District Court alleging Maine's requirements that petition circulators be Maine residents and registered Maine voters, and attest to such in the Secretary's Circulator Affidavit forms, violated their First Amendment rights of freedom of speech. *See, We the People PAC v. Dunlap*, Case No. 1:20-cv-00489-JAW.

The *We the People PAC* plaintiffs sought declaratory relief and moved for a preliminary injunction barring the Secretary from enforcing Maine's exclusionary residency and voter registration against the out-of-state circulators they planned to employ. In its consideration of the *We the People PAC* plaintiffs' motion for preliminary injunction, the District Court correctly applied First Amendment strict scrutiny to the residency and voter registration exclusions. 519 F.Supp.3d at 46-51. The Secretary opposed plaintiffs on the merits by putting forward interests supporting the residency and voter registration exclusions. *Id.*, *passim*.

The *We the People PAC* plaintiffs responded to the Secretary's integrity justification by arguing that a consent-to-jurisdiction requirement backed by subpoena power would be more narrowly tailored. *Id.* at 46-47. The

District Court recognized this option as more narrowly tailored to serve the Secretary's claimed integrity interest. *Id.* at 46-51. By contrast, the Secretary's "grass roots" justification was wholly exclusionary and, therefore, admitted of no narrow tailoring options. The District Court ruled that, however understandable, the state's grass roots interest "must bend to the greater national good." *Id.* at 47. Thus, the District Court ruled that the plaintiffs were entitled to preliminary injunctive relief. The First Circuit Court of Appeals affirmed. *We the People PAC II*, 40 F.4th at 27.

On appeal, the First Circuit also rejected the Secretary's contention, offered in support of the State's "grass roots" interest, that restricting petition circulation to Maine residents was, by itself, narrowly tailored because it "limit[ed] the responsibility of circulation' to 'those who possess the right to advance and pass citizen legislation and must live under any resulting law,'" noting that only Maine electors could sign initiative petitions and vote on the proposed law. *Id.* at 22; *cf. We the People PAC I*, 519 F.Supp.3d at 47-48.

As with *We the People PAC I*, the First Circuit did not address the terms of the proposed preliminary injunction because those terms were never placed at issue. *Id.*, *passim*. Although the *We the People PAC* plaintiffs' motion for preliminary injunctive relief was central to both the District Court's and the First Circuit's decision, there is no indication that at any point the Secretary contended that the residency and voter registration exclusions were severable. *We the People PAC II*, *passim*; *We the People PAC I*, *passim*. Nor is there any indication that, aside from the *We the People PAC* plaintiffs' willingness to

abide by the conditions they proposed for themselves, that the District Court could tailor its injunctive relief to impose conditions on *all* out-of-state circulators as long as the Consent Order remained in effect and, by so doing, preserve some undefined vestigial remnants and applications of Maine’s constitutional and statutory exclusions on non-Maine circulators.

On remand from the First Circuit Court of Appeals, the Secretary relinquished her defense and agreed to the District Court’s approval of the Consent Order and Judgment. *See, We the People PAC, supra*. Specifically at issue are Paragraphs 1 and 2 of the *We the People PAC* Consent Order. After the District Court’s entry of judgment for the *We the People PAC* plaintiffs, a constitutional amendment limiting the residency and voter registration exclusions was presented to Maine voters. They rejected the proposed amendment. In doing so, it must be assumed that they were reconfirming the “grass roots” rationale for these exclusions; a reason the District Court characterized as “clear.” *We the People PAC*, 519 F.Supp.3d at 47.

Although Count III and IV of the *We the People PAC* complaint specifically sought the invalidation of 21-A M.R.S. § 903-A(4)(C), both on its face and as-applied, and although Paragraph 1 of the Consent Order entered judgment for the plaintiffs on Count III and IV, the Secretary did not remove the residency and voter registration requirement from the standard Circulator’s Affidavit form. Instead, she expanded that form by incorporating Paragraph 2(a)-(c) of the Consent Order, including the consent-to-jurisdiction condition. App. C at 86a-87a.

The revised Circulator’s Affidavit instructed out-of-state circulators to check a box next to these new conditions to signify consent to them (“the Jurisdiction Box.”). *Id.* By adding these conditions to the Circulator’s Affidavit, the Secretary perforce made Paragraph 2(a)-(c) applicable to all prospective out-of-state circulators for all initiative petitions. *Id.* The Secretary took this action without informing the District Court.

Thus, with Maine’s unambiguous and wholly exclusionary prohibitions still intact—unamended and unrepealed—the Secretary amended the Circulator’s Affidavit to facilitate the participation of out-of-state circulators in Maine’s initiative process. *Id.* The Secretary’s unilateral action not only conflicted with the plain language of the residency and voter registration prerequisites, but also with the unaltered and wholly exclusionary “grass roots” purpose undergirding them. *We the People II*, 40 F.4th at 21-23; *We the People I*, 519 F.Supp.3d at 47-48.

2. Petitioner, Protect Girls Sports in Maine Ballot Question Committee (“the Committee”) was formed to promote a citizen initiative, “An Act to Designate School Sports Participation and Facilities by Sex” (“the Ballot Initiative”). On February 2, 2026, petitions supporting the placement of the Ballot Initiative were submitted to the Secretary. On March 17, the Secretary issued a Determination that sufficient valid elector signatures had been submitted to place the Ballot Initiative on the November 3, 2026, general election ballot. The Secretary’s Determination was challenged by three voters (“Gilbert Petitioners”) which initiated the review process set forth

at 21-A M.R.S. § 905 and M. R. Civ. P. 80C. The Committee joined as an intervenor.

Among other objections, the *Gilbert* Petitioners objected to petitions circulated by four out-of-state circulators on the grounds that they had failed to check the Jurisdiction Box. *Gilbert v. Secretary of State*, Sup. Ct. Cumberland County, PORSC-AP-26-10 (Complaint, March 27, 2026). In response, the Secretary confirmed her position that, in reliance on Paragraph 2(a) of the *We the People* PAC Consent Order, she had inserted the Jurisdiction Box into the Circulator’s Affidavit form, and that failure to check the box could disqualify petitions. App. C at 37a-38a.

The Superior Court remanded the matter to the Secretary and, after a two-day evidentiary hearing, the Secretary’s designated Hearing Officer issued a Recommended Decision which recommended the invalidation of elector signatures on all the petitions of out-of-state circulators who failed to check the Jurisdiction Box. App. C at 86a-90a. The Recommended Decision made it clear that Paragraph 2(a) of the *We the People* PAC Consent Order was critical to this finding, explaining that the Consent Order had “narrow[ed] the scope” of the Maine Constitution’s prohibition on out of state circulators. *Id.* at 41. By so doing, the Recommended Decision created a legal mandate unknown to American jurisprudence—a hybrid law: part federal consent order; part state law. On May 26, the Secretary accepted the Recommended Decision in full. App. C. *Gilbert v. Secretary of State*, Sup. Ct. Cumberland County, PORSC-AP-26-10 (Secretary’s Revised Determination of Validity, May 26, 2026).

On June 11, the Superior Court upheld the Secretary’s disqualification of the petitions whose circulators did not check the consent-to-jurisdiction box. App. B, *passim* (*Gilbert v. Secretary of State*, Sup. Ct. Cumberland County, PORSC-AP-26-10 (Decision and Order, June 11, 2026)). The Superior Court also concluded that the *We the People PAC* Consent Order had “narrow[ed] the scope of [the Maine Constitution’s] prohibition [on out-of-state circulators] to allow the application of the constitutional prohibition to circulators who fail to consent.” App. B at 30a; App. C. at 91a. The Superior Court also found that the Secretary was “bound by the permanent injunction and must act in accordance with the Consent Order.” App. B at 33a.

The Committee appealed the Superior Court’s decision to the Maine Supreme Judicial Court. On July 10, 2026, the Maine Supreme Judicial Court issued its decision and entered Judgment. App. A, *passim*; *see, Gilbert v. Secretary of State*, 359 A.3d 650 (Me. 2026). The Maine Supreme Judicial Court upheld the Secretary and the Superior Court in all respects.

For purposes of this Petition, it is significant that the Maine Supreme Judicial Court undertook to explain federal jurisprudential principles governing the *We the People PAC* Consent Order. *Id.* at 658. The Maine Supreme Judicial Court misconstrued and misapplied those principles, and relying on the First Circuit Court of Appeal’s decision, concluded that the consent-to-jurisdiction provision contained in Paragraph 2(a) of the *We the People PAC* Consent Order had already been adjudicated as consistent with First Amendment standards governing political speech. *Id.*, citing *We the*

People PAC II, 40 F.4th at 21. The Maine Supreme Judicial Court then asserted that the Consent Order’s consent-to-jurisdiction condition was “not...a novel rule created by the Secretary without enabling authority.” *Id.* at 659.

Here, the Maine Supreme Judicial Court emphasized that pursuant to Paragraph 2(a)’s consent-to-jurisdiction condition, the “the Secretary is complying with the Maine Constitution and Maine statutes to the extent not precluded by federal restrictions.” *Id.* Thus, the Maine Supreme Judicial Court concluded that the *We the People PAC* Consent Order’s consent-to-jurisdiction condition was not subject to strict scrutiny and analyzed it as the equivalent of a lawfully adopted constitutional or statutory provision. Finally, the Maine Supreme Judicial Court endorsed the Secretary’s fusion of state election laws and Paragraph 2 of the Consent Order to provide the Consent Order with the temporal deadline that it plainly lacked. *Id.* at 659.

On June 30, while the Committee’s appeal to the Maine Supreme Judicial Court was pending, plaintiffs Cairo, McNeill, Couture, and Pride (“Cairo Plaintiffs”), filed their complaint seeking declaratory relief in U.S. District Court for the District of Maine. *Cairo, et al. v. Bellows*, 2:26-cv-00335-SDN. On July 17, Cairo Plaintiffs filed an Amended Complaint alleging violations of the First Amendment, Due Process Clause and Equal Protection Clauses of the Fourteenth Amendment, violation of the Unconstitutional Conditions Clause, and violation of the Privileges and Immunities Clause of the United States Constitution. *Id.* On July 20, Plaintiffs moved for injunctive relief which was denied on August 20. On August 24, 2026, the Cairo Plaintiffs filed their notice of appeal with the First Circuit

Court of Appeals and that appeal is currently pending as Civil Case No. 26-1958.

REASONS FOR GRANTING THE PETITION

This case presents an unprecedented holding by the Maine Supreme Judicial Court that a federal district court in *We the People PAC* Consent Order “narrow[ed] the scope of [the Maine Constitution’s] prohibition [on out-of-state circulators] to allow the application of the constitutional prohibition to circulators who fail to consent.” App. A at 13a. In so holding, the Maine Supreme Judicial Court undertook to explain federal jurisprudential principles governing the *We the People PAC* Consent Order. *Id.*; 359 A.3d at 657-58. The Maine Supreme Judicial Court specifically relied on the First Circuit Court of Appeals holding in *We the People PAC II*, in determining that the narrowing of Maine’s constitutional prohibition on out-of-state-circulators had been adjudicated as consistent with First Amendment jurisprudence, in complete defiance of this Court’s holding in *Ayotte v. Planned Parenthood of Northern New England*, 543 U.S. 320 (2006). In *Ayotte*, this Court cautioned courts to be “wary of legislatures who would rely on our intervention, for ‘[i]t would certainly be dangerous if the legislature could set a net large enough to catch all possible offenders, and leave it to the courts to step inside’ to announce to whom the statute may be applied.” *Id.* at 330, (quoting *United States v. Reese*, 92 U.S. 214, 221 (1875)). A further limiting factor is that federal courts do not construe state constitutions. *Minnesota v. National Tea Company*, 309 U.S. 551, 557 (1940). Federal courts’ assumption of such powers would undermine basic concepts of federalism. *See Younger v. Harris*, 401 U.S. 37, 344-45 (1971) (discussing “Our Federalism”).

Because the Consent Decree is ongoing in effect, and always remains under the jurisdiction of the District Court, it means that the District Court has a measure of jurisdiction over the petition circulation in Maine initiatives and referenda. Even if the Maine Supreme Judicial Court is willing to approve such an arrangement, it cannot be squared with basic principles of federalism.

Equally remarkable is the fact that Paragraph 1 of the Consent Decree invalidated the voter registration and residency requirements on their face on the grounds that they violated the out-of-state petition circulators' First Amendment rights. Yet, the Consent Order, as approved by the Maine Supreme Judicial Court, imposes conditions on the out-of-state circulators' exercise of those First Amendment rights, which involve core political speech and First Amendment rights of association and, the right to petition the government.

Petitioners ask this Court to issue a Writ of Certiorari due to the enormity of the implications of state officials relying on a federal court Consent Order to invalidate otherwise valid voter signatures, and disqualify proposed citizen legislation from the ballot. These actions, coupled with the Maine Supreme Judicial Court's blessing of the violation of First Amendment rights of circulators and electors in the State of Maine provide the basis for this Court to exercise its review.

I. Maine Supreme Judicial Court's Holding Effectively Put Maine's Ballot Initiative Process Into a Permanent Federal Receivership.

When the Maine Supreme Judicial Court undertook to interpret the District Court's Consent Order, it adopted the Secretary's position and conflated the Consent Order with enacted state law. The Secretary contends that subparagraphs 2(a) through (c) of the Consent Order are not limited to the *We the People PAC* parties but apply to, and impose affirmative obligations on, all would be out-of-state circulators, in perpetuity. The Secretary's position was that the Consent Order empowers her to fuse state statutory standards into the Consent Order and apply them as a hybrid state-federal authority not only to invalidate out-of-state circulators' petitions, but to disenfranchise all Maine electors who signed those petitions. However, the Maine Supreme Judicial Court did not have the authority to make such a ruling.

The District Court retains jurisdiction to interpret its orders. *See Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 380-81 (1994); *Brewster v. Dukakis*, 3 F.3d 488, 490-92 (1st Cir. 1993) (retaining district court jurisdiction over a permanent injunction despite issuing an order stating "the Court's active jurisdiction over the case . . . is hereby ended"). "A consent decree is not simply a contract entered into between private parties seeking to effectuate parochial concerns. The court stands behind the decree, ready to interpret and enforce its provisions." *In re Pearson*, 990 F.2d 653, 658 (1st Cir. 1993) (emphasis added) (citations omitted).

In addition to retaining jurisdiction over its own orders, the District Court is uniquely empowered to authoritatively interpret the consent orders it issues. “The question [of] whether a party adequately has complied with a court order is a matter peculiarly within the ken of the judge who issued the order.” *Rhode Island State Council of Churches v. Rollins*, 158 F. 4th 304, 314 (1st Cir. 2025) (quoting *Faigin v. Kelly*, 184 F.3d 67, 84 (1st Cir. 1999)). “There is no state court to which the question of interpreting the decree could be certified or to whose authority and expertise the federal court could defer[.]” *Fortin v. Comm’r of Mass. Dept. of Public Welfare*, 692 F.2d 790, 798 (1st Cir. 1982). A state court may interpret a federal consent decree as to its effect on state law, but the federal court alone is authoritative in interpreting its consent decree in matters of federal law. *Industria Lechera De Puerto Rico, Inc. v. Beiró*, 989 F.3d 116, 120-22 (1st Cir. 2021). Therefore, the District Court remains the exclusive forum to interpret orders it issues as they relate to federal law.

Were the Maine Supreme Judicial Court’s ruling to stand, the District Court could change the conditions for petition circulation in Maine anytime it wishes. This imbues Maine’s absolute prohibition on out-of-state circulators with a malleability demonstrably unpalatable to Maine electors. Upholding this ruling would effectively put Maine’s ballot initiative process into a permanent federal receivership.

II. The First Circuit Did Not Adjudicate the Consent to Jurisdiction Conditions of the *We the People PAC* Consent Order as Consistent with First Amendment Jurisprudence.

The Maine Supreme Judicial Court manifestly erred in construing the First Circuit Court of Appeal’s observation that a consent-to-jurisdiction option was “available here,” as a determination that an unenacted option was consonant with First Amendment core political speech standards. App. A at 12a-13a; *Gilbert v. Sec’y of State*, 359 A.3d at 658, citing, *We the People PAC II*, 40 F. 4th at 21. Central to the Maine Supreme Judicial Court’s determination is the erroneous assumption that the First Circuit Court of Appeals, in affirming *We the People PAC I*, evaluated the consent-to-jurisdiction option proposed by the *We the People PAC* plaintiffs as more narrowly tailored to meet the Secretary’s election integrity interest and held that the proffered option passed First Amendment muster. But, the First Circuit in *We the People PAC II* did not so hold and, indeed, could not have so held because the consent-to-jurisdiction option in the Consent Order and Judgment was not before them. 40 F.4th at 27.

First, strict scrutiny analysis requires a court to “assume [] that certain protected speech may be regulated and then asks what is the least restrictive alternative that can be used to achieve that goal.” *Ashcroft v. Am. Civil Liberties Union*, 542 U.S. 656, 666 (2006); accord *United States v. Playboy Entertainment Group, Inc.*, 529 U.S. 803, 823 (2000) (the presentation of “a plausible, less restrictive alternative” requires the government to prove it ineffective and to show the challenged law is “the least restrictive means available” (emphasis added)). As

this Court explained, “[w]e do not mean to opine on the validity of any particular proposal. The point is there are numerous alternative approaches to Congress to prevent circumvention of the basic limits.” *McCutcheon v. Federal Election Comm’n*, 572 U.S. 185, 223 (2014).

Second, although it should go without saying, when the First Circuit Court of Appeals in *We the People PAC II* considered the more narrowly tailored options—including consent-to-jurisdiction—that the *We the People PAC* plaintiffs proposed, they had not been enacted into law. Therefore, no authoritative ruling on their constitutionality was possible. As this Court has explained, “Article III of the Constitution forbids courts from issuing advisory opinions or answering hypothetical questions.” *Rhode Island v. Narragansett Indian Tribe*, 19 F.3d 685, 705 (1st Cir. 1994); *accord*, *United States v. Green*, 407 F.3d 434, 439 (1st Cir. 2005). Ruling on the constitutionality of unenacted “laws” is barred.

In sum, the conditions in subparagraph 2(a) of the *We the People PAC* Consent Order have not been enacted into law. Because it has not been enacted into law, no one, including the out-of-state circulators and the electors who signed their petitions, have been able to challenge it. No court has adjudicated its constitutionality. And, contrary to the Maine Supreme Judicial Court’s holding, no court has adjudicated whether these conditions are consonant with the First Amendment.

III. The District Court's Consent Order Cannot Narrow or Amend Maine's Constitution.

Remarkably, the Maine Supreme Judicial Court's decision found that the federal District Court's Consent Order in *We the People PAC I and II*, **narrowed the Maine Constitution**. (Emphasis added). App. A at 12a-13a. It must be understood that, in the *We the People PAC* litigation, with the Secretary's consent, the District Court adjudicated the exclusionary residency and voter registration requirements of the Maine Constitution and 21-A M.R.S. §903-A as facially and as-applied unconstitutional in their entirety as violative of the First Amendment. *We the People PAC I*, 519 F. Supp. 3d 13. At that point, these provisions became invalid and could not be enforced. *cf. Ayotte v. Northern New England Planned Parenthood*, 546 U.S. 320, 329-32 (2006).

The Maine Supreme Judicial Court, therefore, confirmed that notwithstanding the invalidation of these conditions, the Secretary nonetheless retains the power to enforce these unconstitutional provisions, not against out-of-state circulators, themselves, but against the electors on the petitions they have circulated. App. A. at 14a. The Maine Supreme Judicial Court essentially relied on the same language the Superior Court relied upon that "[t]he United States District Court **authorized** Maine to impose this requirement by limiting its injunction of Maine's ability to enforce the residency requirement to circumstances in which the circulator fails to consent to Maine's jurisdiction" to escape the Secretary's enforcement of Maine's unconstitutional residency requirement. *Id.*, *see also*, App. C. at 87a. The Maine Supreme Judicial Court doubled down on the sweeping

authority of the District Court’s Consent Order in *We the People PAC* as effective legislation when it affirmed the Superior Court’s determination that the Consent Order “does not contradict the Maine Constitution’s prohibition on out-of-state circulators. Rather, it narrows the scope of that prohibition[.]” App. B at 30a. At yet another point, the Maine Supreme Judicial Court agreed with the Secretary’s position that “the Consent Order merely narrows the scope of the Constitution’s [Maine residency] prohibition.” App. A at 12a-14a; App. B at 30a.

But that is not what the District Court did or could have done. Its “narrowly tailoring” observations did not hold that any of the less restrictive options would, **if enacted**, pass First Amendment muster. They only noted that they were less restrictive than the total ban. Likewise, the First Circuit Court of Appeals could only put forth observations for narrow tailoring, but cannot, and did not adjudicate them. As this Court in *Bibb* made clear, in finding state laws overly burdensome of federally protected rights, federal courts do not, themselves, approve less burdensome means. *Bibb v. Navajo Freight Lines, Inc.*, 359 U.S. 520, 530 (1959). That decision is left to the legislatures or, in this instance, to the people of Maine who have the right to remove or attempt to condition the residency and voter registration exclusions by amending the constitution. *Id.*

Since the District Court’s invalidation of the residency and voter registration exclusions, nothing has changed. The exclusions remain invalid in their entirety. That means it is up to the people of Maine to determine whether and to what extent they should be changed. Upon proposal

by the Legislature, only the people of Maine can amend the Constitution. Me. art. X, § 4.

The Maine Supreme Judicial Court misapplied this Court's holding in *Ayotte* to conclude that the federal District Court's Consent Order issued in the *We the People PAC I* narrowly tailored Maine's Constitution and provided the Secretary authority she otherwise did not have under state law. App. A at 11a-13a.

Ayotte concerned a multi-tiered parental notification statute, some parts of which might be constitutionally applied and other parts of which could not. *Ayotte v. Planned Parenthood of Northern New England*, 546 U.S. 320, 323-24, 330-31 (2006). By contrast, Maine's constitutional and statutory exclusions of out-of-state circulators are complete and entire unto themselves. This explains why there is no indication in the very thorough District Court and First Circuit decisions in the *We the People PAC* litigation that the Secretary ever proposed that the residency and voter registration exclusions were severable. *We the People PAC II*, 40 F.4th 1, *passim*; *We the People PAC I*, 519 F.Supp.3d 13, *passim*. Even if these terms had been structured to be amenable to severance, the District Court could not have done so and remained faithful to popular and legislative intent behind the residence and voter registration conditions. *Ayotte*, 546 U.S. at 328-29 (warning courts against “rewrit[ing] state law to conform it to constitutional requirements”).

Finally, if the District Court had intended the Consent Order to preserve some remnant of Maine's constitutional and statutory residency and voter registration exclusions, the District Court would have had to interpret these

Maine laws to ensure that Paragraph 2(a) was compatible, not only with their structure, but with their purpose and intent. *Minnesota v. National Tea Co.*, 309 U.S. 551, 555 (1940). Without asserting that in issuing the Consent Order, the District Court did so, it remains that it would have lacked the authority to construe the Maine Constitution to tailor Paragraph 2(a) to comport with it.

CONCLUSION

This Court should grant the petition.

Respectfully submitted,

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October 8, 2026

APPENDIX

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**APPENDIX A — DECISION OF THE
MAINE SUPREME JUDICIAL COURT,
DATED JULY 10, 2026**

MAINE SUPREME JUDICIAL COURT

Decision: 2026 ME 59

Docket: Cum-26-288

Argued: July 1, 2026

Decided: July 10, 2026

JANE GILBERT *et al.*

v.

SECRETARY OF STATE

July 10, 2026

Panel: STANFILL, C.J., and MEAD, CONNORS,
LAWRENCE, DOUGLAS, and LIPEZ, JJ. PER
CURIAM

[¶1] Protect Girls Sports in Maine (the committee), a registered ballot question committee, appeals from a judgment of the Superior Court (Cumberland County, *Cashman, J.*) affirming the decision of the Secretary of State invalidating a petition for initiated legislation entitled, “An Act to Designate School Sports Participation and Facilities by Sex.”¹ The question before us is whether the Secretary properly invalidated the signatures

1. We acknowledge the briefs filed by amici curiae (1) Initiative and Referendum Institute and Dane Waters, and (2) Sofia Pride, Jason McNeill, Matthew Couture, and Molly Curtis.

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collected by four petition circulators who do not reside in Maine and who did not, in their circulator affidavits submitted with the petition signatures, consent to the jurisdiction of the Maine courts.² We affirm.

I. BACKGROUND

[¶2] On February 2, 2026, 79,692 signatures were submitted to the Secretary in support of the legislation that the petition sought to initiate.³ On March 17, 2026, the Secretary issued a written determination of the validity of the petition. The Secretary found that 71,033 signatures were valid, exceeding the 67,682 signatures required. Accordingly, the Secretary determined that the petition was valid.

[¶3] On March 27, 2026, Jane Gilbert, Mark Sayre, and Kaitlin Webber (collectively Gilbert) filed in the Superior Court a petition for review of the Secretary's decision. *See* 21-A M.R.S. § 905(2) (2026); M.R. Civ. P. 80C.

2. We do not reach the committee's arguments that other groups of signatures should have been validated because, even if the committee were to prevail on these arguments, there still would not be a sufficient number of valid signatures to support the petition. *See Hart v. Sec'y of State*, 1998 ME 189, ¶ 5, 715 A.2d 165. Because we affirm the Secretary's determination that there is not a sufficient number of valid signatures, we also do not reach Gilbert's arguments that additional groups of signatures should have been invalidated.

3. February 2, 2026, was the constitutionally mandated deadline for initiative petitions to be submitted to the Secretary for consideration by the electors in the 2026 election. *See* Me. Const. art. IV, pt. 3, § 18(1).

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On April 1, 2026, the committee moved to intervene, and on April 13, the court granted the committee's motion.

[¶4] Gilbert raised twenty-one challenges to the petition. Included was Challenge 3, in which Gilbert challenged the signatures gathered by four petition circulators who failed to affirm under oath that they are either Maine residents or are willing to submit to Maine's jurisdiction for purposes of any investigation into alleged violations of Maine law. Over fifteen hundred signatures were collected by those four circulators.

[¶5] The Secretary conceded several of Gilbert's challenges, including Challenge 3, i.e., she conceded that the signatures collected by the four out-of-state circulators who failed to check the box on their circulator affidavits consenting to the jurisdiction of the State of Maine should have been invalidated. On April 24, the court remanded the matter to the Secretary for further proceedings "which may include correcting the concessions identified herein, taking new evidence, and developing further findings of fact as necessary."

[¶6] On May 12 and 13, 2026, the Chief Deputy Secretary of State held an evidentiary hearing. One of the circulators at issue in Challenge 3 testified at this hearing, and an updated affidavit from that circulator, in which she consented to the jurisdiction of Maine, was admitted in evidence.

[¶7] On May 21, 2026, the Chief Deputy issued a recommended decision determining that, as a result of

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several of the challenges, the petition had not received the required number of valid signatures. Included in the recommended decision were the following findings of fact.

[¶8] Four petition circulators who reside out of state did not, in their circulator affidavits submitted with the petition, check the box agreeing to the conditions required of out-of-state circulators, including consenting to the jurisdiction of the Maine courts. The Chief Deputy found that the failure of the circulator who testified at the hearing to timely agree to the conditions for out-of-state circulators was not inadvertent; rather, at the time of executing her affidavit, the circulator was concerned that checking that box might require her to appear in court during midterm season, so she wanted to get a better understanding of that requirement before agreeing to it. No one explained this provision, and she executed the affidavit without checking that box. On May 6, 2026, well after the petition was submitted to the Secretary in February 2026, the circulator executed a new affidavit in which she agreed to the conditions required of an out-of-state circulator.

[¶9] Ultimately, the Chief Deputy recommended that all signatures collected by the four nonresident petition circulators who did not consent to the jurisdiction of Maine in their affidavits submitted to the Secretary with their collected signatures should be invalidated. Because 1,520 signatures fell into this category, the result was that the petition was short of the required number by 532 signatures. On May 26, 2026, the Secretary adopted the recommended decision as the final decision in the matter.

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[¶10] On May 29, 2026, at the request of the committee, the Superior Court resumed jurisdiction over the Rule 80C petition for review. On June 11, 2026, the court denied the petition for review and affirmed the final decision of the Secretary. Both the committee and Gilbert appealed. *See* 21-A M.R.S. § 905(3); M.R. App. P. 2B(c)(1), 2C(a)(1)-(2).

II. DISCUSSION

[¶11] “When, as here, the Superior Court acts in its intermediate appellate capacity pursuant to Rule 80C, we review directly the Secretary of State’s decision for errors of law, findings not supported by the evidence, or an abuse of discretion.” *Reed v. Sec’y of State*, 2020 ME 57, ¶ 12, 232 A.3d 202.

[¶12] The question before us is whether the Secretary had the legal authority to invalidate signatures collected by out-of-state petition circulators who did not, at the time the petitions were submitted to the Secretary, take an oath consenting to Maine jurisdiction. We hold that the Secretary was not only authorized but was constitutionally bound to impose and enforce the oath requirement.⁴

4. To the extent that the committee argues that the remedy imposed by the Secretary to enforce the oath requirement—invalidation of the signatures collected by the circulators who did not consent to jurisdiction—was improper, “it is well established that the Secretary has the authority to invalidate petitions *in toto* when the circulator has not complied with statutory or constitutional requirements.” *Me. Taxpayers Action Network v. Sec’y of State*, 2002 ME 64, ¶ 12, 795 A.2d 75; *see, e.g., Jones v. Sec’y of State*, 2020

*Appendix A***A. The Secretary is obligated to adhere to the Maine Constitution.**

[¶13] The Secretary, who is a constitutional officer, *see* Me. Const. art. V, pt. 2, took an oath to support the Maine Constitution. *See id.* art. IX, § 1; *Laprel v. Going*, 2014 ME 84, ¶ 16, 96 A.3d 67. It is thus her duty to adhere to the dictates of the Maine Constitution. *Cf. Shawmut Mfg. Co. v. Town of Benton*, 123 Me. 121, 127, 122 A. 49, 52 (1923) (stating that the “intentional ignoring by the local officers of the constitutional provisions which they swore that they would uphold” would “tend to dim that justice which is the end of government”); *State ex rel. Anderson v. Shanahan*, 183 Kan. 464, 327 P.2d 1042, 1046-47 (Kan. 1958) (holding that the Kansas Secretary of State was compelled to follow the provisions in the state constitution for placing a proposed amendment to the state constitution on the ballot because the secretary, as a constitutional officer, was “duty bound to comply fully” with the provisions of the state constitution, “which is the fundamental law of the people”).

[¶14] The Maine Constitution requires that circulators of initiative petitions be Maine residents. Me. Const. art. IV, pt. 3, § 20. The Constitution thus compels the Secretary, “the constitutional officer entrusted

ME 113, ¶¶ 8, 35, 238 A.3d 982 (invalidating signatures because the circulator was not a registered voter); *Hart*, 1998 ME 189, ¶¶ 5-6, 715 A.2d 165 (invalidating signatures because circulators were not Maine residents); *Palesky v. Sec’y of State*, 1998 ME 103, ¶¶ 10-11, 711 A.2d 129 (invalidating petitions for defects in the oaths taken by the circulators).

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with administering . . . the laws pertaining to the direct initiative process,” *Reed*, 2020 ME 57, ¶ 18, 232 A.3d 202, to require that petition circulators be Maine residents. *See Shawmut Mfg.*, 123 Me. at 128, 122 A. at 52 (“Constitutional provisions are not self-executing; they have to be accomplished through human agency, imperfect as the means may be. But, fallible and finite though these agents are, there must be respect by them for the Constitutions, else they would have a government of law run riot.”).

[¶15] The Legislature has also given effect to this constitutional imperative by enacting 21-A M.R.S. § 903-A(4)(C) (2026), which requires petition circulators to execute affidavits including “[t]hat the circulator was a resident of the State and a registered voter in the State at the time of circulating the petition.” Just as the Secretary has a duty to comply with the Constitution, she also must comply with statutes that do not violate the Constitution. *See Opinion of the Justices*, 343 A.2d 196, 202 (Me. 1975) (noting that if a statute were constitutional, the Governor and Executive Council would have “the duty to proceed” under the statute); *Burkett ex inf. Leach v. Robie*, 137 Me. 42, 47, 15 A.2d 71, 74 (1940) (stating “[t]he secretary of state cannot be required to violate [her] statutory duty”).

[¶16] Hence, absent any superseding authority, the Secretary was compelled by her oath and by Maine law to require circulators to file affidavits averring that they were Maine residents and voters.

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B. The only exception to the Secretary’s duty to obey Maine law is if federal law supersedes the state mandate.

[¶17] The only exception to the Secretary’s duty to comply fully with the Maine Constitution and Maine statutes is when the relevant provisions of Maine law are superseded by federal law. *See* U.S. Const. art. VI, cl. 2 (“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”).

[¶18] Although we previously concluded that the provision in the Maine Constitution requiring circulators to be Maine residents did not violate the U.S. Constitution, *see Hart v. Sec’y of State*, 1998 ME 189, ¶¶ 6, 13, 715 A.2d 165; *Jones v. Sec’y of State*, 2020 ME 113, ¶ 33, 238 A.3d 982, subsequently, We the People PAC, a political action committee, and other plaintiffs filed an action in the U.S. District Court for the District of Maine seeking declaratory and injunctive relief prohibiting the Secretary “from enforcing certain Maine State laws that regulate the circulation of ballot initiative petitions.” *We the People PAC v. Bellows*, 519 F. Supp. 3d 13, 16 (D. Me. 2021), *aff’d*, 40 F.4th 1 (1st Cir. 2022). As relevant here, We the People PAC sought a declaratory judgment that 21-A M.R.S. § 903-A, which requires, inter alia, that circulators of initiative petitions attest that they are Maine residents, violated the First and Fourteenth Amendments “as applied to out-of-state circulators willing to submit to the jurisdiction of the State of Maine for purposes of

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investigation and/or prosecution of any petition filed by the out-of-state circulator.” Complaint for Declaratory and Injunctive Relief at 24, *We the People*, 519 F.Supp.3d 13, 2020 WL 13740452.

[¶19] On February 16, 2021, the District Court granted a motion by We the People for a preliminary injunction enjoining the Secretary from enforcing the residency requirement of section 903-A as to out-of-state circulators who “first submit to the jurisdiction of the state of Maine for any investigation and/or prosecution of alleged violations of Maine’s election code.” *We the People*, 519 F. Supp. 3d at 53. The District Court issued its order on the basis that We the People was likely to succeed on its claim that the residency requirement for petition circulators violates the First Amendment to the federal constitution. *Id.* at 53. The First Circuit affirmed the District Court’s order. *We the People PAC v. Bellows*, 40 F.4th 1, 27 (1st Cir. 2022).

[¶20] Following the First Circuit’s affirmance of the preliminary injunction, on February 9, 2023, the District Court issued a consent order and judgment agreed to by the parties. The order permanently enjoined the Secretary

from enforcing 21-A M.R.S. § 903-A and Me. Const., art. IV, pt. 3, § 20, to the extent they require that initiative or people’s veto petitions only be circulated by Maine residents, against circulators who (a) agree to submit to the personal jurisdiction of Maine for purposes of any investigation or prosecution of any alleged

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violation of Maine law with respect to initiative or people's veto petitions; (b) maintain up-to-date contact information with the Maine Secretary of State's office, by whatever means identified by the Secretary of State's office, for the duration of any petition drive for which they circulat[e] petitions, which drive includes the collection of signatures and review of those signatures by the Secretary of State's office; and (c) are responsive to requests for information from the Secretary of State's office for the duration of the petition drive, as defined above.

[¶21] In sum, the Secretary is subject to a permanent federal injunction precluding her from enforcing the Maine Constitution's residency requirement except as to those non-Maine residents who, inter alia, do not agree to submit to the personal jurisdiction of Maine.

C. Consistent with her oath, by requiring nonresident circulators to consent to Maine jurisdiction, the Secretary complied with the Maine Constitution and statutes to the extent she was able to do so.

[¶22] Under our federalist system, the federal courts craft any injunction that precludes a state officer from enforcing a provision in a state law as narrowly as possible so as to intrude as minimally as possible on the state officer's duty to comply with that law. *See Clark*

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v. Coye, 60 F.3d 600, 603-04 (9th Cir. 1995).⁵ Thus, the “normal rule” in the federal courts is to enjoin only the unconstitutional applications of a challenged state law.

5. The Ninth Circuit in *Clark* stated:

Due to concerns of comity and federalism, the scope of federal injunctive relief against an agency of state government must always be narrowly tailored to enforce federal constitutional and statutory law only. This is critical because a federal district court’s exercise of discretion to enjoin state political bodies raises serious questions regarding the legitimacy of its authority. Thus, in reviewing a district court’s injunction against an agency of state government, we scrutinize the injunction closely to make sure that the remedy protects the plaintiffs’ federal constitutional and statutory rights but does not require more of state officials than is necessary to assure their compliance with federal law.

60 F.3d at 603-04 (citations and quotation marks omitted). *See also Newman v. Alabama*, 683 F.2d 1312, 1319 (11th Cir. 1982) (stating that permanent injunctive relief from a constitutional violation “must be no broader than necessary to remedy the constitutional violation”); *EagleMed LLC v. Cox*, 868 F.3d 893, 905 (10th Cir. 2017) (“In fashioning injunctive relief against a state agency or official, a district court must ensure that the relief ordered is ‘no broader than necessary to remedy the [federal] violation.’” (quoting *Toussaint v. McCarthy*, 801 F.2d 1080, 1086-87 (9th Cir. 1986))); *cf. Younger v. Harris*, 401 U.S. 37, 44, 91 S. Ct. 746, 27 L. Ed. 2d 669 (1971) (stating that “Our Federalism” represents “a system in which there is sensitivity to the legitimate interests of both State and National Governments, and in which the National Government, anxious though it may be to vindicate and protect federal rights and federal interests, always endeavors to do so in ways that will not unduly interfere with the legitimate activities of the States” (quotation marks omitted)).

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Ayotte v. Planned Parenthood of N. New England, 546 U.S. 320, 328-29, 126 S. Ct. 961, 163 L. Ed. 2d 812 (2006) (quotation marks omitted). On the other side of the coin, the Secretary, like the Justices of this Court who take the same oath as the Secretary, is duty-bound to adhere to the Maine Constitution to the extent not precluded by the federal injunction. See *In re Apportionment of House of Representatives*, 315 A.2d 211, 218-19 (Me. 1974), *amended by* 316 A.2d 508 (Me. 1974).

[¶23] *In re Apportionment* involved a conflict between federal law and the Maine Constitution as to legislative apportionment. *Id.* at 213. In that situation, we stated that “we consider that it is our sworn duty to be governed by the Constitution of this State to the fullest extent reasonably possible consistently with recognition of the Constitution of the United States as the Supreme law of the land” and noted that we could not “discard entirely” the provisions of the Maine Constitution relating to legislative apportionment “and proceed unrestrained except as we may be controlled by the Constitution of the United States.” *Id.* at 218-19.

[¶24] The injunction and consent order issued by the District Court did not prohibit the Secretary from enforcing the residency requirement against petition circulators who do not consent to personal jurisdiction in the state. Indeed, when the First Circuit concluded that a flat ban on nonresident circulators was likely unconstitutional under the federal constitution because the ban was not narrowly tailored, the Court of Appeals observed that “available here” was “requiring out-of-state

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circulators to provide up-to-date contact information and to submit to legal process in the state.” *We the People*, 40 F.4th at 21; *see also Pierce v. Jacobsen*, 44 F.4th 853, 862-63 (9th Cir. 2022) (noting that multiple United States Courts of Appeals have concluded that requiring petition circulators to consent to a state’s jurisdiction met the test of a narrowly tailored means of accomplishing the same interest as residency requirements); *Chandler v. City of Arvada*, 292 F.3d 1236, 1244 (10th Cir. 2002) (approving the requirement “as a prerequisite to circulating an initiative . . . petition” that the prospective circulator agree to submit to jurisdiction); *Krislov v. Rednour*, 226 F.3d 851, 866 n.7 (7th Cir. 2000) (“[T]o ensure the integrity of the process, States might require non-citizens to register with the Board of Elections and agree to submit to the jurisdiction of Illinois courts.”).

[¶25] Thus, to follow the Maine Constitution to “the fullest extent reasonably possible,” *see In re Apportionment*, 315 A.2d at 218, the Secretary is obligated to enforce the Maine Constitution’s residency requirement against those petition circulators not covered by the consent order, including out-of-state circulators who do not consent to Maine jurisdiction. *See id.* at 219 (noting, in addressing a federal-state conflict, that the Court was able “reasonably and substantially to accommodate the basic spirit and a substantial part of the letter of the Maine Constitution” to the requirements of federal law). Here, the “basic spirit” of the Maine Constitution’s residency requirement includes, as we said in affirming this requirement against a First Amendment challenge, “provid[ing] the State with jurisdiction over the circulators

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and mak[ing] the circulators easier to locate if there is a question as to the validity of the signatures collected.” *Hart*, 1998 ME 189, ¶ 13, 715 A.2d 165. The requirement that nonresident circulators agree to submit to Maine jurisdiction advances this constitutional purpose.⁶

[¶26] In sum, the requirement that out-of-state circulators consent to jurisdiction is not, as the committee argues, a novel rule created by the Secretary without enabling authority. Rather, by requiring out-of-state circulators to take an oath that they will submit to the jurisdiction of Maine, the Secretary is complying with the Maine Constitution and Maine statutes to the extent not precluded by federal restrictions. Her authority—and her duty—to impose the oath comes from the Maine Constitution and her own oath to adhere to its provisions. The Secretary thus did not err by requiring petition circulators to consent by affidavit to Maine jurisdiction and by invalidating the signatures collected by petition circulators who have not so consented.

6. The committee asks us to overturn our decision in *Hart*, 1998 ME 189, ¶¶ 6-13, 715 A.2d 165, in which we held that the constitutional requirement that petition circulators be residents did not violate the First and Fourteenth Amendments. Given that the Secretary is precluded from enforcing any aspect of the residency requirement except the limited requirements in the consent order, it is unclear what the concrete impact of such a ruling would be, and we decline to do so.

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D. The Secretary properly invalidated the signatures collected by the petition circulator who did not consent to jurisdiction at the time the signatures were submitted.

[¶27] The committee argues that even if the Secretary were permitted to invalidate the signatures collected by the three nonresident circulators who have never consented to jurisdiction, she could not do so as to the signatures collected by the circulator who consented to jurisdiction months after the circulator’s submission of the collected signatures and months after the deadline provided in the Maine Constitution for the filing of the initiative petition. *See* Me. Const. art. IV, pt. 3, § 18(1); *supra* n.2. We disagree.

[¶28] Neither the permanent injunction nor the consent order includes a provision dictating when nonresident circulators must agree to jurisdiction so as to enjoy the protection of the injunction. Hence, the State is not precluded by the injunction or the consent order from setting its own deadline.⁷ The committee asserts that the omission of a timing specification in the consent order signifies that the federal court concluded that the timing of the submission to jurisdiction was “not critical.”

7. *See* Fed. R. Civ. P. 65(d)(1) (“Every order granting an injunction . . . must . . . state its terms specifically.”); 11A Wright & Miller’s Federal Practice & Procedure § 2955 (3d ed. 2013), Westlaw (database updated April 2026) (stating that Rule 65(d) “strongly suggests that only those acts specified by the order will be treated as within its scope and that no conduct or action will be prohibited by implication”).

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The omission of a timing specification only underscores why the State and the Secretary may set the date for consenting to jurisdiction as the time that the signatures and circulator affidavits are submitted.

[¶29] If a state regulation imposes a severe burden on the signature collecting process, then a strict scrutiny standard of review applies to that regulation, pursuant to which the regulation is rejected unless the interest advanced in the regulation is compelling and the regulation is narrowly tailored to advance that interest. *See Jones*, 2020 ME 113, ¶ 24, 238 A.3d 982; *Pierce*, 44 F.4th at 859-60; *We the People*, 40 F.4th at 13-14. The Supreme Court has identified two non-exhaustive factors for when a regulation imposes a severe burden: when it (1) “limits the number of voices carrying the initiative proponent’s message and the size of the audience the proponent can reach” or (2) “makes it less likely a proponent will get enough signatures to place the issue on the ballot, thereby limiting the ability to make the issue the focus of statewide discussion.” *Pierce*, 44 F.4th at 860 (citing *Meyer v. Grant*, 486 U.S. 414, 422-23, 108 S. Ct. 1886, 100 L. Ed. 2d 425 (1988)) (quotation marks omitted); *see also Campbell v. Buckley*, 203 F.3d 738, 745 (10th Cir. 2000) (noting that “strict scrutiny is applied where the government restricts the overall quantum of speech available to the election or voting process”).

[¶30] If a regulation does *not* impose a severe burden, then a less exacting standard applies, pursuant to which the regulation is upheld as long as the governmental interest is important and the regulation is

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nondiscriminatory and reasonable. *See Jones*, 2020 ME 113, ¶ 24, 238 A.3d 982; *We the People*, 40 F.4th at 13-14; *Pierce*, 44 F.4th at 860; *see also Knutson v. Dep't of Sec'y of State*, 2008 ME 129, ¶ 11, 954 A.2d 1054 (citing the “U.S. Supreme Court’s consistent holding that States allowing ballot initiatives have considerable leeway to protect the integrity and reliability of the initiative process, as they have with the election process generally” and stating that the Supreme Court has “upheld generally applicable and evenhanded restrictions that protect the integrity and reliability of the electoral process itself” (quotation marks omitted)). In *Buckley v. Am. Const. L. Found., Inc.*, 525 U.S. 182, 188-89, 199-200, 119 S. Ct. 636, 142 L. Ed. 2d 599 (1999), the Supreme Court noted that under its precedent, a requirement that circulators execute affidavits including, *inter alia*, their name and address, “which must be met only after circulators have completed their conversations with electors, exemplifies the type of regulation” deemed acceptable.

[¶31] Under these legal principles, the less exacting standard of review applies to the Secretary’s deadline for filing the affidavit. The affidavit is filed after the signatures have been collected and thus does not interfere with circulator-voter communications. Nothing in the record and no logic suggests that this timing makes it less likely that a proponent will obtain sufficient signatures to place the issue on the ballot.

[¶32] Applying this less exacting standard, the deadline is nondiscriminatory: the same deadline for

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filing the affidavit applies to all circulators.⁸ 21-A M.R.S. § 903-A(4) (requiring “[a] person who circulates a petition” to execute an affidavit and “file the affidavit with the Secretary of State at the time the petition is filed”). The State has an important interest in ensuring that signatures are valid, and the duty to review that validity has been entrusted to the Secretary. *See Me. Taxpayers Action Network v. Sec’y of State*, 2002 ME 64, ¶ 12 n.8, 795 A.2d 75 (stating that this Court has “long recognized that the executive officer charged with overseeing the petition process—formerly the Governor, now the Secretary of State—has plenary power to investigate and determine the validity of petitions” (citing *Opinion of the Justices*, 116 Me. 557, 580-82, 103 A. 761, 771-72 (1917))). The Secretary must make this determination in a very short

8. To the extent that the committee argues that the affidavit requirement itself, as opposed to the timing requirement, is discriminatory, we note as a threshold matter that the committee did not develop this argument in its brief; the argument is thus waived. *See Mehlhorn v. Derby*, 2006 ME 110, ¶ 11, 905 A.2d 290. In any event, the affidavit requirement is not discriminatory—all circulators must file an affidavit. 21-A M.R.S. § 903-A(4) (“A person who circulates a petition shall execute an affidavit”) The consent to jurisdiction requirement for nonresidents puts nonresident circulators on equal footing with resident circulators.

The committee also alludes to the right to petition under the Maine and U.S. Constitutions but does not develop a substantive argument based on this right. Hence, any such argument is also waived. *See Mehlhorn*, 2006 ME 110, ¶ 11, 905 A.2d 290; *see also Wayte v. United States*, 470 U.S. 598, 610 n.11, 105 S. Ct. 1524, 84 L. Ed. 2d 547 (1985) (“Although the right to petition and the right to free speech are separate guarantees, they are related and generally subject to the same constitutional analysis.”).

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time. *See* 21-A M.R.S. § 905(1) (providing the Secretary “30 business days” from the date of filing to determine a petition’s validity and issue a written decision). Allowing ad hoc corrections with no specific deadline after the constitutional deadline for filing the initiative petition would not only effectively undermine the constitutional deadline but would also impose a burden on the Secretary that erodes her ability to fulfill her duties, results in disparate treatment of circulators, and violates our precedent. *See Opinion of the Justices*, 114 Me. 557, 567, 95 A. 869, 873 (1915) (“A paper that is not a constitutional petition within the [constitutional filing deadline] cannot be made so afterward by adding affidavit or certificate. To do so would be, in effect, to extend the constitutional limitation of [the deadline].”).

[¶33] As noted above, the Secretary must obey Maine law to the extent she is not precluded from doing so by federal law. The Maine Constitution authorizes the Legislature to “enact laws not inconsistent with the Constitution to establish procedures for determination of the validity of written petitions.” Me. Const. art. IV, pt. 3, § 22. The Legislature has authorized the Secretary to “establish the form and content of all forms, lists, documents and records required by or necessary to the efficient operation of [Title 21-A].” *See* 21-A M.R.S. § 21 (2026). The Legislature also enacted 21-A M.R.S. § 903-A(4), which requires circulators to file their affidavits with the Secretary “at the time the petition is filed.” Thus, this particular timing reflects the Legislature’s intent, further authorizing and obligating the Secretary to implement this deadline.

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[¶34] In sum, federal law does not preclude this timing requirement—the requirement does not impose a severe burden on core political speech, the requirement advances an important state interest, and the deadline is reasonable and nondiscriminatory. The Secretary has the authority and the duty to implement the Legislature’s will and to require the timing of the filing of the affidavits as directed in section 903-A(4).

III. CONCLUSION

[¶35] As a result of the Secretary’s proper invalidation of the signatures collected by these four circulators, the petition fell below the constitutional threshold for an initiative petition to be submitted to the voters of Maine. The Secretary thus correctly determined the petition to be invalid.

The entry is:

Judgment affirmed.

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**APPENDIX B — DECISION AND ORDER OF THE
SUPERIOR COURT OF THE STATE OF MAINE,
CUMBERLAND COUNTY, DATED JUNE 11, 2026**

SUPERIOR COURT
CIVIL ACTION
NO. PORSC-AP-2026-10

STATE OF MAINE
Cumberland, ss.

JANE GILBERT; MARK SAYRE;
AND KAITLIN WEBBER,

Petitioners,

v.

SHENNA BELLOWS, IN HER OFFICIAL
CAPACITY AS MAINE SECRETARY OF STATE,

Respondent,

PROTECT GIRLS' SPORTS IN MAINE,
A REGISTERED BALLOT QUESTION
COMMITTEE,

Intervenor.

June 11, 2026

DECISION AND ORDER

INTRODUCTION

Intervenor Protect Girls' Sports in Maine, a Ballot Question Committee (the "Committee"), has appealed the Secretary of State Shenna Bellows' Revised Determination

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of the Validity of a Petition for Initiated Legislation dated May 26, 2026, In her decision, the Secretary of State (the “Secretary”) adopted in full the Recommended Decision issued by the Presiding Officer, which recommended the invalidation of an additional 3,883 signatures and resulted in the Petition falling below the required minimum of signatures needed. The Secretary found that the Petition at issue—known as “An Act to Designate School Sports Participation and Facilities by Sex”—was invalid as it was supported by an insufficient number of valid signatures. Specifically, the Secretary found that the proponents of the Petition submitted 67,150 valid signatures, which is 532 signatures below the 67,682 threshold required for placement on the November 2026 ballot.

On appeal, the Committee challenges the Secretary’s invalidation of signatures affected by circulator affidavits missing consent to Maine jurisdiction and the use of ditto marks in the date field, as well as constitutional challenges concerning out-of-state circulators and the statutory restrictions regarding notarial conflict-of-interest. The court has reviewed the record as well as briefing submitted by the Committee, Petitioners, and the Secretary. This matter is in order for decision.

BACKGROUND

On March 17, 2026, the Secretary issued her original Determination of Validity of the Petition for Initiated Legislation in which the Secretary found the Committee submitted 71,300 valid signatures, a total that exceeded the constitutional threshold by 3,351. *See* Me. Const.

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art. IV, pt.3, § 18(2). On March 27, 2026, Petitioners appealed the Secretary's decision pursuant to 21-A M.R.S.A, § 905 and M.R. Civ. P. 80C. The Committee was granted intervenor status. This initial action was briefed and decided pursuant to the expedited schedule set forth in 21-A M.R.S.A. § 905(2), On April 24, 2026, this court remanded the case to the Secretary for further proceedings, including incorporating the Secretary's identified concessions and taking new evidence, and ordered the Secretary to issue a new Determination of Validity within 30 days.

On April 28, 2026, counsel for the Secretary issued formal Notice of Hearing to the parties and listed four topics on which evidence and argument would be heard:

- Whether the circulators described in Gilbert's Challenge No. 2 engaged in conduct contrary to their circulator's oath and, if so, the effect of such failure on the validity of signatures collected;
- Whether the 31 individual signatures identified as "suspicious" in Gilbert's Challenge Table 19a should be invalidated;
- Whether the two circulators identified in Gilbert's Challenge 19 engaged in misconduct implicating the validity of signatures that they collected and, if so, the effect of such misconduct on the validity of signatures collected;

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- Whether the Secretary should, consistent with the Court’s legal rulings, correct any of the concessions contained in her Rule 80C brief, including but not limited to whether the Secretary should or should not accept corrected forms from circulators regarding their consent to personal jurisdiction in Maine after the petition’s filing (pursuant to Challenge 3) and whether specific signatures identified in Challenges 12, 14, 15, and 16 should be treated as valid or invalid.

R. 033364. Chief Deputy Secretary of State Katherine McBrien served as Presiding Officer during the adjudicatory hearing held on May 12 and 13, 2026. The parties presented evidence and testimony regarding the alleged misconduct during the circulation of petitions, alleged fraud by circulators, and the failure by Circulator Cairo to check the box on her circulator affidavit consenting to the jurisdiction of the State of Maine. Following the hearing process, the parties submitted post-hearing briefs and on May 21, 2026, the Presiding Officer issued her Recommended Decision.

The Recommended Decision included 101 findings of fact followed by legal analysis, and relevant to the Committee’s present appeal, the Presiding Officer recommended (1) the invalidation of signatures collected by circulators who failed to consent to jurisdiction by the statutory deadline, (2) that such invalidation does not violate the Maine Constitution and is not “ultra vires,”

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(3) that Maine law concerning notarial conflict of interest is not unconstitutional and necessitated invalidation of impacted signatures, and (3) the invalidation of signatures due to the use of ditto marks in the date field as expressly required by statute. R. 033351-57. Both parties filed objections to the recommendations pursuant to 5 M.R.S.A. § 9062(4) .

On May 26, 2026, the Secretary issued a Revised Determination of Validity which adopted in full the Recommended Decision of the Presiding Officer and accordingly added the newly invalidated signatures to the prior invalidations. The Revised Determination of Validity concluded the Petition was 532 signatures short of the required number of 67,682 signatures and therefore the Petition was invalid. R. 033317.

On May 28, 2026, this court held a status conference with the parties and the court subsequently approved an expedited briefing schedule. All parties submitted their briefs in accordance with that schedule, and the matter is now ready for review.

LEGAL FRAMEWORK

The court’s discussion must begin with recognizing the various constitutional rights and principles implicated in this case. The Maine Constitution grants Maine people the right to legislate by direct initiative. Me. Const. art IV, pt. 3, § 18. The Law Court has stressed the importance of such a right, declaring “the right of the people to initiate and seek to enact legislation [to be] an absolute right.”

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McGee v. Sec’y of State, 2006 ME 50, ¶ 21, 896 A.2d 933. “[A]lthough the Legislature has the authority to enact laws providing for the implementation of the initiative right, any legislative implementation must respect the substance of the constitutional right.” *Id.* 20; Me. Const. art IV, pt. 3, § 22. The right cannot be abridged either directly or indirectly by governmental action. *McGee*, 2006 ME 50, ¶ 21, 896 A.2d 933. Accordingly, laws governing the direct initiative process “must be liberally construed to facilitate, rather than handicap, the people’s exercise of their sovereign power to legislate.” *Allen v. Quinn*, 459 A.2d 1098, 1102-03 (Me. 1983).

The Law Court has also recognized that “[t]he circulation of direct initiative petitions is ‘core political speech,’ and any state regulation of the initiative process must be ‘narrowly tailored’ to carry out a compelling state purpose.” *Me. Taxpayers Action Network v. Sec’y of State*, 2002 ME 64, ¶ 8, 795 A.2d 75. Laws governing the initiative process should therefore be construed in a way that avoids imposing an impermissible burden on protected speech. *See id.*; *see also State v. Cropley*, 544 A.2d 302, 304 (Me. 1988).

Moreover, under the Maine Constitution, “[t]he Secretary of State is the constitutional officer entrusted with administering—and having expertise in—the laws pertaining to the direct initiative process.” *Reed v. Sec’y of State*, 2020 ME 57, ¶ 18, 232 A.3d 202. The Secretary has been granted plenary power to investigate and determine the validity of petitions. *Me. Taxpayers Action Network*, 2002 ME 64, ¶ 12 n.8, 795 A.2d 75. When assessing the Secretary’s determination of initiative petitions, the

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Court's review must be deferential and limited, keeping in mind the Secretary's "broad[] authority" in the context of evaluating referendum petitions. *Knutson. v. Dep't of Sec'y of State*, 2008 ME 124, ¶ 20 n.7, 954 A.2d 1054; *Passadumkeag Mountain Friends v. Bd. of Env'tl. Prot.*, 2014 ME 116, ¶ 12, 102 A.3d 1181.

By statute, an action seeking review of the Secretary's decision on a direct initiative petition "must be conducted in accordance with the Maine Rules of Civil Procedure, Rule 80C, except as modified by this section." 21-A M.R.S. § 905(2). In *Palesky v. Sec'y of State*, the Law Court held that "[t]he provisions of section 905 that could be deemed 'modifications' of Rule 80C relate to the expedited timing of the appeal." 1998 ME 103, 115, 711 A.2d 129. The *Palesky* court further concluded that 21-A M.R.S. § 905 does not require "a full de novo trial"; rather, the procedural framework for a Section 905 appeal is set forth in Rule 80C. *Id.* ¶¶ 5-6, 8. Under Rule 80C, the court is not permitted to overturn an agency's decision "unless it: violates the Constitution or statutes; exceeds the agency's authority; is procedurally unlawful; is arbitrary or capricious; constitutes an abuse of discretion; is affected by bias or error of law; or is unsupported by the evidence in the record." *Kroger v. Dep't of Env'tl. Prot.*, 2005 ME 50, ¶ 7, 870 A.2d 566; 5 M.R.S. § 11007(4). The party seeking to vacate a state agency decision has the burden of persuasion on appeal. *Anderson v. Me. Pub. Emp. Ret. Sys.*, 2009 ME 134, ¶ 3, 985 A.2d 501.

When reviewing agency decisions, the court must examine "the entire record to determine whether, on the basis of all the testimony and exhibits before it, the

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agency could fairly and reasonably find the facts as it did.” *Friends of Lincoln Lake v. Bd. of Env'tl. Prot.*, 2010 ME 18, ¶ 13, 989 A. 2d 1128. The court may not substitute its judgment for that of the agency on questions of fact. 5 M.R.S. § 11007(3). The issue is not whether the court would have reached the same result the agency did, but whether the “record contains competent and substantial evidence that supports the result reached” by the agency. *Seider v. Bd. of Examiners of Psychologists*, 2000 ME 206, ¶ 8, 762 A.2d 551.

To the extent this case requires statutory interpretation, the court “interpret[s] every statute de novo as a matter of law to give effect to the intent of the Legislature, first by examining its plain language.” *Reed*, 2020 ME 57, ¶ 14, 232 A.3d 202 (quotation marks omitted). If the plain language is unambiguous, the court interprets the statute according to its unambiguous meaning. *Id.* “If, however, a statute is ambiguous—i.e., it is reasonably susceptible to different interpretations—[the court] defer[s] to the agency’s reasonable construction when the agency is tasked with administering the statute and it falls within the agency’s expertise.” *Id.* (quotation marks omitted). As the Secretary is the constitutional officer with plenary power to determine the validity of petitions, the court will defer to the Secretary’s “reasonable interpretation of [an] ambiguous statute[.]” *Id.* ¶ 18.

DISCUSSION

The Committee raises four challenges to the Secretary’s Revised Determination of Validity. The

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Committee argues (1) the Secretary erred in invalidating petitions circulated by out-of-state circulators who did not check the jurisdiction box on their circulator affidavits, (2) the initiative amendment’s residency and registration requirements are unconstitutional, (3) the statutory ban on notaries circulating petitions and later witnessing the signatures of other circulators is unconstitutional, and (4) the Secretary erred in invalidating signatures for the use of ditto marks, rather than the written date, in specific petition fields. The court addresses each challenge in turn.

I. The Secretary did not err in invalidating signatures for out-of-state circulators’ failure to consent to Maine’s jurisdiction

The Committee challenges the Secretary’s decision, in accordance with her concession from the initial appeal, to invalidate 1,520 signatures collected by out-of-state circulators who failed to submit to the personal jurisdiction of Maine, Comm. Br. 15-29; *see also* R. 034073. First, the Committee challenges the requirement that out-of-state circulators consent to Maine’s jurisdiction as inconsistent with the Maine Constitution, and further, that the Secretary acted “ultra vires” when adhering to the Consent Order issued by the U.S. District Court. *We the People PAC v. Bellows*, 519 F. Supp. 3d 13 (D. Me. 2021), *aff’d*, 40 F.4th 1 (1st Cir. 2022). Second, the Committee challenges the Secretary’s invalidation of signatures collected by Circulator Cairo.

In *We the People PAC v. Bellows*, the U.S. District Court for the District of Maine issued a Consent Order

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authorizing Maine to impose the residency and registration restrictions set forth in article IV, part 3, § 20 of the Maine Constitution *only* in circumstances in which the circulator fails to consent to Maine’s jurisdiction. 519 F. Supp. 3d 13 (D. Me. 2021), *aff’d*, 40 F.4th 1 (1st Cir. 2022). Rather than contradict the Maine Constitution’s prohibition against out-of-state circulators, the Consent Order narrows the scope of such prohibition to allow application of the constitutional provision solely to circulators who fail to consent. *See Hart v. Secretary of State*, 1998 ME 189, ¶ 13, 715 A.2d 165 (holding the residency requirement constitutional as it “enhances the integrity of the initiative process by ensuring that citizen initiatives are brought by citizens of Maine”); *Jones v. Secretary of State*, 2020 ME 113, ¶ 34, 238 A.3d 982 (holding the residency requirement constitutional). As the Secretary describes, “the federal court simply tailored the scope of its injunction to those out-of-state circulators whose conduct can be properly regulated by the State: those who fail or refuse to consent to Maine’s jurisdiction.” SOS Br. 16. Thus, when the Secretary invalidates signatures collected by circulators who failed to consent to Maine’s jurisdiction, the Secretary is “applying the Maine Constitution’s existing ban on out-of-state circulators to the one subcategory of those circulators whom the federal court’s injunction still permits her to regulate.” *Id.*

Accordingly, the court declines to find the Secretary erred in invalidating signatures collected by out-of-state circulators who failed to consent to Maine’s jurisdiction by failing to check the appropriate box on their circulator affidavits. It is undisputed that three of the circulators at

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issue—Kewechi Chukwuma, Albert Jordan, and Hakeem Ummsalaamah—have never consented to the jurisdiction of Maine nor did they appear at the post-remand hearing, and the court finds the record sufficiently supports the Secretary’s determination that signatures collected by those named circulators should be invalidated. R. 033335-36.

Further, the court upholds the Secretary’s determination that signatures collected by Cairo should be invalidated regardless of her corrected affidavit dated May 6, 2026 in which she after-the-fact consented to Maine’s jurisdiction. R. 033335 ¶ 96 (citing R. 032665). The record demonstrates Cairo affirmatively decided to leave the jurisdiction box blank on her circulator affidavit due to unresolved questions about the implications of such consent. R. 033405-06; R. 033410-11; R. 033415-16. Applying the required deference to the Secretary, the court finds no error in the Secretary’s factual determination that Cairo’s failure to check the jurisdictional box was a “substantive lack of agreement to those terms” based on her testimony during the hearing. R. 033352-53. Likewise, the court finds no error in the Secretary’s finding that Cairo’s submission to Maine’s jurisdiction three months after the Petition was filed with the Secretary failed to cure the defect on her circulator affidavit. R. 033353. Though the Consent Order contains no time restriction, the Secretary relied on the statutory requirement that a circulator’s affidavit be filed “with the Secretary of State at the time the petition is filed” and therefore consent to Maine’s jurisdiction must occur at the time the Petition is filed. 21-A M.R.S.A. § 903-A(4).

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Therefore, the court declines to find the Secretary erred in invalidating signatures collected by out-of-state circulators who failed to consent to Maine’s jurisdiction and the court upholds the Secretary’s Revised Determination of Validity.

II. The Secretary did not err in abiding by the Consent Order

The Committee next challenges the original circulator residency and registration requirements found in article III, part 3, § 20 of the Maine Constitution—now narrowed by the Consent Order stemming from the decisions of the U.S. District Court and the First Circuit in *We the People PAC v. Bellows*—and asks this court to find, distinct from the Consent Order, that “the Initiative Amendments’ residency and voter registration requirements impose a severe burden on the First Amendment rights of out-of-state circulators and those in Maine, including Maine electors, who wish to use their services.” Comm. Br, at 31; see Me. Const, art, IV, pt. 3, § 20; *We the People PAC v. Bellows*, 519 F. Supp, 3d 13 (D. Me. 2021), *aff’d*, 40 F.4th 1 (1st Cir. 2022).

Pursuant to the Consent Order, as discussed *supra*, the Secretary is enjoined from enforcing the original scope of residency and registration requirements found in article III, part 3, § 20 of the Maine Constitution against any out-of-state circulator who consents to Maine’s jurisdiction. See Me. Const. art. IV, pt. 3, § 20; 519 F. Supp. 3d 13, 53 (D. Me. 2021), *aff’d*, 40 F.4th 1, 20 (1st Cir. 2022). Further, as the injunction comes by order of

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federal court, it is undisputed that the Secretary is bound by the permanent injunction and must act in accordance with the Consent Order. *Alden v. Maine*, 527 U.S. 493, 499 (1981); *Lackey v. Stinnie*, 604 U.S. 192, 207 (2025). The court therefore declines to reach the merits of the Committee’s constitutional challenge to the original scope of requirements set forth in § 20 as the Committee neither alleges, nor does the record demonstrate, that the Secretary relied on the original scope of requirements in reaching her Revised Determination of Validity nor violated the permanent injunction she is bound to follow.

III. The Secretary did not err in invalidating signatures for failure to comply with statutory conflict of interest laws

The Committee challenges the Secretary’s invalidation of “all petitions witnessed by notaries, Robert DeClercq and Patrick Harrington, on the grounds that, before witnessing the signatures of other circulators of petitions for the Ballot Initiative, they had, themselves, circulated petitions for the Ballot Initiative,” Comm. Br. 32. In compliance with her concession to this court during initial briefing, the Secretary invalidated 224 signatures for failure to comply with this statutory conflict-of-interest prohibition. R. 034073, The Committee argues that Maine statutes, 21-A M.R.S.A. § 903-E and 4 M.R.S.A. § 1904(5), prohibiting notaries public from notarizing circulator oaths after they have provided services to promote the campaign unconstitutionally burden First Amendment rights of circulators and petition signers.

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First, pursuant to 21-A M.R.S.A. § 903-E(1), notaries and other notarial officers are prohibited from “administer[ing] an oath or affirmation to the circulator of a petition under section 902” if that notary is providing any other services to initiate or promote “the direct initiative or people’s vote referendum for which the petition is being circulated.” In *Reed*, the Court upheld the Secretary’s interpretation of § 903-E(1) as allowing for petition forms to be voided if the notary who notarized the circulator’s oath on the petition had previously acted as a circulator. *Reed*, 2020 ME 57, ¶ 19, 232 A.3d 202. Here, the court finds the record supports the Secretary’s determination that the 224 signatures must be invalidated on the basis that two circulators violated the conflict-of-interest requirements by performing notarial acts for the Committee after circulating petitions on behalf of the Committee. As “the Secretary of State is the constitutional officer entrusted with administering—and having expertise in—the laws pertaining to the direct initiative process,” the court must defer to the Secretary’s reasonable interpretation of statutes and findings of fact supported by competent record evidence. *Reed v. Sec’y of State*, 2020 ME 57, ¶ 18, 232 A.3d 202.

Second, the Committee’s constitutional challenges to the conflict-of-interest statutory rule governing notarial acts are unavailing. While the court understands petition circulation involves core political speech, “states are accorded considerable leeway in the regulation of the initiative process in order to promote their legitimate state purpose” and in turn protect the integrity of the ballot

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initiative process. *Jones v. Sec’y of State*, 2020 ME 113, ¶ 20, 238 A.3d 982. Accordingly, petition circulation laws governing the mechanics of the electoral process do not always require application of the strict scrutiny standard, but rather, as is the case here, “when a state election law provision imposes only reasonable, nondiscriminatory restrictions on First Amendment rights, the State’s important regulatory interests are generally sufficient to justify the restrictions.” *Id.* ¶ 24; *see also Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983); *Burdick v. Takushi*, 504 U.S. 428, 433-34 (1992). The court finds the notarial conflict-of-interest restriction sufficiently justified by Maine’s regulatory interest in maintaining a fair and honest petition circulation process, *Goggin v. State Tax Assessor*, 2018 ME 111, ¶ 20, 191 A.3d 341 (burden of overcoming the presumption of constitutionality rests on the challenger).

Likewise, the court rejects the Committee’s claim that the notary statutes constitute impermissible viewpoint discrimination. Offering no authority to demonstrate that notarial conflict-of-interest laws favor one speaker over another, the court finds the Committee failed to meet its burden of persuasion on appeal concerning any constitutional or statutory error by the Secretary. *Anderson v. Me. Pub. Emp. Ret. Sys.*, 2009 ME 134, ¶ 3, 985 A.2d 501. Therefore, the court upholds the Secretary’s Revised Determination of Validity relating to invalidation of signatures that failed to comply with conflict-of-interest requirements.

*Appendix B***IV. The Secretary did not err in invalidating petition signatures for failure to comply with the permissible use of ditto marks**

Finally, the Committee argues the Secretary erred in invalidating 39 signatures based on the voter's use of ditto marks in the date field on the petition rather than writing out the date in full, Comm. Br. 36. The Committee largely grounds its argument in the assertion that the Secretary should have followed the constitutional directives which govern the exercise of the voters' rights and which should not be "smothered in an ever-growing cascade of procedure and technicality." *Id.* at 37. In response, the Secretary argues 21-A M.R.S.A. § 902 expressly requires that initiative petitions be signed "in the same manner as are [candidate petitions] under section 354, subsections 3 and 4." SOS Br. 30-31. The Secretary explains, "that candidate petition provision, in turn, forbids the use of ditto marks for anything other than the residence address and municipality." *Id.* at 31.

Given the statutory prohibition of ditto marks beyond specific, permissible fields, the court declines to find the Secretary committed any error of law when she—upon conceding such issue during the initial challenge—invalidated 39 signatures containing ditto marks in the date field. R. 033356-57. The court finds the Secretary correctly applied 21-A M.R.S.A. § 902 and 21-A M.R.S.A. § 354(4) to the submitted petitions, which together preclude a voter's use of ditto marks in the date field on initiative petitions. *Id.* Accordingly, the court upholds the

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Secretary's decision to invalidate signatures containing ditto marks in the date field.

V. Petitioners' Remaining Challenges

Though Petitioners agree the Secretary ultimately reached the correct conclusion on remand, Petitioners nonetheless filed objections to the Secretary's Revised Determination and similarly raise numerous other challenges in this present appeal to the extent that the Secretary did not invalidate additional signatures. Pet'rs.' Br. 19-53. Petitioners state, "it bears emphasis that the record below contains *substantially* more evidence of circulator wrongdoing than what the Secretary ultimately chose to rely on upon in making her Revised Determination." *Id.* at 19 (emphasis in original). Because the court upholds the Secretary's Revised Determination of Validity, the court declines to reach the merits of Petitioners' remaining challenges and notes that Petitioners' challenges are fully preserved for appeal. M.R. Civ. P. 80C(m); *see* Pet'rs.' Reply Br. 25.

CONCLUSION

For the foregoing reasons, the entry is:

The Committee's appeal is DENIED.

The Secretary's Revised Determination of Validity is AFFIRMED.

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The clerk is directed to incorporate this order into the docket by reference. M.R. Civ. P. 79(a).

Dated: June 11, 2026

/s/ Deborah P. Cashman
Deborah P. Cashman
Justice, Maine Superior Court

**APPENDIX C — REVISED DETERMINATION OF
VALIDITY OF THE SECRETARY OF STATE
OF MAINE, DATED MAY 26, 2026**

STATE OF MAINE
SECRETARY OF STATE

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

May 26, 2026

FINAL DECISION

I have reviewed the Recommended Decision of Presiding Officer Katherine McBrien, issued May 21, 2026, and appended hereto, as well as the written objections of challengers Jane Gilbert, Mark Sayre, and Kaitlin Webber, filed on May 23, 2026, and the written objections of Intervenor Protect Girls Sports in Maine, also filed on May 23, 2026. I hereby reject the objections of the parties to the Recommended Decision and adopt the Recommended Decision as the final decision in this matter. A Revised Determination of Validity is appended.

May 26, 2026

/s/ Shenna Bellows
Shenna Bellows
Secretary of State

NOTICE OF APPEAL RIGHTS

The parties may appeal this decision by commencing an action in Superior Court within 10 days of the date of this decision, pursuant to 21 -A M.R.S.A. § 905(2).

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

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

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

1. On February 2, 2026, 8,067 petition forms containing 79,692 signatures were submitted to the Secretary of State pursuant to the Constitution of Maine, Article IV, Part Third, Section 18 on behalf of the above-entitled initiated legislation.¹
2. Following a review of these 8,067 petition forms, I find the following signatures to be invalid for the following reasons:
 - A. 5,066 signatures are invalid because they were not certified by the registrar as belonging to a registered voter in that municipality. (REG)
 - B. 1,930 signatures are invalid because they are duplicates of signatures already counted. (279

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

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of these signatures were invalidated during the remand). (DUP)

- C. 675 signatures are invalid because they were dated after the date that the circulator's oath was completed in the presence of the notary or the voter's signature was not dated and it could not be determined that the voter signed the petition before the circulator took the oath. (171 of these signatures were invalidated during the remand). (DATE)
- D. 2,813 signatures are invalid because the circulator did not file a valid circulator's affidavit at the time the petitions were filed with the Secretary of State. (2335 of these signatures were invalidated during the remand). (AFF)
- E. 278 signatures are invalid because the voter's signature was crossed out on the petition form. (WD)
- F. 233 signatures are invalid because the voter failed to provide a signature. (SIG)
- G. 152 signatures are invalid because the circulator's oath was not completed prior to submitting the petition to the registrar for certification. (PRIOR)
- H. 162 signatures are invalid because the registered voter's signature was made by another. (61 of these signatures were invalidated during the remand). (ANO)

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- I. 1,127 signatures are invalid because the circulator's oath was not complete, not administered properly, or untrustworthy. (1,037 additional signatures were invalidated during the remand).(OATH)
 - J. 64 signatures are invalid because of material alterations to the petition. (ALT)
 - K. 29 signatures are invalid because the certification of the registrar was not completed. (CERT)
 - L. 9 signatures are invalid because the petition was not on the approved form. (FORM)
 - M. 4 signatures are invalid because the petition forms were received by the municipal office after the municipal filing deadline. (AMD)
3. For the reasons set forth above, on the 8,067 petition forms filed with the Secretary of State, I find that 67,150 signatures are valid and 12,542 signatures are invalid. The number of signatures required to determine the petition to be valid is 67,682. Because the number of valid signatures is short of the required number by 532 signatures, I find the petition to be invalid.

May 26, 2026

/s/ Shenna Bellows
Shenna Bellows
Secretary of State

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STATE OF MAINE
SECRETARY OF STATE

In re: Remand of *Gilbert v. Bellows*,
No. PORSC-AP-2026-I0 (Cumb. Cty. Super. Ct.)

RECOMMENDED DECISION

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

Procedural History

On March 17, 2026, the Secretary issued a decision validating the petition for the Initiative. AR003-006. On March 27, 2026, Maine voters Jane Gilbert, Mark Sayre, and Kaitlin Webber (“Gilbert”) filed a Rule 80C

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appeal in Superior Court, Cumberland County, appealing the Secretary's determination. See *Gilbert v. Bellows*, Docket No. AP-2026-10 (Cum. Cty. Super. Ct.). The ballot question committee that supported the initiative. Protect Girls Sports in Maine ("the Committee") was granted intervenor status.

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

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

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

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

2. Jackson attempted to appear by Zoom, as evidenced by his appearance in the Zoom waiting room during the hearing.

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

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

The Committee called the following witness:

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

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

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

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In addition, the following exhibits were entered into evidence.

Committee Exhibits:

Committee 1: Corrected State of Maine Circulator Affidavit from Cairo

Gilbert Exhibits:

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

Prior to the hearing, Gilbert also circulated some demonstrative exhibits to the parties and the Secretary, which appear to contain excerpts from the Agency Record (AR) filed with the Court. Gilbert used some of these demonstratives to examine witnesses but did not request their admission. In a post-hearing email, the Committee objected to these demonstratives on grounds that they were not admitted to the record. However, the Agency Record is already a part of the hearing record and the Committee makes no argument that the demonstratives

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are anything more than excerpts from that voluminous record. Because the demonstratives are not themselves evidence, it would have been proper for me to rely upon them in reaching my recommended decision. I note, however, that other than the extent to which I observed counsel use them at hearing to examine witnesses, I did not in fact rely upon these demonstratives in reaching my conclusions.

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

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

Also, based on Gilbert's contention that the Secretary erred in contesting the invalidity of 152 of the signatures challenged in Challenge 14, I further directed the Elections Division to review those 152 signatures pursuant

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to the Division's usual practices for resolving date discrepancies on petition forms. The Elections Division review determined that 6 of the 152 signatures contested by Gilbert should have been invalidated.

Proposed Findings of Fact

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

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

1. On Election Day, November 4, 2025, a circulator for the Initiative collected signatures at Mt. Ararat High School, the polling place for Topsham. (Test. of McLeod-Tardiff; Test. of Henderson; Test. of Considine; Gilbert Exs. 2-5).

2. The circulator collected signatures at a table set up in a hallway near where voters exited from the gymnasium, where voting was taking place. Two other tables for other causes were set up in the same area. (Test. of McLeod-Tardiff; Gilbert Exs. 2-5).

3. Attached to the circulator's table, so that they hung in front of the table and would be visible to voters as they passed, were two identical printed color signs, approximately 18" x 24" in size, that invited voters to "Sign the Petition," followed underneath with "Protect Girls Sports in Maine" in large text. (Gilbert Ex. 3).

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4. The circulator was paid a fixed amount for each signature he collected. AR 0051.

5. Three testifying witnesses staffed the two other tables, collectively between the hours of approximately 8:00 a.m. and 3:00 p.m., and were able to observe the circulator during this time. (Test. of McLeod-Tardiff; Test. of Henderson; Test. of Considine).

6. At approximately 8:20 a.m., the circulator left his table, leaving petition forms face up on the table. The circulator went to an unknown location outside the vicinity of the hallway in which the circulating tables were set up. (Test. of Henderson).

7. The circulator was gone from the table for at least several minutes, with no one substituting for him. (*Id.*)

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

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

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

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

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

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

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

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

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

17. Circulator Vasquez submitted a total of 10 petition forms with signatures of Topsham voters, containing a

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

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total of 605 signatures validated by the Secretary of State. (AR 0263-65.)

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

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

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

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

22. Circulator Vasquez's submitted petitions contain two cross-outs. One was crossed out by the municipal clerk, as evidenced by the use of red ink, likely due to the failure of the voter to list a street address or municipality. Pet. No. 6805. The other cross-out was originally made in black ink (though the municipal clerk also crossed it out in red ink), see Pet. No. 6806, and was coded by the Secretary as WD—withdrawn—meaning that the cross-out could have been done by either the voter or the circulator. (AR 0100).

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

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

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

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

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

26. The Secretary's Instructions to Circulators state that "you may not leave the petitions unattended at a location, or attended by someone other than yourself.

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You must be able to take the oath that is written on the petition and state truthfully that you personally witnessed each person sign the petition.” R0024.

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

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

Circulation of Petitions at Thornton Academy on November 4, 2025

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

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

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

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

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

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

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

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

35. Two testifying witnesses staffed the two other tables, collectively from 10:00 a.m. until after Circulator

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Mays left for the day and were able to observe the circulator during this time. (Test. of Stubbs; Test. of LaSalle).

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

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

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

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

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

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

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

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

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

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

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

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

48. Although Circulator Mays testified that she sequestered and then destroyed the petition form

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

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

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

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

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

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

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

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

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

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

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

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

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

Circulation of Petitions by Rokelle Harris

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

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

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

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

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

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

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

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

68. The Deputy Clerk for Oxford reviewed and validated 6 of the signatures. Two signatures were

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invalidated for NR—not registered to vote. (Pet. No. 5122; Test. of Dillingham).

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

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

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

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

Circulation of Petitions by Fritz Jean-Baptiste

73. Fritz Jean-Baptiste circulated 77 petition forms submitted to the Secretary, containing 765 validated

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signatures and 156 invalidated signatures. (AR 0389-0391).

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

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

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

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

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

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

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Circulation of Petitions by Kendrick Jackson

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

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

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

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

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

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

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

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

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

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

Circulation of Petitions by Adam Turner

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

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

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

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

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Failure to Consent to the Jurisdiction of Maine

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

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

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

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

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

99. Cairo did not agree to the out-of-state circulator conditions until after the petition had been submitted to

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the Secretary of State on February 2, 2026, and validated by the Secretary on March 17, 2026. (AR 0096, 0002).

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

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

Legal Analysis**I. Recommended Resolution of Challenge 2****A. Signatures collected by Elias Vasquez on Election Day in Topsham should be invalidated.**

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

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submitted from Topsham make clear that this circulator could only have been Elias Vasquez.

Circulator Vasquez submitted 10 petition forms containing signatures collected on Election Day from Topsham voters. The testimony and evidence establishes that at least one and likely more than one petition form submitted by Circulator Vasquez contained unwitnessed signatures, given the two different times of day he left the petitions unattended in direct violation of the Secretary of State's instructions to circulators and the multiple signings of the petition form that occurred when he was away. What is more, the testifying witnesses were only present until 3:00 p.m. while the circulator indicated that he was assigned to stay the entire day. Given the circulator's demonstrated pattern of leaving petitions unattended and the lack of any backup, it is very possible that he left the petitions unattended additional times after the witnesses left and before polls closed at 8:00 p.m.

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

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

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Maine statute largely does not specify the circumstances under which the Secretary may invalidate signatures on a petition form, providing only that the Secretary “shall determine the validity of the petition” and “may invalidate a petition if the Secretary of State is unable to verify the notarization of that petition.” 21-A M.R.S.A. § 905. Despite the dearth of express statutory guidance, it is “well established that the Secretary has the authority to invalidate petitions in toto when the circulator has not complied with statutory or constitutional requirements.” *Maine Taxpayers Action Network v. Sec’y of State* (“MTAN”), 2002 ME 64, ¶ 12, 795 A.2d 75. The requirement that circulators witness all signatures on a petition is both a statutory and a constitutional requirement. Me. Const, art. IV, pt. 3, § 20 (requiring circulator oath that “all of the signatures to the petition were made in the presence of the circulator”); 21-A M.R.S.A. § 902 (circulator must take an oath that “the circulator personally witnessed all of the signatures to the petition”). The Legislature has underlined the importance of this requirement by making it a Class E crime to willfully swear that a signature was made in the circulator’s presence when it was not. 21-A M.R.S.A. § 904(5). So too has the Law Court recognized the importance of the circulator’s oath, calling it “critical to the validation of a petition,” since it serves to help verify that “a signing voter actually signed the petition.” *MTAN*, 2002 ME 64, 13, 795 A.2d 75.

The Law Court has confirmed that flaws in the circulator’s oath generally require at least invalidation of all signatures on the petition form containing the flaw. *See Palesky v. Sec’y of State*, 1998 ME 103, ¶ 11, 711 A.2d

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

The question posed by the facts here is novel: what is the appropriate remedy when it is proven that a circulator left his petitions unattended, resulting in multiple unwitnessed signatures that the circulator then swore

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

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he witnessed, but the specific petition forms containing the unwitnessed signatures cannot be determined? It is my recommendation that, in the factual circumstances presented here, the proper remedy is invalidation of all signatures collected by Circulator Vasquez on November 4, 2025.

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

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oath. Even if he had a subjective belief in the truth of his circulator oath, that belief would have been unreasonable in light of his conduct.

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

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

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

My analysis is similar with regard to petitions circulated by Susan Mays at Thornton Academy in Saco on Election Day. As with Topsham, credible witnesses staffing tables adjoining Circulator Mays's table testified that she left petition forms unattended twice during the day, during which time many people signed the petition.

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As with Topsham, their testimony was corroborated by photo and video evidence. Unlike with Topsham, however, Gilbert submitted photographic evidence confirming that one of the petition forms that Circulator Mays left unattended on the table, which contained 20 signatures at the time of the photograph, was submitted to the Secretary for validation.

Although Circulator Mays, unlike Circulator Vasquez, testified at the hearing, I found her testimony to be largely not credible, other than her admission against interest that she left blank petition forms unattended on two occasions. Most troublingly, Circulator Mays testified that she knew that she was not permitted to submit unwitnessed signatures and therefore, when she returned from one of her absences and found a form containing an unwitnessed signature, she sequestered it in a Tupperware container and later destroyed it. Photographic evidence admitted at hearing, however, establishes that at least one petition form circulated by Circulator Mays that contained many unwitnessed signatures⁷ was not destroyed, but instead submitted to the Secretary for validation. Circulator Mays also gave shifting accounts of what happened that day. She testified that only a single person signed the petition form while she was away, and then later indicated that it was

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

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multiple people. She testified about her interaction with a person staffing a table promoting a candidate after she returned from an absence, despite the photos and videos in evidence showing no table where she claimed it was located and no other witnesses describing such a table. Given the inconsistencies within her testimony and between her testimony and the credible evidence submitted by Gilbert, I have declined to credit the exculpatory aspects of Circulator Mays's testimony in reaching the proposed findings above.

Moreover, while photographic evidence establishes that one petition form was almost certainly submitted to the Secretary with unwitnessed signatures, the evidence further showed that it is highly likely that other petition forms from that day with unwitnessed signatures were also submitted. Circulator Mays left the area twice at different times for significant periods of time. Witness testimony, video, and photographs establish that many people signed the petition forms she left behind during those periods. The petition form containing the 20 unwitnessed signatures was photographed at the start of Circulator Mays's second break, after which many additional people signed the petition. Gilbert Exhibit 9 shows that the front of the petition form was already almost full at that point, with 20 of the 25 available signature lines filled in. Given the number of people observed to have signed the petition during Circulator Mays's absence (as many as 30), and the fact that five prospective signers are pictured waiting in line to sign the petition in one photograph alone, it is highly likely that signers filled the remaining five lines on that petition and then moved on to the next blank petition

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form—possibly the one arranged to face prospective signers just to the left of the partially filled one (with a pen placed on top). What is more, Gilbert’s witnesses provided estimates of the total number of unwitnessed signatures they observed that day ranging between 35 and 60 people. Even the lowest estimate— 35 people— exceeds the 25 signatures contained on the petition form affirmatively identified as containing unwitnessed signatures. In short, more than one petition form with unwitnessed signatures was likely submitted to the Secretary.

This fact pattern is remarkably similar to the fact pattern in Topsham: a sole circulator left petitions unattended multiple times while tabling on Election Day, resulting in numerous unwitnessed signatures spanning multiple petition forms, at least some of which cannot be specifically identified. If anything, the case for invalidation is even stronger here, where the circulator testified that she understood she could not submit unwitnessed petitions and claimed to have destroyed a form containing unwitnessed signatures, despite photographic evidence showing that one of her petition forms containing unwitnessed signatures was submitted to the Secretary for validation. Under this specific set of facts, I again conclude that none of the circulator oaths taken by Circulator Mays for petitions circulated on this day are trustworthy and therefore recommend that the petition forms submitted by Circulator Mays containing signatures gathered on November 4, 2025, be invalidated.⁸

8. As with Circulator Vasquez, this amounts to all of Circulator Mays’s petition forms. But as with Topsham, my recommended remedy would not have extended beyond signatures

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

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

In assessing this challenge, I recommend that the Secretary apply the longstanding two-part framework for assessing whether a petition was signed in the “presence” of a circulator: whether there was both “physical proximity” and “awareness.” *See Knutson*, 2008 ME 124, 12, 954 A.2d 1054. Under this Test, if the circulator is “too far away to see the voters sign their names,” *Id.*, or, alternatively, within range but not actually observing the signing process, due to distractions or otherwise,

gathered on the day in question, absent evidence of misconduct on other days.

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

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the petition is not signed in the circulator's "presence" as required by the Maine Constitution and statute. Me. Const. art. IV, pt. 3, § 20; 21-A M.R.S.A. § 902.

Here the evidence indicated that the circulator was positioned roughly 15 feet from the signers. That distance, while perhaps further than ideal, would not appear to be so far away as to violate the "presence" criteria. Moreover, while Gilbert presented evidence suggesting that the circulator displayed lapses in "awareness" of the signatures, by turning away from the petition signers or operating his phone, this evidence was markedly weaker than the evidence presented in support of the Topsham and Saco challenges. Gilbert presented only a single witness who testified to the circulator's conduct. Moreover, the witness, who was waiting in line for hot cocoa with her daughter, testified that her view was obstructed. When asked on direct "Had you taken any photographs of the circulator?" the witness responded "No, I was trying to, but it was impossible to get an angle from where I was sitting. There were people in the way." Although the witness later testified on cross-examination that the issue was being unable to get the circulator and petition forms in the same frame due to "people who were not involved in the way" or being "too far apart," it seems clear that the witness had a less than ideal view of the circulator and petition-signers from her position in line. Gilbert was unable to present any additional witnesses to the alleged behavior or any video or photos that might have corroborated the witness's testimony.¹⁰

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

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While I do not doubt that the witness observed the circulator at various points with his back turned to the line, taking video with his phone, or otherwise operating his phone, I conclude that the evidence is insufficient to recommend finding that the circulator was engaged in those actions continuously while the petition forms were circulating through the line, such that he generally lacked awareness of who was signing his forms. At most, the evidence establishes that the circulator's attention was diverted enough that he lacked awareness of what was happening with the petition at a few specific points in time. Such an infraction might warrant invalidation of any signatures collected during these lapses, or possibly even a full petition form containing such signatures if it could be affirmatively identified, but it does not, in my view, warrant the more severe remedy of invalidation of all of the circulator's petition forms collected on December 7, 2025. Since the evidence does not establish any specific problematic signatures or petition forms, I recommend that no signatures be invalidated under this challenge. To be clear, this recommendation is not to condone the circulator's actions. Circulators who fail to actively observe their petition forms while they are being signed risk invalidation of those signatures and potentially all others that they have collected on that form or even on other forms. However, given the relative weakness of the evidence, and in absence of any evidence of specific unwitnessed signatures on specific forms, I do not recommend invalidating any signatures in response to this challenge.

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

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

Circulator Jean-Baptiste’s testimony is concerning. The circulator’s obligation is to witness all signatures, not “most.” And, as discussed above, passing a petition form through a crowd creates risks that not all signatures will be made in the presence of the circulator if the circulator is inattentive or too far away. However, with that said, there is no evidence in the record that would allow me to pinpoint which signatures or petition forms might be subject to invalidation based on Circulator Jean-Baptiste’s testimony. The only option would be to invalidate all of Circulator Jean-Baptiste’s 77 petition forms. I do not believe such a remedy is appropriate based on a few concerning but vague sentences of testimony. I therefore recommend that the Secretary invalidate no signatures under this challenge.

*Appendix C***II. Recommended Resolution of Challenge 19****A. Signatures collected by Rokelle Harris should be invalidated.**

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

Based on this testimony, I directed the Elections Division to review all the signatures on the two Oxford and one Hiram petition forms circulated by Circulator Harris.¹² Elections staff determined that none of the

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

12. While the Elections Division is not required to review petition signatures under the statutory and constitutional

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signatures on these three petition forms matched the voters' signatures on their voter registration applications. Elections staff reviewed the signatures based on the image of the application contained in CVR or, if no image was available, by requesting a copy of the original registration application from the relevant clerk. Based on the results of this review, I asked the Elections Division to extend their review to Circulator Harris's remaining 11 petition forms. They concluded that each of the validated signatures collected by Harris on these forms also should have been invalidated for ANO. The conclusion of the Elections Division is obviously very concerning. However, for purposes of this remand proceeding I need not determine whether Circulator Harris committed fraud, or the resulting legal question raised by the Committee of whether such a finding must be made by clear and convincing evidence. Rather, because a signature-by-signature review of Circulator Harris's petition forms indicated that 100% of Circulator Harris's signatures should have been invalidated for ANO, I recommend invalidation of those 61 signatures on the straightforward basis that those signatures were not made by the named voters.

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

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

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

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

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

In addition, unlike in her challenge to petition forms circulated by Rokelle Harris, Gilbert did not present any testimony from witnesses, such as other circulators, observers, municipal clerks, or voters whose names appeared on these circulators' petitions that might have helped establish circulator misconduct. For example, testimony from the Sanford and Waterville clerks who

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

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invalidated multiple signatures for ANO concerning their level of certainty that the signatures were not those of the voters, or any interactions they may have had with the circulators, may have been probative. Testimony from voters confirming that a given signature was not theirs would also have been potentially probative. The lack of such testimony may be understandable given the expedited nature of this proceeding and the resulting limited time for the parties to prepare and present evidence. But given the lack of any direct evidence of misconduct by the circulators and the existence of other explanations for the petition discrepancies that do not involve circulator misconduct, I cannot recommend concluding that seeming discrepancies in a relatively small number of petition forms submitted by Circulators Jean-Baptiste and Jackson establish that either circulator engaged in fraud.

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

*Appendix C***III. Recommendations concerning corrections to the Secretary's concessions.****A. The Secretary's concession that some signatures should be invalidated under Challenge 14 should be corrected from 43 to 49 signatures.**

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

Given the Superior Court's directive that the Secretary may "correct[]" her concessions to the Superior Court, Order at 17, 1 directed Elections Division staff to review the 152 signatures that Gilbert continues to challenge. Upon review, staff determined that the six signatures listed below should also be invalidated due to an inability to confirm from context that the signature was dated before the circulator's oath. I recommend that the Secretary invalidate these six signatures in addition to the 43 already identified in her Superior Court brief.

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

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

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

Gilbert argues that the Secretary should revisit her legal position that signatures lacking dates should not be invalidated if it can be determined from context that the date was within the circulation period. I recommend that the Secretary reject this argument for the reasons set forth in the Secretary’s Rule 80C brief filed with the Superior Court.

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

Gilbert argues, somewhat perfunctorily, that the Secretary should revisit her litigation positions with regard to Challenges 1, 5, 15, 18, 20, and 21. The Secretary successfully opposed these challenges in Superior Court and, as Gilbert concedes, they are not within the scope of

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the Court's remand order. I recommend that the Secretary conclude that consideration of these challenges is outside the scope of the Court's remand order and, alternatively, that the challenges are meritless for the reasons set forth in the Secretary's Rule 80C brief in Superior Court.

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

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

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

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

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

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

The Committee did, however, offer the testimony of Cairo, as well as a corrected affidavit dated May 6,

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2026, in which she checked the box consenting to Maine’s jurisdiction. Cairo’s testimony, however, revealed that she did not inadvertently fail to check the box consenting to jurisdiction but, rather, had concerns about the implications of agreeing to Maine’s jurisdiction, concerns that were apparently not assuaged by the time she executed her circulator affidavit. While I would conclude that even an inadvertent failure to check the box would render the affidavit invalid under 21-A M.R.S.A. § 903-A(4), I recommend concluding that Cairo’s error was, at the time she submitted the affidavit, *not* an inadvertent failure to express her agreement to the terms on the affidavit, but a substantive lack of agreement to those terms. Given that failure to agree, under the U.S. District Court’s consent judgment, the Elections Division should have treated Cairo (and the other three circulators) as in violation of the requirements of 21-A M.R.S.A. § 903-A(4)(C) and Me. Const, art. IV, pt. 3, § 20, requiring circulators to be Maine residents. The Secretary has historically invalidated all signatures collected by non-resident circulators for violation of these provisions. *See, e.g., Hart v. Sec’y of State*, 1998 ME 189, ¶ 13, 715 A.2d 165. The same result should have occurred here.

The Committee objects to this result as elevating “form over substance.” Committee Br. at 21. But a circulator’s submission to the jurisdiction of Maine is no mere academic exercise. Courts have recognized that it is a requirement narrowly tailored to furthering the state’s compelling interest in “policing the integrity of the petition process.” *We the People PAC v. Bellows*, 519 F. Supp. 3d 13, 33 (D. Me. 2021), *aff’d*, 40 F.4th 1 (1st Cir. 2022). Indeed, the misconduct described earlier in this

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recommended decision—all committed by out-of-state circulators—demonstrates the importance of requiring these circulators to consent to Maine’s jurisdiction and agree to the other terms contained in the circulator’s affidavit, such as maintaining up-to-date contact information.

What is more, the timing of this agreement matters. While submitting to Maine’s jurisdiction three months after the petition was filed with the Secretary still has some value—in that it facilitates investigation of the circulator in a remand proceeding like this one or a criminal prosecution under 21-A M.R.S.A. § 904—it omits the most crucial part of the petition review process: the 30 business days during which the Secretary is determining as an initial matter which signatures on the petition forms should be validated. 21 -A M.R.S.A. § 905(1). During this time, it is essential that the Secretary be able to obtain information and conduct investigations concerning circulators to the extent questions arise as to whether they collected signatures in conformity with Maine’s direct initiative laws.

It is no answer that Cairo, in this case, voluntarily appeared at the hearing, such that her intentional failure to submit to Maine’s jurisdiction at the time of petition filing caused no harm. While there may have been no harm in this case, universalizing such a “no harm no foul” rule would effectively negate, in most cases, the requirement that circulators consent to Maine’s jurisdiction. Circulators could refuse to agree at the time of petition filing (perhaps because, like Circulator Cairo,

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they were concerned about having to appear in court during a particularly busy time), and the Secretary would have no recourse unless the circulator happened to become subject to investigation and failed to reconsider their refusal once they were summonsed by the Secretary or a Court. And that hypothetical assumes that the circulator could even be located, given they would be under no obligation to keep their contact information current with the Secretary. What is more, even if the circulator were located, the only available remedy for a failure to appear for a hearing or investigation would be to invalidate the circulator's signatures. But that remedy would only be available for as long as the validity of the petition was not finally determined. Once the petition's validity became final the circulator would have no incentive whatever to file a corrected affidavit if Maine wished to, say, investigate them for potential criminal violations discovered after litigation over the petition's validity had concluded.

The Committee's "no harm no foul" argument fails with regard to the other three circulators for the same reasons. These circulators still to this day have not submitted to Maine's jurisdiction, making it plainly appropriate under the U.S. District Court's consent judgment to treat their signatures as invalid under the statutory and constitutional residency requirements. While the Committee is correct that Gilbert did not challenge the signatures of these three circulators, a rule that a circulator need not submit to Maine's jurisdiction unless they become subject to investigation would be unworkable and would substantially impair Maine's interest in policing its direct initiative petition process,

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especially with regard to potential criminal investigations or prosecutions occurring after petition validity is finally determined.

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

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

The Committee argues that the Secretary should reconsider her concession of Challenge 6, which

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

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

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art. IV, pt. 3, § 20, and therefore fall squarely within this constitutional authorization of initiative-related legislation.

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

The Committee argues that the Secretary should reconsider her concession that signatures containing ditto marks in the date field should be invalidated, characterizing such invalidations as hyper-technical. Committee Br. at 27. I acknowledge that these invalidations are in some tension with the Secretary's treatment of other date discrepancies in the petition forms. However, the Legislature has prohibited the use of ditto marks in direct initiative petitions, other than for residence address and municipality. *See* 21-A M.R.S.A. §§ 354(4); 902. That statutory prohibition would seem to cabin the Secretary's discretion to apply her usual contextual approach to determining signature date. Moreover, such a prohibition is a reasonable way to prompt each petition signer to independently determine the date and not simply add to a column of ditto marks that may or may not have been made on the same day. I therefore recommend that the Secretary leave unchanged her concession that these signatures be invalidated.

IV. Recommended Amended Determination of Validity

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

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

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

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

1. On February 2, 2026, 8,067 petition forms containing 79,692 signatures were submitted to the Secretary of State pursuant to the Constitution of Maine, Article IV, Part Third, Section 18 on behalf of the above-entitled initiated legislation.¹⁴
2. Following a review of these 8,067 petition forms, I find the following signatures to be invalid for the following reasons:
 - A. 5,066 signatures are invalid because they were not certified by the registrar as belonging to a registered voter in that municipality. (REG)
 - B. 1,930 signatures are invalid because they are duplicates of signatures already counted. (279

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

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of these signatures were invalidated during the remand). (DUP)

- C. 675 signatures are invalid because they were dated after the date that the circulator's oath was completed in the presence of the notary or the voter's signature was not dated and it could not be determined that the voter signed the petition before the circulator took the oath. (171 of these signatures were invalidated during the remand). (DATE)
- D. 2,813 signatures are invalid because the circulator did not file a valid circulator's affidavit at the time the petitions were filed with the Secretary of State. (2335 of these signatures were invalidated during the remand). (AFF)
- E. 278 signatures are invalid because the voter's signature was crossed out on the petition form. (WD)
- F. 233 signatures are invalid because the voter failed to provide a signature. (SIG)
- G. 152 signatures are invalid because the circulator's oath was not completed prior to submitting the petition to the registrar for certification. (PRIOR)
- H. 162 signatures are invalid because the registered voter's signature was made by another. (61 of these signatures were invalidated during the remand). (ANO)

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- I. 1,127 signatures are invalid because the circulator's oath was not complete, not administered properly, or untrustworthy. (1,037 additional signatures were invalidated during the remand). (OATH)
 - J. 64 signatures are invalid because of material alterations to the petition. (ALT)
 - K. 29 signatures are invalid because the certification of the registrar was not completed. (CERT)
 - L. 9 signatures are invalid because the petition was not on the approved form. (FORM)
 - M. 4 signatures are invalid because the petition forms were received by the municipal office after the municipal filing deadline. (AMD)
3. For the reasons set forth above, on the 8,067 petition forms filed with the Secretary of State, I find that 67,150 signatures are valid and 12,542 signatures are invalid. The number of signatures required to determine the petition to be valid is 67,682. Because the number of valid signatures is short of the required number by 532 signatures, I find the petition to be invalid.

Opportunity to Object

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

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