

State of Utah
Office of the Lieutenant Governor



Spencer J. Cox
Lieutenant Governor

MEMORANDUM

DATE: March 26, 2020
FROM: Justin Lee, Director of Elections
SUBJECT: Governor's Executive Order Regarding Signature Gathering

This Memorandum provides background and guidance regarding Executive Order 2020-8, issued on March 26, 2020, by Governor Gary R. Herbert, suspending certain provisions of the Utah Election Code, specifically relating to the signature-gathering process governed by Utah Code Title 20A, Chapter 9, Part 4, Primary Elections.

Background

On May 14, 2019, the Utah Elections Office established a protocol regarding elections questions relating to the 2020 gubernatorial election. Pursuant to the protocol, the Lieutenant Governor retained Gayle McKeachnie as an independent third-party advisor to review and advise the Elections Office on questions related to the gubernatorial election prior to action by Lieutenant Governor on the questions.

Due to the impact of the novel coronavirus disease 2019 (COVID-19) and recommendations from national, state, and local authorities to limit physical contact, questions arose related to the appropriateness and practicality of the signature-gathering process prescribed in Utah Code § 20A-9-408. In response to these questions, the Director of Elections consulted with Mr. McKeachnie in accordance with the Elections Office protocol. Mr. McKeachnie concluded that Executive Order 2020-8, which suspends the requirements that signature packets are bound and that a circulator personally witness each signature, is an appropriate response to the concerns about gathering signatures during the COVID-19 outbreak.

Guidance to Signature-Gathering Candidates and Interested Voters

Executive Order 2020-8 has suspended the statutory requirements found in Utah Code §§ 20A-7-204(4)(b) and 205(2), as made applicable by Utah Code § 20A-9-408(9)(a)(i), and Utah Code §§ 20A-9-408(9)(d)(i) and (ii), that a candidate's signature packet be bound prior to the packet being circulated and that a circulator personally witnesses each signature. Accordingly, the following actions are now permitted:

- (1) A candidate may send or make available an electronic copy of the signature page of a signature packet to any interested voter. The candidate is not required to furnish a cover page or circulator page to the interested voter.
- (2) An interested voter may print and physically sign the signature page.
- (3) The interested voter may send the page bearing his or her handwritten signature back to the candidate via regular mail, fax, or e-mail.
- (4) The candidate may assemble the returned signature pages and then submit the signature packet to the election officer in-person or via designated agent. The packet does not require a circulator page.

Q. Does someone still have to witness the person sign the signature page?

A. No. Because the requirement to have a circulator witness an interested voter sign the petition has been suspended, an interested voter may simply sign the signature page and return it to the candidate.

Q. May the pages be returned to the candidate electronically?

A. Yes. The pages bearing the handwritten signature may be scanned and emailed, or faxed, back to the candidate.

Q. Should voters send signed pages directly to the Lt. Governor's Office or County Clerk?

A. No. Signature pages must be collected by the candidate before being submitted to the appropriate election officer.

Q. Does the signature need to be handwritten?

A. Yes. The forms may be transmitted electronically, but the law requires a handwritten signature. The executive order does not suspend the requirement of a handwritten signature because that is what election officials use to verify the signer's identity and eligibility to vote.

Q. Do election officials check every single signature?

A. Yes. Election officials check every single signature against the voter registration database to ensure the person signing the petition is eligible to sign and the signature is substantially similar

to the signature on file. Particularly now that the circulator-witness requirement has been temporarily suspended, signature verification is indispensable to allowing election officials to discharge their duty to preserve the integrity of elections.

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Q. Does someone still have to witness the person sign the signature page?

A. No. The requirement to have a circulator witness a voter sign the petition has been suspended, so a voter may simply sign the signature page and return it to the candidate.

Q. May a candidate physically mail a petition to a voter?

A. Yes. A candidate or voter can use physical mail to deliver signature pages.

Q. May the pages be returned to the candidate electronically?

A. Yes. The pages bearing the handwritten signature may be scanned and emailed, or faxed, back to the candidate. A voter could also take a photo of the signed signature sheet and send it back to the candidate. Regardless of the method of delivery, the voter's information and signature must be legible to be verified.

Q. Should voters send signed pages directly to the Lt. Governor's Office or County Clerk?

A. No. Signature pages must be collected and bound by the candidate before being submitted to the appropriate election officer.

Q. Does the signature need to be handwritten?

A. Yes. The forms may be transmitted electronically, but the law requires a handwritten signature (also known as a "holographic" signature). The executive order does not suspend the requirement of a handwritten signature because that is what election officials use to verify the signer's identity and eligibility to vote.

Q. What does "handwritten" mean?

A. Handwritten means an individual needs to put pen to paper. The signature must be a physical, wet-ink, signature. This will require an individual to print out a signature sheet and sign it, if the document is delivered electronically.

Q. Is the cover page still required when submitting signature packets?

A. Yes. Candidates should still attach the cover page to the signature pages before submitting the signatures to the appropriate election officials.

Q. Can the candidate or candidate's campaign pre-fill the voter's information on the petition before sending it to the voter?

A. Yes, but the voter will need to sign with a handwritten signature. If the pre-filled information is incorrect, the signature could be disqualified in accordance with state law.

Q. Do election officials check every single signature?

A. Yes. Election officials check every single signature against the voter registration database to ensure the person signing the petition is eligible to sign and the signature is substantially similar to the signature on file. Particularly now that the circulator-witness requirement has been temporarily suspended, signature verification is indispensable to allowing election officials to discharge their duty to preserve the integrity of elections.

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