



Behind the Scenes of Mail Voting:

Signature Verification and Witness Requirements in the 2020 Elections



**Stanford-MIT
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Abstract:

Due to the coronavirus pandemic, more than [92 million](#) voters requested or were sent a mail ballot for the 2020 general election. In the months leading up to the election, some experts estimated that up to [80 million](#) Americans would submit a mail ballot in the 2020 general election. In the end, approximately 73 million votes—or [46%](#) of [all votes cast](#)—were cast by mail, more than double the number cast by mail in 2016. Many of these voters were using absentee ballots for the first time and not aware of the procedures used by their state to confirm their identity on their mail ballots. While rules differed by state, they typically included requirements that the voter sign the return ballot envelope and, often, that the voter's signature on the return envelope match the voter's signature on file with election officials. Experts predicted that the increase in mail ballots for the 2020 general election would likely result in a higher number and a higher percentage of ballots being rejected—a prediction driven by the high number of expected first-time users of mail ballots—voters more likely to make mistakes when completing their ballots. Observers also expressed concerns about how election officials would determine whether voter signatures on their return envelopes matched their signatures on file. The early [data available](#) regarding mail voting in the 2020 general election suggests that election officials [rejected a lower percentage of mail ballots](#) than in previous years but, due to the increase of mail voting, a higher absolute *number* of mail ballots. This report examines the signature verification landscape across the United States during the 2020 elections, with a particular emphasis on the battleground states of Arizona, Florida, North Carolina, Michigan, Pennsylvania, and Wisconsin.

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Introduction

Due to the coronavirus pandemic, at least 92 million voters requested or were sent a mail ballot for the 2020 general election. By the morning of Election Day, November 3, 2020, voters had returned 64.6 million mail ballots to election officials. Many of these voters were using absentee ballots for the first time and not aware of the procedures used by their state to confirm their identity on their mail ballots.

Most states verify the identity of voters who cast their ballots by mail in one of two ways: 1) by comparing the voter's signature on the ballot's official return envelope to the voter's signature on file with the election office, or 2) by having a witness (or two) or a notary public sign to attest that the ballot was completed by the intended voter. These signature verification requirements are designed to prevent voter fraud in mail voting. While there is [no evidence of widespread fraud](#) in mail voting, [including in 2020](#), there have been isolated cases in the history of mail voting.

Though voter-identity verification rules differ by state, the rules typically include a requirement that the voter sign the return ballot envelope and that the voter's signature on that envelope match the signature on file with election officials. Experts predicted that the increased use of mail-in ballots would likely result in more ballots being rejected due to the voter's failure to sign their ballot, an election official's determination that the signature did not match the signature on file, or the voter's failure to meet a state's witness requirement. Studies have shown that ballots of first-time absentee voters are [more likely to be rejected](#) due to voter error.

The [early data on ballot rejections](#) from the 2020 general election suggested that, while experts' worst case fears of higher absentee ballot rejection rates were not borne out, the absolute *number* of ballots rejected did increase. Despite the dramatic increase in first-time mail-in voters, election officials [rejected a lower percentage of mail-in ballots](#) than in previous years.¹ Of [23 states reporting](#), 20 states reported lower rates of absentee ballot rejections in November 2020 compared with November 2016. However, because mail voting as a percentage of overall voting increased substantially in the 2020 general election—from [21% in 2016 to 46% in 2020](#)—it is likely that most states nonetheless saw an increase in the absolute *number* of ballots rejected as compared with prior years, even as the *percentage* of rejections declined. While there is no one explanation for the downward trend in mail ballot rejection *rates* in the 2020 general election, several factors likely provide part of the answer: removal of obstacles to mail voting—by election officials, state legislatures, and courts; increased voter education regarding mail voting procedures, and the electorate's motivation to make sure its ballots counted in what was expected to be a closely contested presidential contest.

¹ As of the time of writing, the 2020 general election data are not yet available from the Election Administration and Voting Survey (EAVS), which includes granular data on the numbers of, and reasons for, mail ballot rejections. Thus, for this report, voting statistics regarding the 2020 general election are from the limited data released by individual states and press reports.

This report examines the signature verification practices for mail ballots (sometimes called “absentee ballots”) that were employed across the United States during the 2020 general election, with a special focus on six battleground states. Part I outlines four areas: (i) the legal framework for verifying the identity of the voter of a mail-in ballot, specifically signature and witness requirements, (ii) the signature verification and cure processes employed, which varied widely by state and even by county, (iii) ballot rejection rates for signature defects, and (iv) the litigation related to signature verification and witness requirements. Part II is a deeper dive into the specific signature and witness rules, verification processes, rejection rates, and litigation in each of these six battleground states: Arizona, Florida, Michigan, North Carolina, Pennsylvania and Wisconsin.

Part I: Signature Verification Landscape

I. Signature and Witness Requirements: the Legal Framework

The legal framework for processing, verifying, and counting mail-in ballots varied widely across the 50 states and the District of Columbia in 2020, and, in some states, changed due to both the increased demand for mail voting and a flood of litigation. Every state had its own process for verifying the identity of voters who cast mail ballots, also known as absentee ballots. Every state [required](#) such voters [to sign](#) their mail ballots, usually on the return envelope, an inner envelope, or a separate certificate. Thirty-one states (plus the District of Columbia) had an additional process to “verify” that the signature was that of the intended voter (see *Table 4* for a list of these states). In these states, election officials compared the voter’s signature on the return ballot envelope with the voter’s signature on file (with voter registration or other government entity) and determined if they matched. Some states, alternatively or additionally, required a witness to sign the envelope to affirm the identity of the voter. At least two states, Alabama and Arkansas, required that voters also return a photocopy of an acceptable form of identification with their absentee/mail ballot.

When an absentee or mail ballot complied with the particular ballot requirements of a state, it was accepted and counted. Sometimes, however, voters returned an absentee/mail ballot that did not meet all the requirements. For example, the ballot’s return envelope may have been missing the voter’s signature or, in a state that required signature verification, the signature on the envelope may have been deemed by election officials not to match the voter’s signature on file. When ballots did not satisfy all the requirements, some states rejected the ballot outright, while other states notified the voter and provided the voter with an opportunity to “cure” their ballot deficiency.

Some states had rules, codified in state law, that enabled voters to cure signature deficiencies in time for the ballots to be counted. These states notified voters when there was a problem and provided them with a process and time frame by which to fix the problem, typically by verifying that the ballot was indeed theirs. In the 2020 general election, 29 [states](#) had such a process for missing signatures and/or “mismatched” signatures (those that election officials determined did not match the signatures on file): Arizona, California, Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, New York, North Dakota, Ohio, Oregon, Rhode Island, Utah, Washington, and West Virginia, as well as the District of Columbia. In a few of these states, these processes were temporary accommodations during the pandemic. Additionally, due to ongoing state and federal lawsuits and appeals regarding its notice and cure process, North Carolina created such a process, suspended it after mail voting had already begun, and then largely restored its process to allow voters to cure missing signatures, in response to a series of court orders.

In states that did not have such a notice and cure process, ballots with missing or mismatched signatures were simply not counted. In these states, when election officials determined that the

signatures did not match, they rejected the ballots outright. [Mississippi](#), for example, required election officials to compare the signature on each absentee ballot envelope to the voter's signature on file and toss the ballots if the signatures did not match, without notifying the voter in advance. The other states that tossed votes due to signature defects in the 2020 general election without [allowing voters an opportunity to cure](#) included Texas, Arkansas, South Dakota, and Tennessee.

Several states changed their laws to allow notice and cure only during the pandemic, as an accommodation to the increased demand for mail voting. For example, [New York](#) allowed voters to cure ballot issues only for the November 2020 election, due to the pandemic. Similarly, Louisiana [codified a process](#) for the 2020 primaries, due to the pandemic, to allow voters to cure their signature deficiencies. In October, after plaintiffs initiated a lawsuit to extend the accommodation to the general election, the Louisiana legislature [renewed the emergency rule](#) for all 2020 elections.

Other states adopted notice and cure provisions more permanently. Under [Maine](#) law, for example, election officials could reject an absentee ballot for a signature issue, without notifying the voter or giving them a chance to cure the defect. In response to a [lawsuit](#) in June that challenged that law and others, given the coronavirus pandemic, the secretary of state issued guidance to election officials, saying voters should be notified and given a chance to cure their ballots. A state [superior court decided](#) on September 30, 2020, that the secretary's guidance provided voters with adequate due process. The secretary of state, nevertheless, [issued guidance](#) on October 20, 2020, requiring clerks to "make a good faith effort to notify the voter as quickly as possible (within one business day at a minimum) that the ballot may be rejected or challenged unless its defect is cured." In general, due largely to litigation over the last several years correlated to an increased use of mail voting, there has been a trend towards more states adopting notice and cure procedures.

For states that did not rely on signature matching to verify the mail voter's identity, the most common way election officials authenticated the identity of an absentee voter was by requiring a witness or notary public to sign the ballot, attesting that they observed the intended voter completing the ballot. [Twelve states](#) typically required an absentee ballot to be witnessed or notarized in order to be counted: Alabama, Alaska, Louisiana, Minnesota, Mississippi, Missouri, North Carolina, Oklahoma, Rhode Island, South Carolina, Virginia, and Wisconsin. [Alabama](#) required that voters have two witnesses sign their ballots or have their ballots notarized. [North Carolina](#) reduced the witness requirement from two to one during the pandemic. [Oklahoma](#) allowed absentee voters to send a copy of a photo ID instead of finding two witnesses during the pandemic. [Minnesota](#), [Rhode Island](#), and [Virginia](#) suspended their witness requirements during the pandemic after lawsuits were filed challenging the requirement, and [Missouri](#) also waived the requirement for 2020.

Opportunities to cure a witness defect on a ballot also varied by state and county. In [Wisconsin](#), while there was no statewide rule, some counties notified voters of witness defects and provided an opportunity to cure; others did not. In [North Carolina](#), the issue of whether voters could cure a witness defect was the subject of a complicated set of lawsuits, settlements, stay

orders, and appeals that, in the leadup to the 2020 general election, resulted in several changes to the rules, even after mail voting had started. In the end, voters were allowed to cure if they forgot to sign their ballots but not if they failed to get the required witness signature. (These events are detailed in Part II under “North Carolina Signature and Witness Requirements.”)

Among states that provided voters an opportunity to cure ballot defects, there was also variation regarding the deadline for curing the defect. For signature defects, for example, some states, such as Montana, required the voter to cure the defect by Election Day, leaving no remedy for mail-in ballots that arrived on or after Election Day. Other states, such as Nevada and California, allowed some time after Election Day for voters to cure the defects. The deadline for curing ballot defects could be different for different defects. For example, under Arizona law, voters had until five business days after Election Day to cure signature mismatches but only until Election Day to cure missing signatures. Ahead of the November 2020 general election, a federal district court [required](#) Arizona to extend the cure period for missing signatures to match the cure period for mismatched signatures; but, on October 6, 2020, [the Ninth Circuit granted appellants an emergency stay](#), reinstating the inconsistent deadlines for curing signature mismatches and missing signatures.

Table 1 displays the signature-matching practices and requirements for mail-in ballots in six battleground states.

Table 1. Signature Verification in Battleground States for the 2020 General Election.

State	Required Signature Verification Process?	Signature Verification Practices Codified?	Witness Requirements ?	Allowed Cure of Missing Voter Signature?	Allowed Cure of Mismatched Signature?	Allowed Cure of Witness Signature Error?	Voters had a chance to cure signature issues after Election Day?
AZ	YES	YES	NO	YES	YES	N/A	YES
FL	YES	YES	NO	YES	YES	N/A	YES
MI	YES	NO	NO	YES	YES*	N/A	NO
NC	NO	N/A	YES	YES	N/A	YES	YES
PA	NO	N/A	NO	YES	N/A	N/A	NO
WI	NO	N/A	YES	YES	N/A	YES	NO

Table 1 is color-coded based on whether or not the practice in question made it easier (green) or harder (red) for absentee voters to cast their ballots.

*Some jurisdictions may have allowed absentee voters to cure their ballots, but there was no state law requiring them to do so. All voters could choose to spoil the ballot with the mismatched signature and request a new ballot.

A. Battleground States that Conduct Signature Matching

Of the six battleground states covered here, three states— Arizona, Florida, and Michigan— conducted signature verification in 2020. In Arizona, election officials were required to [compare the signature on the voter's mail-in ballot](#) envelope with the signature on the voter's registration record. State law appeared to allow for a broad range of practices for the matching process—from the use of techniques taught by forensic specialist trainers with expertise in signature matching (as was done in Maricopa County) to applying a simple visual check based on the subjective judgment of election officials. If the signatures were “inconsistent,” an election official was required to make “reasonable efforts” to contact the voter to provide an opportunity to cure the problem. Voters had until five business days after Election Day to cure signature mismatches, but only until Election Day to cure missing signatures.

Florida's signature verification practices are codified ([Fla. Stat. § 101.68](#)), but the law itself does not provide standards for signature matching, leaving that to the discretion of the counties. A 2019 law required the state to provide signature matching [training](#) to all supervisors of election and county canvassing board members but not to all staff engaged in signature verification. In Miami-Dade, Florida's most populous county, election officials were trained in signature matching practices by a forensic specialist, and officials had to pass a test on signature matching in order to conduct signature match examinations on voter ballots. (Per conversation with Miami-Dade County election official, 9/21/20). In Wakulla County, one of Florida's least populous counties, election officials were not trained in forensic signature matching; they simply looked for similarities between signatures. (Per conversation with Wakulla County election official, 9/21/20). Regardless of what county they lived in, voters had until two days after the election to cure a signature problem, and they were required to include a copy of identification along with the signed cure affidavit.

In Michigan, election officials were required to [compare the signature on the voter's mail-in ballot envelope with the “qualified voter file”](#) signature to “determine the genuineness of [the] signature.” [According to Michigan's guidance on signature matching](#), a signature was deemed insufficient only if it had “multiple, significant, and obvious differences” from the signature on file. On October 7, 2020, Governor Gretchen Whitmer signed a bill into law ([Senate Bill 0757](#)) that required election officials to notify voters within 48 hours of determining that a signature did not match. If the signature was contested less than 48 hours before Election Day, officials were required to notify voters by 8 p.m. the day before the election. Another bill ([House Bill No. 5991](#)) sought to require election clerks to notify voters of signature mismatches and provide cure opportunities until 10 days before the election was certified. That bill [was referred](#) to the Michigan House Committee on Elections and Ethics on July 23, 2020, but did not pass before Election Day.

B. Battleground States that Lack Signature Matching

Laws in Wisconsin, North Carolina, and Pennsylvania did not, in the 2020 general election, require election officials to compare the absentee voter's signature on their ballot return envelope to a signature on file. Wisconsin voters were, however, subject to [stringent ballot](#)

[witness requirements](#) which mandated that absentee voters complete their ballots in front of a witness who was then required to certify that the ballot was completed by the intended voter. Witnesses were required to provide their contact information, including address, along with their signature. The rules regarding the need for a witness for mail-in ballots changed frequently in Wisconsin's April 2020 primary elections, due to litigation winding its way through the courts. On April 3, 2020, a [federal district court](#) ruled, in *Democratic National Committee v. Bostelmann*, that election officials could not reject the ballots of absentee voters without a witness if the voter stated they were unable to obtain a witness safely. The same day, [the Seventh Circuit promptly reversed](#), citing the Wisconsin Election Commission's new guidance for obtaining a witness, prompted by the pandemic and the state's interest in promoting the integrity of elections. In the end, Wisconsin mail voters were required to obtain the signature of a witness in both the primary and general elections.

In North Carolina, [litigation](#) prompted the North Carolina State Board of Elections (NCSBE) to stop requiring election officials to match a voter's signature with a signature on record. However, there were [other reasons why a ballot might be rejected](#) in North Carolina: 1) a voter failed to sign the voter certification; 2) a voter signed in the wrong place; 3) a witness or assistant failed to print their name; 4) a witness or assistant failed to print their address; 5) a witness or assistant failed to sign; 6) a witness or assistant signed on the wrong line; or 7) the voter's ballot was in an unsealed envelope upon arrival. Under a [memo dated October 4](#), the NCSBE temporarily suspended its notice and cure process until pending litigation was resolved. During this time, which was after mail voting in the state had already started, ballots with these defects were simply set aside and could not be cured until a series of related lawsuits were resolved. However, in a memo on [October 17](#), the NCSBE specified that the county board office must contact a voter in writing, via either email or mail, within one business day of identifying a ballot deficiency. The communication to the voter had to enclose either a cure affidavit or a new ballot. Five deficiencies could be cured via affidavit: 1) a voter failing to sign the voter certification; 2) a voter signing in the wrong place; 3) a witness or assistant failing to print their name; 4) a witness or assistant failing to print their address; and 5) a witness or assistant signing on the wrong line. But the failure of a witness to sign at all was a defect that could *not* be cured. To remedy that defect, an absentee voter would have to spoil their ballot altogether and start from scratch—a more cumbersome process available only on or before Election Day.

Pennsylvania also did away with its signature matching process in September 2020, as a result of [litigation filed in August](#) by the League of Women Voters in the U.S. District Court for Eastern Pennsylvania. The lawsuit alleged that the state failed to require any training in handwriting examination or provide any standards or guidelines to aid election officials in their signature analysis. Plaintiffs dropped their case after Secretary of the Commonwealth Kathy Boockvar [issued guidance](#) on September 11, 2020, to all 67 Pennsylvania counties prohibiting them from rejecting mail-in ballots based solely on a signature matching issue. The campaign of incumbent Republican President Donald Trump challenged Secretary Boockvar's new guidance in federal district court. The district court, on October 10, 2020, [dismissed the lawsuit](#), holding that the Pennsylvania election code "imposes no requirement for signature comparison" for mail-in ballots. Finally, on October 23, 2020, the Supreme Court of Pennsylvania issued a unanimous

[declaratory ruling](#), at the request of Secretary Boockvar, that Pennsylvania law did not require or authorize county election boards to reject absentee or mail-in ballots based on an analysis of a voter's signature.

II. The Signature Matching Process

Signature matching is the process of comparing a signature on the return envelope of a mail ballot against an image of a voter's signature stored in the voter registration files. Voter registration files include the signature voters provided when they registered to vote. In some states, the file can also include signatures provided at other times, such as when voters updated their voter registration (e.g. due to change of address, name, or political party), obtained or renewed their driver's licenses, or when they voted in person in the past (if the voter signed an electronic signature at the polls). Some states or counties store such signatures and are able to provide election officials with images of multiple signatures on file, while others store or show election officials only one signature.

The process of signature matching varies by state and can even vary by county and township within each state. States and counties employ a wide variety of approaches to signature matching: (i) some use automated technology to assist in the review process, while others do not; (ii) some employ temporary staff to evaluate signatures, while others rely on permanent staff; (iii) some have formalized standards for signature verification training and assessment, while others have only informal training and leave much of the process to the discretion of each county election official; and (iv) some states allow election observers to watch the process and register objections to matching determinations by election officials, while others do not.

A. Review Processes and Use of Automated Systems for Matching

For the majority of counties and states, signature review and verification was a tiered process, meaning the first determination that a ballot signature was a mismatch was not the final decision. In the first tier of review, signatures were typically compared by either a staff member or an automated system.

In many counties, ballot return envelopes were first run through a ballot processing machine that scanned and captured the signature digitally. The machines, such as those used in Miami-Dade County in Florida, would then display the image of the scanned signature on a monitor next to an image of at least one signature the state or county had on file for that voter. This allowed the staff member to see the signatures side by side to facilitate their ability to compare them. (Per conversation with Miami-Dade County election official, 9/21/20). If the initial review by an election staffer determined the signatures matched, that was often sufficient to satisfy the signature verification requirement, and the ballot was opened and counted. If the initial review determined there was a mismatch, the ballot typically went to a second level of review by an election staffer.

Some counties relied on automated systems and software to compare the newly scanned signature from the ballot envelope with one or more signatures on file, in the first tier of review. According to Greg Council, a vice president at Parascript, a company providing signature matching software, [about 70 large counties across the country](#) use automated signature verification software to review ballot signatures. A [survey](#) of the signature verification processes in 33 California counties found that only nine counties in the state used automated systems for signature matching, and none allowed a mismatch to be determined conclusively based on an automated determination.

In many counties using automated comparison systems for signature matching, an automated determination of a match was sufficient to verify the signature and would qualify the ballot to be opened and counted. In contrast, an automated determination that the signature did not match was typically insufficient to reject the ballot. In such cases, the ballot typically was routed to one or more staff members for human evaluation of the signature comparison.

If the second level human reviewer determined the signatures matched, the ballot was usually counted. If the second level human reviewer agreed with the automated determination that the signature was a mismatch, then, depending on the state or county, the ballot was either rejected or went to a third tier of review, usually by a supervisor in the elections office (e.g. the registrar, assistant registrar, or other senior staff member). In some states and counties, such as Detroit, Michigan, for example, an intermediate supervisor (below the city clerk) had the power to declare a mismatch and reject the ballot. (Per conversation with Detroit Department of Elections, 9/23/20). In other jurisdictions, a final decision to reject a ballot was made by the registrar or by a canvassing board.

B. Notice and Cure

In states that allowed voters to cure signature mismatches, a final determination that the signature on the return ballot envelope did *not* match the voter's signature on file was sometimes referred to as a "challenge." For the 2020 election, [27 states](#) permitted voters to fix or cure a signature mismatch on a challenged ballot (it was 28 until the Fifth Circuit, on October 19, 2020, reversed a district court ruling that required Texas to provide notice and cure). While some states have allowed signature curing for some time, more states began offering voters the option in 2020 after a [spate of litigation](#) on this issue. One state, New York, notified voters and allowed them to cure signature issues but only for the 2020 general election, in response to the potential threat of COVID-19 on voters' health. In states that offered "notice and cure" opportunities, election officials made efforts to contact the voter through some combination of mail, email, and/or phone, and give the voter an option to cure by certifying the signature was theirs, through some combination of mail, email, and/or phone. Required and acceptable means of notice and cure varied by state and county. A ballot was considered "challenged" until and unless it was cured by the state's [cure deadline](#). If it was not cured on time, it was "rejected" and not counted.

In states that did not allow voters to cure a mismatched signature, the ballot was automatically rejected upon a final determination of a mismatch by election officials. In most states, these

ballot envelopes were not opened. In 2020, states that did not provide voters the opportunity to cure ballot signature defects included Texas, Tennessee, Arkansas, South Dakota, and Mississippi. In Texas, for example, if election officials decided the signature on an absentee ballot did not match the signature on file, they rejected the ballot without notifying the voter before Election Day. They were required by statute to notify voters within 10 days *after* Election Day that their ballot was not counted, but there was no opportunity at that point to fix the error.

C. Staff Hiring

Some election offices have full-time staff members to accomplish signature verification; other offices hire temporary staff. An [examination](#) of California's signature verification process found that larger counties often hired temporary staff to supplement their permanent staff. Some counties across California have more than 70 people to conduct the signature verification process, while smaller counties tend to rely on one to three permanent staff. Some California counties reported hiring the same temporary staff every election season for decades, while others reported temporary staff working for only one or two seasons. In Florida, Miami-Dade County hires between 30 and 100 temporary staff, generally the same people every year. (Per conversation with Miami-Dade county executive assistant to the supervisor of elections, 10/1/20).

Although some jurisdictions used temporary staff to support their signature matching process, temporary workers were not typically given the ability to make a final decision that a ballot signature was a mismatch. For example, in Michigan, jurisdictions could hire and train temporary staff to support the signature verification process, but only the election clerk for that jurisdiction, who undergoes formalized signature verification training, could make a final determination that a signature was a mismatch. (Per conversation with an election training specialist at the Michigan Bureau of Elections, 9/23/20).

In less populous counties, such as [34,000-person](#) Wakulla County, Florida, one or two individuals have verified the signatures on mail-in ballot envelopes for many years. (Per conversation with Wakulla County election official, 9/21/20). Despite having only a small staff to review all signatures, if either of the two individuals found a mismatch, that person would ask for opinions from one or two other staff before finally declaring the signature a mismatch and notifying the voter. (Per conversation with Wakulla County election official, 9/29/20).

D. Training and Standards

Some states incorporated some form of training process, whether formal or informal, to ensure their staff (full-time or temporary) understood the process of verifying signatures. Most states that were entirely vote-by-mail states, such as [Oregon](#), [Colorado](#), and [Washington](#), had well-defined statewide standards of signature assessment. For instance, Colorado's training manual outlined and illustrated various forms of signature differences and considerations. Those considerations included style (i.e. slant of writing, spacing, letter size, curves, and loops), the source of a signature (i.e. electronic pad or paper), and whether the voter was part of a

population requiring special consideration (i.e. voters who struggle with motor issues due to disability or age) (see Figure 1). The state also required staff to complete signature matching exercises.

Figure 1. Images of Signatures from Colorado Secretary of State's [Signature Training Guide](#).

BROAD CHARACTERISTICS

The Type of Writing

Next to spelling, the type of writing is the easiest characteristic to notice a difference in. Does the voter's record have only cursive handwriting but the ballot-return envelope has print? This is an immediate indicator for rejection of a signature or further research.

Genuine Signature	Questioned Signature
	

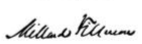



The Speed of Writing

Someone who is writing his or her own signature will perform the act fairly quickly. This is because the person has likely signed his or her name thousands of times, so the gesture is automatic and harmonious, requiring little thought or concentration.

If someone other than the voter took a long time to copy the voter's signature, the copied signature will not have a free and natural look to it. Instead, you should see slower, deliberate marks. If the forger attempted to create the signature quickly, then it should have various characteristic differences.

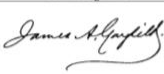



Keep in mind, though, that this situation may go in reverse. If the voter naturally has shaky or poor handwriting that is evident in the SCORE signature, but the ballot-return envelope's signature is suddenly of high quality, that could indicate a forgery.

Look to see whether the ballot-return envelope's signature was made at the same speed as the signatures in SCORE. Please keep in mind that a reasonable explanation for a shaky signature is the voter's advanced age, decreased muscle strength, or the surface below the envelope.

Genuine Signature	Questioned Signature
	
	

Overall Spacing

Writing a signature is a fixed and subconscious habit, so the signature's spacing should be reasonably similar. Determine whether the ballot-envelope's signature has odd or unnatural spacing that cannot be reasonably explained.

Genuine Signature	Questioned Signature
	
	

Overall Size and Proportions

The signature's size and proportions should also be reasonably similar. At your first impression, identify whether the ballot-return envelope's signature is too large or small compared to the signatures in SCORE. You may find it difficult to perform this comparison by looking only at one SCORE signature and may need to conduct further research.

The first example below has odd proportions because the letter's height compared to the name's length is very different than the genuine signature. The remaining two examples have unreasonably different sizes.

Genuine Signature	Questioned Signature
	
	
	

Michigan [law](#) required all newly elected or appointed election clerks to undergo training regarding election procedures, and the [two-day training](#) offered by the Michigan Bureau of Elections (MBE) covered the "Absent Voting Process" (along with 11 other topics). The MBE also offered in-person refresher training during election years. The extent to which these trainings covered how to conduct signature verification in particular is unclear. For health and safety reasons, the 2020 training was mostly provided through online courses on the state's Elections eLearning Platform. The MBE provided training materials to jurisdictions primarily through the counties, although it worked directly with the election clerks of larger jurisdictions.

Although state law and the MBE's [handbook](#) for election officials required staff to verify signatures on absentee ballots and determine if they "agreed" with the voter's reference signature on file, they did not spell out what that process should entail. In late 2019, plaintiffs in [Priorities USA v. Benson](#) alleged, among other things, that Michigan (1) lacked any uniform standards for reviewing signatures, resulting in various jurisdictions using diverging criteria to verify signatures, and (2) election officials lacked sufficient training and skills to compare signatures reliably. In early 2020, Michigan Secretary of State Jocelyn Benson released [new signature verification guidance](#) that set a standard: that election officials should presume the intended voter signed their ballot unless there were "multiple, significant, and obvious differences" between the signatures on the ballot and in the file. This guidance also included examples of matching and non-matching signatures, as well as a list of legitimate reasons, such as illness, that may cause a variation in a person's signatures. In April 2020, Priorities USA

[voluntarily withdrew](#) its lawsuit. On October 6, the secretary released very similar guidance for the November presidential election—guidance that was in effect during the election. On March 9, 2021, after the election, a court [ruled](#) that the signature verification guidance issued by Secretary Benson on October 6, 2020, was invalid because the guidance constituted a “rule” as defined by the state Administrative Procedures Act (APA) but was issued without following the formal rule-making procedures which the APA requires. So the guidance may not be used in future elections.

Although a few states had a statewide uniform standard for signature verification, most states left the training and standards to the discretion of the county elections offices. This resulted in significant differences among counties. Some counties codified signature verification standards in a training manual. Others, such as Miami-Dade County, [the most populous county](#) in Florida, provided annual training by forensic experts in handwriting identification techniques. In Miami-Dade, each staff member had to pass a test proctored by the forensic specialist to be able to verify signatures. All staff and temporary workers in Miami-Dade completed signature verification training and took a test provided by Hart & Flores Questioned Document Lab, Inc. (Per conversation with Miami-Dade County election official, 9/21/20). Similarly, election officials in Maricopa County, the [most populous](#) county in Arizona, are trained every two years by forensic experts—who also train the FBI—in signature verification. (Per conversation with Maricopa County Recorder, 9/16/20). In contrast, some counties employed [“on the job” training](#), which could range from a formalized training program that includes shadowing a trained official to an informal policy of “if you have any questions, just ask.”

In many jurisdictions, the same few individuals have run the entire process for years and rely on practices developed and memorized over time. In Florida’s Wakulla County elections office, for example, one woman has verified almost every mail-in ballot’s signature for the past 10 years, despite having no formalized training. Her colleague asserts that she has definitely become “an expert in signature,” though the majority of people who verify signatures are “probably not experts.” (Per conversation with Wakulla County election official, 9/29/20).

Different states and counties employed different standards for review of signatures. Some put emphasis on evaluating the signature as a whole, while others focused on particular technicalities of the signature. Some extended a presumption in favor of the voter, rather than a mismatch, and others did not. A [study](#) published in May 2020 compared the signature verification processes in each of California’s counties. It found that a large county in California emphasized following “general guidelines over specific criteria for comparison,” while other counties in California reported focusing on particular elements of the signature. On September 29, 2020, the California secretary of state issued [emergency regulations](#) to provide “clear and uniform guidance” on the issue to all 58 of the state’s counties. The guidance instructed, “the voter’s registration record shall only be rejected if two different election officials unanimously find beyond a reasonable doubt that the signature differs in multiple, significant, and obvious respects from all signatures in the voter’s registration record.” This mirrored a standard recently adopted in some other states. For example, a July 2020 [Nevada law](#) allowed a signature to be challenged only if it differed in “multiple, significant and obvious respects from the signatures of the voter available in the records of the county clerk.” And the Michigan secretary

of state's August 2020 [guidance](#), substantially reissued in October 2020, also provided for a mismatch only where the ballot signature differed in "multiple, significant and obvious respects from the signature on file. Slight dissimilarities should be resolved in favor of the voter whenever possible." (A Michigan state court [invalidated](#) the Michigan guidance after the general election for the secretary's failure to follow the required rule-making procedures before issuing it.)

E. The Role of Observers in Signature Verification

State laws regarding the role of observers did not often specifically address whether they have a right to observe the signature matching process or to object to the conclusions of election officials as to whether a signature had matched. As a result, county officials in many states exercised a fair amount of discretion regarding the rights of observers during the signature verification process, and that discretion was not applied uniformly across counties. In California, for example, [research revealed](#) substantial variation among counties regarding whether observers were allowed to watch the signature comparison process and whether they were allowed to object to the conclusions of the election official regarding whether there was a match.

This is also true for the battleground states. In [Arizona](#), for example, state law allowed observers to watch over "any significant voting or processing activities." The county recorder for Maricopa County, however, reported that observers in Maricopa had no right to observe the signature verification process specifically. They could observe it if the process happened to be occurring in an area where observers were allowed, but they were not permitted to challenge a determination of whether any signature was a match or not. (Per conversation with Maricopa County Recorder, 9/16/20).

In **Michigan**, the law provided that one appointed election challenger per eligible group could observe the conduct of the "absent voter counting board," which tallied absentee votes on Election Day and the day before Election Day. If a challenger believed an absentee ballot was submitted by a person unqualified to vote in the precinct, the challenger could challenge that ballot. ([Election Officials' Manual](#)). An election law specialist at the Michigan Bureau of Elections for the past 15 years reported, however, that he was unaware of any requests to observe the signature verification process per se, and the procedures were unclear. ([Election Officials' Manual](#)).

In **Florida**, the law permitted the public to [inspect](#) ballots and be [present](#) for the canvass of mail-in votes. If any eligible voter observing the process believed "that any ballot is illegal due to any defect," that observer could file a protest with the canvassing board. In Miami-Dade, the [most populous](#) county in Florida, the public could observe any of the 15 or more [canvassing board meetings](#) where mail ballots were accepted or rejected. An observer could announce at any time whether they objected to a decision or wanted clarification. Observers could not touch any ballots during inspection and, due to the pandemic, states put in place more strict distancing guidelines between observers and the canvassing board. While an observer could object to or question a decision, the final decision regarding the acceptance or rejection of a

ballot was up to the canvassing board. (Per conversation with Miami-Dade County Deputy supervisor of elections, government affairs, and media relations, 10/2/20). Additionally, candidates and their representatives were allowed to be present during mail-in ballot inspection by the public and could file protests with the canvassing board ([Fla. Stat. §101.572](#)).

Because **Pennsylvania**, **Wisconsin**, and **North Carolina** did not use signature comparison processes in the 2020 general election, there was no signature verification process to observe. Observers could observe compliance with witness requirements in Wisconsin and North Carolina.

III. Rejection Rates Due to Ballot Defects

A. Reasons for Ballot Rejections

Absentee ballots could be rejected by election officials for a variety of reasons, the most common of which included:

- Lateness: A ballot was considered late if it was received or postmarked (depending on state law) after the statutory deadline, which was usually Election Day (or some specified number of days after Election Day, provided it was postmarked by Election Day). In most states, lateness was the most common reason for ballot rejections.
- Missing voter signature: The voter failed to sign the ballot's return or inner envelope.
- Signature mismatch: The signature on the ballot envelope did not match one or more of the voter's signature(s) in the voter files, according to election officials. (*Table 1* above indicates which battleground states utilized signature verification to confirm identity.)
- Missing witness signature: The witness signature or other information (e.g. name, address) was missing or incomplete in states that required a witness signature on the ballot envelope. (*Table 1* indicates which battleground states utilized witnesses to confirm identity.)
- Missing ballot elements: A voter returned the ballot but failed to use the official return envelope and, if required, a secrecy sleeve, or failed to include the ballot itself.

The proportion of ballots rejected for each of these reasons varied by state and depended on the specific policies and practices of the individual state. Rejection rates could also depend on the extent to which voters had been educated on the specific requirements, such as ballot receipt deadlines and how to complete the voter information on the return envelope. Rejection rates could also depend on how election officials exercised their discretion, particularly for judgment calls, such as whether two signatures matched.

Studies showed that the ballots of certain communities were rejected at disproportionately high rates. According to a [Stanford Law School signature verification report](#) examining the process in California, first-time voters, voters with physical and medical limitations, and voters with limited English proficiency (especially those whose first language is based on a non-Latin alphabet), experienced disproportionate levels of mail ballot rejections of all kinds, including for

signature issues. Young voters were also disproportionately impacted. In the 2020 Florida presidential primary, for example, voters between the ages of 18 to 21 had a ballot rejection rate that was [eight times higher](#) than the rejection rates for voters over the age of 65, though much of that was due to late arriving ballots. Over 65% of the 35,500 rejected ballots arrived after the 7 p.m. Election Day deadline.

Many studies, both historic and current, have shown that the ballots of African American voters are rejected at higher rates than white voters, but importantly, most of this research examined *all* rejections, including those for lateness, and was not focused specifically on rejections for signature mismatch. Research from the [Stanford-MIT Healthy Elections Project](#), for example, showed that, in the 2020 presidential primary elections, Black voters were almost twice as likely as white voters to have their ballots rejected in [Florida](#), more than twice as likely to have their ballots rejected in [Wisconsin](#), and about 50% more likely to have their ballots rejected in [North Carolina](#). [Georgia's 2018 elections](#) showed similar trends regarding minority voters and young voters. According to an analysis by ProPublica, in the 2018 election, [Black voters' ballots were more than twice as likely as those sent in by white voters to be rejected](#). The 2020 general election followed the same trend. As of October 27, 2020, Black voters' ballots in North Carolina had been [rejected](#) at more than [2.5 times](#) the rate of white voters.

B. Rejection Rates in the 2020 General Election

Experts [predicted](#) that the increased use of mail ballots in November 2020 would likely result in more ballots being rejected. Scholars predicted a significant increase in both the number and rate of rejected absentee ballots, particularly in light of the number of first-time mail voters. Studies showed that first-time absentee voters are up to three times more likely to have their ballots rejected.

The [early data on ballot rejections](#) from the 2020 general election suggest that experts' predictions were not borne out. Despite the dramatic increase in first-time mail voters, early data show that election officials [rejected a lower percentage of mail-in ballots](#) than in previous years.² Of the [23 states that have reported](#) so far, 20 states reported lower rates of absentee ballot rejections in November 2020 compared with November 2016. Because mail voting as a percentage of overall voting increased substantially in the 2020 election, [some states](#), probably most, saw an increase in the absolute *number* of ballots rejected as compared with prior years, even as the *percentage* of rejections declined.

Several factors likely contributed to the downward trend in ballot rejection rates in the 2020 general election. First, election officials (and sometimes courts) [removed obstacles](#) that contributed to ballot rejections in several states. Several states extended their ballot receipt deadlines (e.g. [California](#), [Massachusetts](#), [Minnesota](#), [Mississippi](#), and [Nevada](#)). Several states waived or eased witness or notary requirements ([Minnesota](#), [Missouri](#), [North Carolina](#), and

² As of the time of writing, the 2020 general election data from the Election Administration and Voting Survey (EAVS), which includes granular data on the numbers of and reasons for mail ballot rejections, are not yet available. The 2020 general election voting statistics in this report are from limited data released by individual states and press reports.

[Rhode Island](#)). A few states adopted signature matching standards that made it less likely that signatures would be rejected for mismatch (e.g. [Michigan](#)). At least [nine states](#)—Arizona, Georgia, Indiana, Maine, North Dakota, Michigan, New Jersey, New York, and North Carolina—created or enhanced their notice and cure policies in 2020, giving voters an opportunity to cure a defective ballot so it was not rejected. Two states eliminated their policies of rejecting ballots for signature mismatches ([Pennsylvania](#), [North Carolina](#)). Second, to address the surge in mail voting, election officials, civic organizations, political activists, and the press ramped up voter education efforts regarding mail voting procedures. And third, a greater proportion of the electorate was motivated to cast their ballots in the 2020 general election, as evident from the historic voter turnout.

C. Rejection Rate Charts and Graphs

Using data from the Election Administration and Voting Survey (EAVS) for the 2016 general election and the 2018 midterm elections, the Healthy Elections Project team has aggregated and presented, in tables and graphs, the absentee ballot rejection rates in key battleground states (*Table 2*) and in all states (*Table 3*) with a particular focus on signature matching (*Table 4*).

Table 2. Disposition of Vote By Mail Ballots in Key Battleground States.

The chart shows, in key battleground states, the number of ballots cast, the percentage cast by mail ballot (VBM), and the percentage of VBM ballots rejected in the 2016 general, 2018 midterm, and 2020 primary elections.

State	Total number of ballots cast		Percentage of all ballots that were VBM			Percentage of all VBM ballots that were rejected		Number of VBM ballots rejected for lateness		Number of VBM ballots rejected for missing signature		Number of VBM ballots rejected for signature mismatch	
	2016	2018	2016	2018	2020 Primary ¹	2016	2018	2016	2018	2016	2018	2016	2018
AZ	2,722,660	2,409,906	74.1%	78.8%	88%	0.5%	0.5%	660	2,515	3,079	2,435	2,657	1,516
FL	9,613,669	8,355,817	27.9%	31.2%	79%	0.8%	1.2%	6,381	17,780	6,372	6,803	5,545	5,081
GA	4,147,161	3,951,876	5.1%	6.1%	48%	6.4%	3.1%	2,307	3,525	d/u	d/u	338	d/u
MI	4,874,619	4,341,340	25.9%	24.5%	63%	0.5%	0.6%	2,140	2,207	1,319	990	283	300
NC	4,690,195	3,754,895	3.8%	2.4%	1%	2.7%	6.1%	1,119	1,089	963	2,835	32	33
NJ	3,957,303	3,248,642	9.0%	12.5%	87.5%	2.8%	2.9%	2,594	2,142	2,849	3,661	1,161	1,913
OH	5,607,641	4,520,678	21.5%	20.8%	85.1%	0.8%	1.2%	5,203	5,945	708	566	324	225
PA	6,223,150	5,057,630	4.3%	3.9%	53%	1.0%	4.4%	1,341	8,162	573	77	d/u	d/u
TX	8,701,152	7,976,548	5.4%	6.7%	5.0%	1.7%	1.8%	2,858	4,161	660	1,242	1,567	1,873
WI	2,993,000	2,688,341	4.7%	5.6%	61.8%	0.2%	1.7%	19	1,445	d/u	d/u	n/a	n/a

¹Percentage of ballots that were VBM was derived based on the 2020 primary turnout.

²“d/u” means “data unavailable” and “n/a” means “not applicable.”

Table 3. Signature Issues and Rejection Rates in the 2016 General and 2018 Midterm Elections.

The chart shows, for all 50 states, the percentage of VBM ballots rejected in the 2016 general and 2018 midterm elections, and the percentage and number rejected for mismatched or missing signatures.

	2016 General			2018 Midterm		
State code	% of all VBM ballots rejected	% of rejected VBM ballots rejected for mismatched or missing signature	# of VBM ballots rejected for mismatched or missing signature	% of all VBM ballots rejected	% of rejected VBM ballots rejected for mismatched or missing signature	# of VBM ballots rejected for mismatched or missing signature
AK	3.2%	17.1%	150	3.1%	9.5%	72
AL	N/A	N/A	N/A	2.4%	5.6%	76
AR	5.9%	16.9%	273	7.6%	9.2%	106
AZ	0.5%	53.3%	5,736	0.5%	46.1%	3,951
CA	0.7%	69.7%	40,624	2.0%	16.3%	26,331
CO ¹	0.9%	80.4%	18,691	0.8%	81.0%	15,525
CT	1.9%	Unknown	Data unavailable	1.9%	Unknown	Data unavailable
DC	0.2%	75.8%	25	3.6%	22.3%	74
DE	1.5%	6.5%	14	5.0%	2.5%	18
FL	0.8%	54.2%	11,917	1.2%	38.9%	11,884
GA	6.4%	2.5%	338	3.1%	Unknown	Data unavailable
HI	0.7%	72.2%	898	0.7%	52.8%	865
IA	0.7%	46.2%	1,959	1.6%	52.0%	2,653
ID	0.4%	29.7%	260	1.6%	21.2%	252
IL	1.6%	Unknown	Data unavailable	2.2%	Unknown	Data unavailable
IN	0.2%	34.3%	719	0.4%	14.7%	501
KS	2.4%	22.2%	968	1.1%	44.1%	828
KY	5.6%	48.9%	1,049	6.8%	47.9%	842
LA	3.8%	11.8%	268	5.9%	6.7%	173
MA	3.3%	4.6%	236	5.8%	3.6%	185

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	2016 General			2018 Midterm		
State code	% of all VBM ballots rejected	% of rejected VBM ballots rejected for mismatched or missing signature	# of VBM ballots rejected for mismatched or missing signature	% of all VBM ballots rejected	% of rejected VBM ballots rejected for mismatched or missing signature	# of VBM ballots rejected for mismatched or missing signature
MD	1.5%	18.1%	432	1.8%	14.7%	294
ME	1.0%	42.7%	1,048	1.1%	41.2%	874
MI	0.5%	26.0%	1,602	0.6%	21.5%	1,290
MN	0.9%	14.7%	895	1.2%	10.5%	788
MO	2.1%	9.4%	551	2.2%	6.5%	307
MS	1.5%	Unknown	Data not available	0.8%	11.0%	53
MT	0.3%	74.7%	840	0.4%	70.7%	971
NC	2.7%	20.5%	995	6.1%	49.2%	2,868
ND	0.7%	48.1%	294	0.6%	71.1%	394
NE	1.1%	47.4%	1,278	0.9%	58.9%	891
NH	2.2%	36.1%	565	2.7%	19.8%	237
NJ	2.8%	40.3%	4,010	2.9%	47.7%	5,574
NM	0.2%	91.6%	87	0.1%	19.6%	47
NV	1.6%	37.0%	436	2.0%	41.0%	727
NY	5.7%	28.2%	6,435	13.7%	19.1%	6,503
OH	0.8%	10.1%	1,032	1.2%	6.9%	791
OK	2.9%	4.4%	129	4.5%	3.7%	115
OR	0.9%	86.9%	15,267	0.0%	50.6%	89
PA	1.0%	22.6%	573	4.4%	0.9%	77
RI	2.7%	68.2%	723	2.8%	68.4%	530
SC	0.6%	9.0%	261	3.1%	6.2%	140

STANFORD-MIT HEALTHY ELECTIONS PROJECT

	2016 General			2018 Midterm		
State code	% of all VBM ballots rejected	% of rejected VBM ballots rejected for mismatched or missing signature	# of VBM ballots rejected for mismatched or missing signature	% of all VBM ballots rejected	% of rejected VBM ballots rejected for mismatched or missing signature	# of VBM ballots rejected for mismatched or missing signature
SD	0.3%	14.2%	51	0.3%	17.0%	51
TN	1.1%	11.3%	67	2.2%	8.4%	72
TX	1.7%	27.2%	2,227	1.8%	33.2%	3,115
UT	0.9%	67.0%	4,690	0.9%	59.4%	5,204
VA	0.6%	Unknown	Data not available	2.1%	16.6%	341
VT	N/A	N/A	70	2.7%	7.1%	51
WA	0.9%	75.3%	22,811	1.0%	66.6%	21,538
WI	0.2%	Not applicable	Not applicable	1.7%	Not applicable	Not applicable
WV	2.7%	4.4%	15	1.0%	24.0%	25
WY	0.2%	17.4%	32	0.4%	16.0%	40

¹Colorado: Ballots received after 7 p.m. on Election Day were not listed on any public report. Therefore, lateness is not a reported rejection reason and the rejection rate is likely higher than reported in this table.

Note: All integer values are pulled from 2016 & 2018 EAVS data. All percentage values were calculated using the dataset.

Table 4: Ballot Rejections for Signature Mismatch by State (2016 and 2018 EAVS data) and Which States Required Signature Matching in the 2020 General Election.

2016 General Election				2018 Midterm Election:				2020 General
State	# of VBM ballots rejected for signature mismatch	% of all votes that were VBM	% of all VBM ballots that were rejected for signature mismatch*	State	# VBM ballots rejected for signature mismatch	% of all votes that were VBM	% of all VBM ballots that were rejected for signature mismatch *	State signature matching requirement?
AK	N/A	8.55%	N/A	AK	N/A	8.50%	N/A	No
AL	N/A	4.15%	N/A	AL	N/A	3.36%	N/A	No
AR	94	2.63%	0.34%	AR	21	1.92%	0.14%	Yes
AZ	2,657	74.11%	0.13%	AZ	1,516	78.81%	0.08%	Yes
CA	25,965	58.26%	0.31%	CA	16,116	59.92%	0.19%	Yes
CO	16,149	92.05%	0.61%	CO	13,027	94.70%	0.53%	Yes
CT	N/A	7.88%	N/A	CT	N/A	6.44%	N/A	No
DC	Data not available	5.33%	N/A	DC	44	4.04%	0.47%	Yes
DE	5	3.13%	0.04%	DE	Data not available	3.86%	N/A	No
FL	5,545	27.87%	0.21%	FL	5,081	31.17%	0.20%	Yes
GA	338	5.14%	0.16%	GA	Data not available	6.14%	N/A	Yes
HI	766	43.54%	0.40%	HI	577	56.30%	0.26%	Yes
IA	N/A	41.14%	N/A	IA	N/A	24.37%	N/A	No
ID	121	28.33%	0.06%	ID	78	12.44%	0.10%	Yes
IL	Data not available	6.79%	N/A	IL	Data not available	8.78%	N/A	Yes
IN	289	33.34%	0.03%	IN	194	26.00%	0.03%	Yes
KS	493	14.68%	0.27%	KS	91	16.14%	0.05%	Yes
KY	55	1.96%	0.14%	KY	46	1.60%	0.18%	Yes
LA	170	2.91%	0.28%	LA	17	2.89%	0.04%	Yes
MA	Data not available	4.61%	N/A	MA	Data not available	3.25%	N/A	Yes

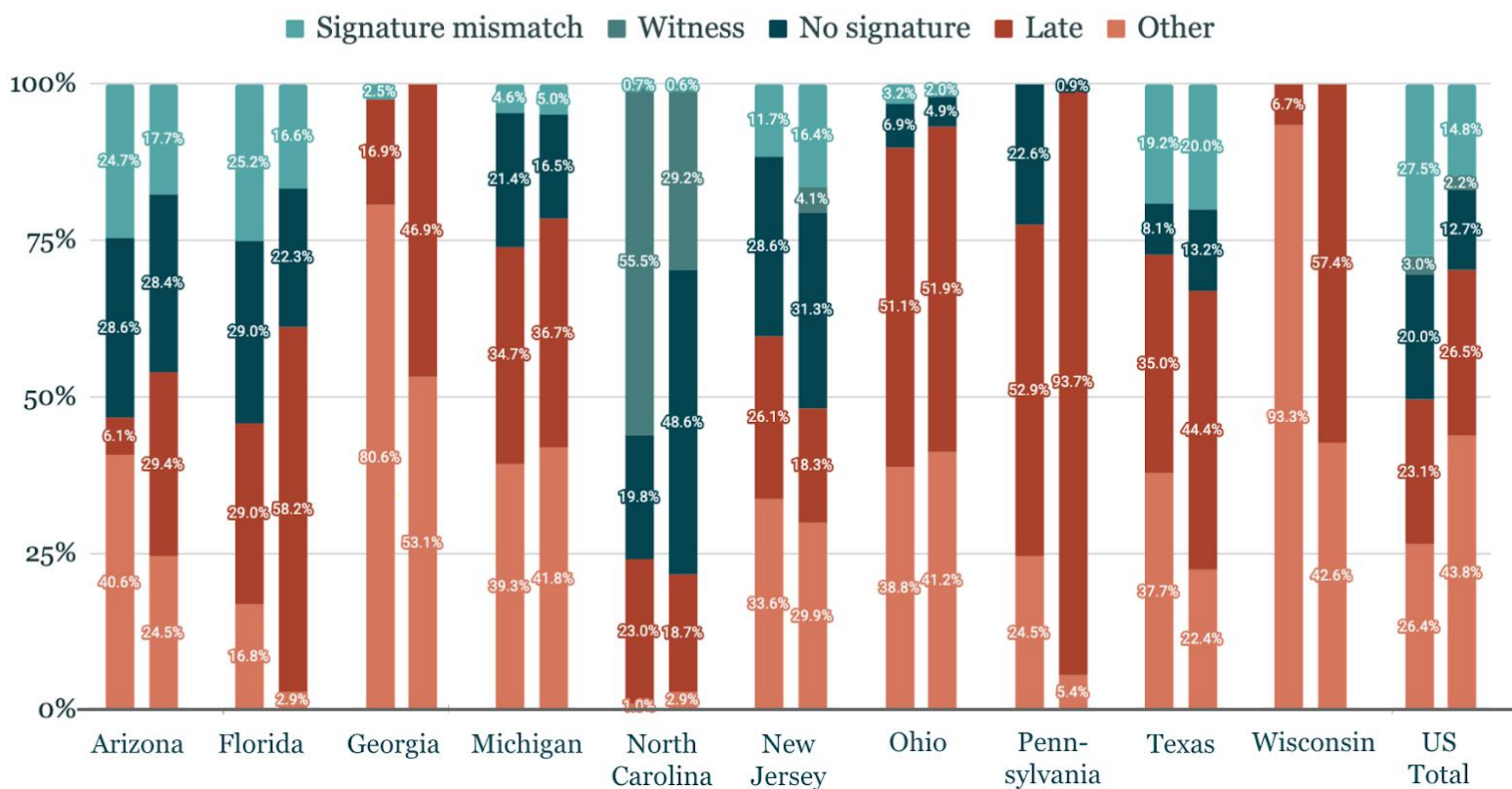
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2016 General Election				2018 Midterm Election:				2020 General
State	# of VBM ballots rejected for signature mismatch	% of all votes that were VBM	% of all VBM ballots that were rejected for signature mismatch*	State	# VBM ballots rejected for signature mismatch	% of all votes that were VBM	% of all VBM ballots that were rejected for signature mismatch *	State signature matching requirement?
MD	Data not available	5.72%	N/A	MD	Data not available	4.87%	N/A	No
ME	26	32.93%	0.01%	ME	16	28.74%	0.01%	Yes
MI	283	25.85%	0.02%	MI	300	24.46%	0.03%	Yes
MN	604	22.57%	0.09%	MN	455	24.47%	0.07%	No
MO	Data not available	9.39%	N/A	MO	Data not available	8.45%	N/A	No**
MS	Data not available	8.57%	N/A	MS	Data not available	6.67%	N/A	Yes
MT	240	64.55%	0.07%	MT	390	72.26%	0.11%	Yes
NC	32	3.72%	0.02%	NC	33	2.42%	0.03%	No
ND	260	23.47%	0.32%	ND	334	29.13%	0.35%	Yes
NE	152	27.44%	0.06%	NE	53	23.82%	0.03%	No**
NH	261	9.49%	0.36%	NH	1	7.67%	0.00%	No
NJ	1,161	8.98%	0.33%	NJ	1,913	12.51%	0.47%	Yes
NM	N/A	7.62%	N/A	NM	N/A	63.09%	N/A	No
NV	98	6.51%	0.13%	NV	107	8.87%	0.12%	Yes
NY	67	5.16%	0.02%	NY	175	3.92%	0.07%	Yes
OH	324	21.51%	0.03%	OH	225	20.83%	0.02%	Yes
OK	N/A	6.95%	N/A	OK	N/A	5.81%	N/A	No
OR	9,637	100.00%	0.47%	OR	62	99.60%	0.00%	Yes
PA	Data not available	4.28%	N/A	PA	Data not available	3.87%	N/A	No
RI	230	8.46%	0.58%	RI	334	6.99%	1.23%	Yes
SC	N/A	23.41%	N/A	SC	N/A	4.18%	N/A	No

2016 General Election				2018 Midterm Election:				2020 General
State	# of VBM ballots rejected for signature mismatch	% of all votes that were VBM	% of all VBM ballots that were rejected for signature mismatch*	State	# VBM ballots rejected for signature mismatch	% of all votes that were VBM	% of all VBM ballots that were rejected for signature mismatch *	State signature matching requirement?
SD	16	28.53%	0.02%	SD	12	25.66%	0.01%	Yes
TN	7	2.12%	0.01%	TN	29	1.75%	0.07%	Yes
TX	1,567	5.38%	0.33%	TX	1,873	6.69%	0.35%	Yes
UT	2,443	69.34%	0.32%	UT	3,215	89.93%	0.33%	Yes
VA	N/A	13.48%	N/A	VA	N/A	2.90%	N/A	No
VT	N/A	0.00%	N/A	VT	N/A	9.91%	N/A	No
WA	17,592	99.10%	0.53%	WA	17,228	99.32%	0.55%	Yes
WI	N/A	4.68%	N/A	WI	N/A	5.58%	N/A	No
WV	Data not available	1.71%	N/A	WV	2	1.73%	0.02%	Yes
WY	Data not available	31.05%	N/A	WY	4	30.11%	0.01%	No
Total	87,647	22.52% avg	0.20% avg	Total	63,569	23.27% avg	0.20% avg	31 states and DC required signature matching in 2020

* The "Percentage of all votes rejected for signature mismatch" is calculated by dividing the number of ballots rejected for signature mismatch by the total number of mail-in ballots received.

** While the state has no *requirement* to engage in signature matching, there is evidence that some local election officials have engaged in the practice. For Nebraska, EAVS data show 10 counties reported a total of 152 rejections for signature mismatch in 2016 and 53 rejections for signature mismatch in 2018. For Missouri, a lawsuit [alleged](#) that some local election officials engage in signature verification.

Figure 2. Ballot Rejections by Reason in the 2016 General Election and 2018 Midterm Election.

(2016 and 2018 EAVS data)

IV. Litigation Challenging Voter Signature and Witness Requirements

Both leading up to and after the 2020 general election, plaintiffs filed a flood of litigation challenging various state rules and practices related to signature verification and witness requirements for mail ballots. This section summarizes that litigation, focusing on six battleground states. For a more detailed analysis of litigation challenging signature verification and witness requirement rules nationwide, see Part IV “Challenges to Mail Ballot Voter Verification Procedures” of the Stanford-MIT Healthy Elections Project report “[Pre-Election Mail Voting Litigation in the Coronavirus Pandemic](#).”

A. Signature Matching and Opportunity to Cure Ballot Mistakes

In recent elections, a significant number of absentee ballots have been rejected for signature-related defects. In the 2016 presidential election, about 91,000 ballots (about [0.27% of all mail ballots cast](#)) were rejected for “mismatched signatures”—because election officials determined the signature on the ballot envelope did not match the signature(s) on file. About 66,000 ballots (about [0.2% of all mail ballots cast](#)) were rejected because the voter’s signature was missing. In the 2018 midterm elections, about [64,000 ballots](#) (almost 0.2% of all mail ballots cast) were rejected for mismatched signatures, and almost [as many ballots](#) were rejected for missing the voter’s signature. Taken together, between 0.4% to 0.475% of all absentee ballots were rejected in 2016 and 2018 for voter signature issues on absentee ballots. The rejection rates in the 2020 primaries were even higher, causing some to fear that massive numbers of absentee ballots might be rejected in the 2020 general election, particularly as the ballot rejection rates tend to be [higher](#) among first-time mail ballot users.

Given the anticipated [increase](#) in absentee voting because of the coronavirus pandemic, signature requirements for absentee ballots were a frequent subject of litigation. Indeed, challenges to signature verification laws were among the most voluminous claims brought during the 2020 elections.

Plaintiffs generally challenged two kinds of practices. First, they challenged the use of the signature verification process as a basis to reject ballots, particularly in states that lacked statewide standards and training. Second, and often in the alternative, plaintiffs requested that states adopt so-called “notice and cure” procedures that would require local election officials to notify voters and provide them with an opportunity to fix defective ballots before they were rejected.

The success of the pre-Election Day litigation was mixed. Lawsuits in several states resulted in new rules that made it less likely that election officials would reject ballots for signature mismatches and made it easier for voters to remedy signature defects on ballots, thus reducing the number of ballot rejections. Many lawsuits resulted in consent decrees or voluntary dismissals after the state voluntarily adopted new voter verification policies likely to reduce the rejection rate of mail ballots.

For lawsuits that reached rulings on the merits, some plaintiffs won and others lost. For federal law claims, outcomes generally turned on the court's views of (i) how severe a burden the ballot verification requirement imposed on voters, (ii) the strength of the state's argument that the ballot requirement was appropriate or necessary to deter voter fraud and protect the integrity of elections, and (iii) whether voting by mail was a state-created liberty interest subject to procedural due process protection under the *Mathews* test. Courts were mixed on the constitutionality of state laws that permitted rejection of mail ballots with no opportunity for the voter to cure.

i. Lack of Uniform Standards and Training for Signature Verification

Lawsuits challenging signature verification processes, sometimes called “matching processes,” typically alleged that the state lacked uniform standards or criteria for deciding whether signatures on ballot envelopes matched signatures on record with election offices. Plaintiffs argued that officials responsible for comparing signatures lacked the necessary expertise and training to perform such comparisons and were, thus, prone to making errors. They claimed that these weaknesses violated the U.S. Constitution's guarantee of equal protection because, without uniform standards, the votes of similarly situated voters were subject to disparate treatment, depending on which election official scrutinized their ballot.

Several such cases in 2020 led to consent decrees or states voluntarily altering their policies. Election officials in both Michigan and Pennsylvania, for example, adopted new policies regarding signature verification after lawsuits were filed challenging their state procedures, and they did so before any court ordered them to do so. The new policies in each case were designed to reduce the likelihood that absentee ballots cast by eligible voters would be rejected.

In Michigan, the progressive advocacy organization [Priorities USA](#) [sued](#) the state in December 2019 (before the pandemic), alleging that Michigan lacked uniform statewide standards for reviewing and comparing signatures. That deficiency, the lawsuit said, allowed election officials throughout the state to employ arbitrary and diverging criteria in the matching process. The complaint also alleged that many officials engaged in the matching process did not have sufficient training and skills to compare signatures accurately. In April 2020, the Michigan secretary of state released new [signature verification guidance](#), and plaintiffs dropped the [suit](#). The new guidance did not eliminate the practice of signature verification altogether, but it implemented a statewide standard designed to reduce erroneous rejections. It stated:

Signature review begins with the presumption that the voter's ... envelope signature is his or her genuine signature. 1. If there are any redeeming qualities in the ... return envelope signature as compared to the signature on file, treat the signature as valid. ... 2. A voter's signature should be considered questionable only if it differs in multiple, significant and obvious respects from the signature on file. Slight dissimilarities should be resolved in favor of the voter whenever possible.

This guidance was in effect for the 2020 general election but was invalidated by the Michigan court of claims after the election. On March 9, 2021, the court [ruled](#) that the October 6, 2020,

guidance constituted a “rule” as defined by the state’s Administrative Procedures Act (APA) and was unlawfully issued without following the formal rule-making procedures required by the APA. Thus, the guidance is no longer in effect for future elections.

Similarly, in Pennsylvania, the League of Women Voters [challenged](#) the state’s practice of signature matching in federal court, alleging the state failed to require any training for examining handwriting or provide any standards or guidelines to aid election officials in their signature analysis. Plaintiffs alleged violations of both equal protection and procedural due process, as well as infringement of the fundamental right to vote. Plaintiffs [dropped their lawsuit](#) after the Secretary of the Commonwealth Kathy Boockvar [issued new guidance](#) on September 11, 2020, prohibiting all county boards of elections from rejecting returned absentee or mail ballots “based solely on signature analysis.”

The Pennsylvania case did not end there, however. The Trump campaign [challenged](#) the secretary’s new guidance in federal court. The U.S. district court [dismissed](#) the lawsuit on October 10, 2020. In doing so, it stated: “A plain reading of the Election Code demonstrates that it does not impose a signature-comparison requirement for mail-in ballots and applications.” It further held that the *lack* of signature-comparison did not violate the due process or equal protection clauses of the U.S. Constitution. Finally, on October 23, 2020, in response to a petition filed by Secretary Boockvar seeking declaratory relief, the Pennsylvania Supreme Court [unanimously held](#) that “county boards of elections are prohibited from rejecting absentee or mail-in ballots based on signature comparison conducted by county election officials or employees, or as the result of third-party challenges based on signature analysis and comparisons.” The court explained that the state’s election code permits use of signature matching to verify in-person voters and provisional ballots but not for absentee or mail-in ballots. The court clarified, however, that absentee ballots may be rejected for the voter’s failure to sign and date the “declaration envelope” altogether.

ii. Lack of Notice and Opportunity to Cure

Most signature verification lawsuits in 2020 challenged the failure of election officials to notify voters and afford them an opportunity to cure a signature defect before officials tossed the ballots. Short of asking for the elimination of signature matching altogether, these claims sought injunctions to prohibit election officials from discarding any mail ballots for signature mismatch without first notifying the voter and allowing them an opportunity to fix the error. Partially due to litigation over the past several years, [more and more states](#) now require election officials to notify voters and afford them an opportunity to cure ballot signature defects prior to rejecting their ballots.

In 2020, plaintiffs sued in [14 states](#), seeking to prevent ballots from being rejected without the voter being notified and provided an opportunity to cure the error. At least 10 states—[Indiana](#), [Maine](#), [North Dakota](#), [Michigan](#), [New Jersey](#), [New York](#), [South Carolina](#), [North Carolina](#), [Mississippi](#) and [Louisiana](#)—created or enhanced their notice and cure policies in the 2020 general election in response to lawsuits, often through settlements or consent decrees. In the end, for the 2020 general election, at least [21 states](#) offered an opportunity to cure absentee

ballots rejected due to voter signature defects, several in response to litigation.

Lawsuits seeking to require states to adopt notice and cure policies argued that the lack of notice and cure violates multiple constitutional provisions. The two most common claims were that rejecting ballots without notice and cure (i) creates a severe burden on the fundamental right to vote, in violation of the First and Fourteenth Amendments (see lawsuits in [Kentucky](#), [Arizona](#), [Maine](#), [North Dakota](#), [New Jersey](#), [South Carolina](#)), and (ii) deprives voters of their liberty interest in voting, without procedural due process, in violation of the Fourteenth Amendment (see lawsuits in [Louisiana](#), [Maine](#), [North Dakota](#), [New Jersey](#), [South Carolina](#)). Additionally, some lawsuits alleged various state statutory and constitutional violations. A lawsuit in [North Carolina](#) alleged violation of the state constitution's Free Elections Clause and fundamental right to vote protections. And a lawsuit in [Maine](#) alleged violations of the state constitution's guarantees of due process and equal protection, as well as state laws governing qualifications of electors.

Some states voluntarily implemented notice and cure processes after litigation commenced. In New York, after plaintiffs filed a [lawsuit](#) in federal court, the parties reached a [settlement agreement](#) on September 17, 2020, specifying how voters would be contacted if their ballots were rejected and how they could fix the problem. In Louisiana, after plaintiffs [sought](#) a cure process in May, the legislature passed an emergency rule providing voters the opportunity to cure signature deficiencies in the June primary election, and plaintiffs withdrew the cure-related claims. The state legislature later [renewed](#) the emergency rule for the November general election. Similarly, after a [lawsuit](#) was filed in Mississippi, the state's secretary of state implemented [new rules](#) on October 7, 2020, providing for notice and cure. And in response to a [lawsuit](#) filed in Maine, which alleged a host of state and U.S. constitutional violations, the Maine secretary of state instructed state election officials to implement robust [notice and cure procedures](#).

In cases where courts addressed the merits, results were mixed. In some states, plaintiffs won orders requiring states to stop rejecting ballots without providing an opportunity for voters to cure the signature defects. These courts reasoned that the voter's liberty interest in the right to vote is so fundamental, and a notice and cure requirement so minimal, that a process is required before depriving a voter of their vote. In North Dakota, for example, the U.S. district court issued a [preliminary injunction](#), prohibiting the state from rejecting any ballot on the basis of signature mismatch "absent adequate notice and cure procedures." In analyzing plaintiffs' procedural due process claim, the court wrote that it was "[b]eyond debate" that "the right to vote is a constitutionally protected liberty interest." It reasoned that, "although 'the right to apply for and vote via absentee ballot is not constitutionally on par with the fundamental right to vote,' a state that creates a system for absentee voting 'must administer it in accordance with the Constitution.'" The court concluded the state's lack of notice or opportunity to cure constituted no process at all and, in August, issued a [permanent injunction](#) prohibiting the rejection of any absentee ballot on the basis of signature mismatch without "adequate notice and cure procedures."

Similarly, a federal district court in Indiana granted a [permanent injunction](#), finding that the state's rejection of ballots for mismatched signatures with no notice and cure violated two constitutional provisions. The court held that the policy violated the due process clause of the Fourteenth Amendment because, though the right to vote *by absentee ballot* is not a fundamental right, "having extended the privilege of mail-in absentee voting to certain voters, the State 'must afford appropriate due process protections to the use of [mail-in] absentee ballots.'" The court also held, under the *Anderson-Burdick* balancing test, that Indiana's policy created an undue burden on the fundamental right to vote under the equal protection clause of the Fourteenth Amendment because, although only a narrow class of voters were affected by rejections, the magnitude of the burden on those voters was substantial.

A U.S. district court in [South Carolina](#) also [enjoined](#) the state and its county boards from disqualifying otherwise valid absentee ballots on account of mismatched signatures unless affected voters were provided notice and a timely procedure to cure the ballot. The court found that rejecting ballots without notice and cure failed both the *Anderson-Burdick* test and the *Mathews* test.

While lawsuits seeking a notice and cure procedure for signature defects were among the most successful mail voting claims brought by voting rights advocates in 2020, they did not succeed in all cases. The [Fifth Circuit](#) (in a case filed in Texas) and U.S. district courts in [Tennessee](#) and [Arkansas](#), for example, all upheld state policies of tossing ballots where election officials determined that the signature on the ballot did not match that on file, without any requirement to provide a cure process for the voter. The Fifth Circuit and the Tennessee district court rejected plaintiffs' arguments that rejecting a ballot without an opportunity to cure was a violation of the voter's procedural due process rights. The Fifth Circuit [concluded](#) that the state was likely to succeed on its argument that the right to vote "does not implicate any state-created liberty interest under the Due Process Clause." The court was even more skeptical that the right to vote *absentee* implicated a state-created liberty interest, stating that it would "stretch [] the concept too far to suggest that a person is deprived of liberty 'when the Court has said that he has no right to the object of his alleged liberty interest.'"

In Arizona, a state that already had a notice and cure procedure in place, plaintiffs sought to extend the amount of time a voter would have to cure a ballot that was missing the voter's signature. Under state law, voters had until Election Day to cure ballots with *missing* signatures, but they had until five business days *after* Election Day to cure ballots with signature *mismatches*. In [Arizona Democratic Party v. Hobbs](#), a federal district court issued a [permanent injunction](#) on September 10, 2020, that extended the deadline to cure a missing signature. Instead of fixing the issue by Election Day, the district court ruled that voters who failed to sign their ballots had until five business days *after* Election Day—the same amount of time voters had to fix mismatched signatures. The court [found](#) that the Election Day cure deadline, in the circumstances, failed the *Anderson-Burdick* test even under "the most deferential level of scrutiny" and constituted a procedural due process violation under the *Mathews* test.

But on October 6, the U.S. Court of Appeals for the Ninth Circuit put the U.S. district court's order [on hold](#). The Ninth Circuit panel concluded that Arizona was likely to win on appeal

because the requirement that voters supply a *missing* signature by Election Day imposed only a “minimal” burden on the voter. The panel said “the public interest is well served by preserving Arizona’s existing election laws, rather than by sending the State scrambling to implement and to administer a new procedure for curing unsigned ballots at the eleventh hour.” The court noted that the U.S. Supreme Court had repeatedly admonished lower federal courts not to change the rules of an election in the run-up to that election. As of the time of writing, the appellate court had yet to rule on the merits.

During the 2020 general election season, Florida did not have any litigation over its signature verification requirement, perhaps because the state already had a [codified](#) notice and cure procedure that allows for cure up to two days after Election Day. Florida adopted these procedures in response to litigation in [2016](#) and [2018](#). While a cure deadline of two days after Election Day is on the short side for cure periods, Florida started its canvassing of mail ballots well before Election Day. So voters who returned their ballots early should have been notified of defects with sufficient time to cure them. Voters who did not return their ballots until Election Day, on the other hand, were less likely to be notified in time to cure their mistake.

iii. Post-Election Day Signature Verification Lawsuits

Plaintiffs also filed a number of signature verification claims after Election Day, particularly in Pennsylvania and Georgia, where the vote margins between the two presidential candidates were narrow. These lawsuits generally alleged that election officials did not follow required procedures for signature verification and that observers were unable to adequately observe the signature verification process. Plaintiffs were unsuccessful in almost all of these cases, and only a small number of ballots were impacted. While prior to the election signature verification suits aimed at policy reform, after the election, cases targeted specific groups of ballots or were part of a package of claims meant to overturn election results.

In the weeks after the 2020 general election, Pennsylvania’s signature verification process remained under intense scrutiny, as several plaintiffs brought suit against Pennsylvania election officials regarding the mail voting process. The Trump campaign and allies filed numerous lawsuits in Pennsylvania, including several cases that challenged aspects of how signature verification was conducted. In response, the Pennsylvania state courts (i) rejected claims that local Democratic officials violated numerous portions of the election code related to ballot signatures, secrecy envelopes, and poll observers ([Metcalf v. Wolf](#)); (ii) rejected a claim that ballots should be disqualified where voter declarations lacked a date, address, or printed name ([Zicarelli v. Allegheny County Board of Elections](#)); (iii) granted in part a claim that provisional ballots that had the required signature on the ballot but not the required signature on the outer envelope should be rejected ([Zicarelli](#)); and, (iv) affirmed that it was permissible to count absentee ballots where the voter affixed their signature to the declaration envelope but failed to provide the other requested information ([In re: Canvass of Absentee and Mail-In Ballots of November 3, 2020 General Election](#)). The only claim that succeeded was a claim to reject 270 ballots where the voter had signed the ballot but not the return envelope. This number of ballots was nowhere near enough to make up the difference in the statewide vote count between Biden and Trump ([Zicarelli](#)).

Post-election litigation in Arizona challenged election officials' and observers' practices related to signature verification. In [Bowyer v. Ducey](#), 13 Arizona voters and a candidate for the Republican slate of presidential electors sued state officials alleging, among other things, that poll watchers failed to adequately verify signatures on ballots. Plaintiffs sought decertification of Arizona's election results for Democratic presidential candidate Joe Biden or, in the alternative, certification for Trump. On December 9, 2020, the federal district [court](#) rejected the claims for lack of standing, failure to state a claim, delay in bringing the claims, and mootness. The court dismissed the suit, holding that the Eleventh Amendment barred plaintiffs' request for decertification and plaintiffs did not provide any evidence for their claims.

In [Ward v. Jackson](#), one Arizona voter alleged, among other things, that poll workers were not fit to verify absentee ballot signatures. The lawsuit requested an audit and an annulment of the election results. On December 4, 2020, the state superior court for Maricopa County [held](#) that evidence from the court-mandated audit demonstrated neither fraud nor misconduct and showed only a low error rate that had no impact on the outcome. The court denied relief and confirmed the election certification. On December 8, 2020, the Arizona Supreme Court, sitting en banc, [upheld](#) the superior court decision and its determination that the hand count audit was adequate and that there was no evidence of misconduct. On December 12, 2020, plaintiffs submitted a [petition for certiorari](#) with the United States Supreme Court; on February 22, 2021, the [court denied the petition](#).

Georgia saw a flurry of litigation related to its signature verification process following Election Day. Many of these lawsuits targeted the March [consent decree](#) that Secretary of State Brad Raffensperger entered into with the Democratic Party, to settle litigation. The agreement specified that two officials would need to review a rejection decision based on an elector's signature on the mail-in absentee ballot envelope. Lawsuits alleged that this allocation of personnel violated Georgia's Election Code ([Trump v. Raffensperger](#)). Courts dismissed the cases for improper jurisdiction or improperly named parties. Going into the U.S. Senate runoff races, plaintiffs in [Georgia Republican Party v. Raffensperger](#), the party and the campaigns of the Republican candidates for the U.S. Senate requested a declaration that the current Georgia signature-matching process was unconstitutional. They also sought an order to require that the signatures of all absentee ballots be reviewed by three reviewers. The case was appealed to the Eleventh Circuit, which [dismissed](#) it for lack of standing. The court held that the motion impermissibly sought to order a nonparty county official to do something contrary to state law. Since the secretary and the election board did not conduct the signature matching process, were not the election officials that review the voter's signature, and did not control whether the signature matching process could be observed, the court reasoned, the campaigns' alleged injury was not traceable to the secretary, and the secretary did not have the authority to redress it.

B. Witness or Notary Requirements

Witness requirements on absentee ballots can be particularly [confusing](#) to voters and witnesses. They often include multiple components—the witness' signature, printed name,

address, and date of signature—each in a specific location on the back of either the ballot’s return envelope or the inner “secrecy sleeve” (an envelope that goes inside of the outer return envelope), or on the back of the ballot or on a separate certificate document. In North Carolina, in the 2016 general election, [2,700 absentee ballots](#), or 55% of all rejected absentee ballots, were rejected due to witness errors.

Election season lawsuits in 2020 challenged witness or notary requirements in every state that had them. Plaintiffs generally asked courts to either suspend the requirements during the pandemic or at least require a notice and cure procedure that would enable voters to fix witness and notary-related mistakes. Several states passed legislation or approved consent decrees or settlements that relaxed or suspended the requirements. Some of those consent agreements were then challenged by intervenors. In cases where courts ruled on the merits of the witness requirements, the results were mixed, with state law generally proving a more fruitful avenue for plaintiffs than federal law.

Of the swing states covered in this memo, Arizona, Florida, Michigan, and Pennsylvania do not have witness or notary requirements and, thus, did not face litigation on the issue. But [North Carolina](#) and [Wisconsin](#) faced legal challenges to these requirements in 2020.

Plaintiffs brought a host of federal and state constitutional and statutory claims. The most common federal claim alleged that witness or notary requirements placed an unconstitutional burden on plaintiffs’ fundamental right to vote, violating the First and Fourteenth Amendments to the U.S. Constitution (see lawsuits in [Alabama](#), [Louisiana](#), [Minnesota](#), [Kentucky](#), [Oklahoma](#), [South Carolina](#)). For these claims, plaintiffs argued that the witness requirements, as applied during the coronavirus pandemic, failed the *Anderson-Burdick* test because they left voters, particularly immuno-compromised voters, with an untenable choice between their health and their vote.

Plaintiffs also alleged that the witness or notary requirements violated the equal protection clause of the U.S. Constitution (see lawsuits in [South Carolina](#), [Alabama](#)) and Section 2 of the Voting Rights Act (see lawsuits in [Louisiana](#), [South Carolina](#), [Virginia](#)) because they had a disproportionately adverse impact on African American voters. Plaintiffs also argued that witness requirements constituted an impermissible “test or device” in violation of Sections 3(b) and 201 of the Voting Right Act (VRA) (see lawsuits in [Alabama](#), [South Carolina](#)) and that witness requirements, as applied to voters with disabilities who feared exposure to the coronavirus, violated Title II of the Americans with Disabilities Act (ADA) (see lawsuit in [Alabama](#)).

Plaintiffs additionally challenged witness or notary requirements under various state constitutional and statutory grounds, including under the state constitutions of [Alaska](#), [Minnesota](#), [Missouri](#), and [North Carolina](#), and under [Oklahoma state law](#).

i. Consent Decrees and Settlements Regarding Witness Requirements

Several states voluntarily relaxed or waived witness or notary requirements in the face of legal challenges during the coronavirus pandemic. [Missouri](#), for example, in response to a [lawsuit](#), relaxed its requirement that absentee ballots be notarized. Under its new rules, voters who chose to vote absentee because they were at a heightened risk of complications from COVID-19 were not required to have their mail ballot notarized. In [Virginia](#) and [Rhode Island](#), U.S. district courts approved consent decrees that waived the state's witness requirement for the November general election. In Rhode Island, the Republican National Committee (RNC) [sought a stay](#) from the First Circuit U.S. Court of Appeals, but the court [denied the stay](#) of the judgment below and upheld the consent decree, finding that, under the *Anderson-Burdick* test, plaintiffs were likely to succeed on the merits. A similar story played out in [Minnesota](#).

In North Carolina, Republicans were more successful in their opposition to a settlement relaxing the state witness requirement. After the North Carolina State Board of Elections (NCSBE) [settled](#) a [suit](#) brought in state court by North Carolina Alliance for Retired Americans, the NCSBE issued [new guidance](#) in September to make both witness and signature defects [broadly curable](#) via affidavit. The Trump campaign and North Carolina General Assembly leaders [objected](#) to the settlement and new guidance. After a dizzying array of inter-related state and federal lawsuits and, *after early voting had already started and many absentee ballots had already been submitted*, a federal district court issued an [injunction](#) on October 14 that split the baby. It [required state officials](#) to reject ballots that lacked a witness signature altogether but to provide a standard notice and cure process for other ballot defects, such as an incomplete witness address, a witness or voter signature on the wrong line, or a missing voter signature. The decision was appealed (primarily on other issues in the case) but [left in place](#) by an en banc ruling of the Fourth Circuit U.S. Court of Appeals, and an October 28 [decision](#) of the U.S. Supreme Court to deny injunctive relief.

ii. Federal and State Law Challenges to Witness Requirements

While some states agreed to consent decrees, other states fiercely defended their witness or notary requirements for absentee ballots. In federal courts, plaintiffs who challenged these requirements saw some success on the merits at the district court level, but largely lost on appeal. Cases in Alabama, Wisconsin, and South Carolina illustrate the point.

In Alabama, in the face of extensive litigation prior to the state's July primary runoff, state officials defended the requirement that absentee ballots be submitted with the signature of *two* witnesses or a notary. In [People First of Alabama v. Merrill](#), a U.S. district court judge issued a preliminary injunction that barred the state from enforcing its witness requirement in the July 14 runoff for any voter who provided a written statement outlining a medical condition that placed the voter at a severe risk of serious complications from COVID-19. The state appealed that narrow exception all the way to the U.S. Supreme Court, which [stayed](#) the preliminary

injunction on July 2, thus reinstating the witness requirement just 12 days before the state's primary. With an eye to November, the plaintiffs continued to litigate at the district court and won a permanent injunction against the witness requirement for the general election. But on October 13, the Eleventh Circuit [stayed](#) the district court's permanent injunction, effectively reinstating the witness requirement. Despite all the litigation, the state's requirement of two witnesses or a notary remained intact for the general election, with no exception for immuno-compromised voters.

Similarly, in [DNC v. Bostelmann](#), a federal district court [suspended](#) Wisconsin's witness requirement during the pandemic. But the Seventh Circuit U.S. Court of Appeals [overturned](#) the decision, concluding that the district court "did not give adequate consideration to the state's interests." It cited precedent that "[v]oter fraud drives honest citizens out of the democratic process and breeds distrust of our government."

A notable and high profile example of the legal whiplash of witness or notary litigation during the 2020 election season was [Middleton v. Andino](#) in South Carolina. In May, a federal district court in South Carolina issued a [preliminary injunction](#), suspending the witness requirement for the June primary due to pandemic-related concerns. The litigation continued in two separate lawsuits seeking to extend the injunction to November. In September, a federal district court [enjoined](#) the witness requirement for the November election as well. On appeal, a Fourth Circuit panel [stayed](#) the injunction (thus restoring the witness requirement) but, one week later, the Fourth Circuit, [ruling en banc](#), reversed and reinstated the injunction (thus suspending the witness requirement). Finally, on October 5, *after absentee voting had already started*, the U.S. Supreme Court [reversed](#) the Fourth Circuit's en banc injunction (thus reinstating the witness requirement). The Supreme Court exempted ballots already submitted by voters and any ballots received within two days of the order (as these ballots were presumably submitted in reliance on the Fourth Circuit ruling that no witness was required). Justice Brett Kavanaugh, in concurrence, offered two reasons for his vote with the majority. First, he explained, the state's legislature "should not be subject to second guessing by an 'unelected federal judiciary,' which lacks the background, competence, and expertise to assess public health and is not accountable to the people." And second, he said, under the *Purcell* principle, the district court should not have made procedural changes so close to the election. (The district court issued its preliminary injunction in May, which was in effect for the state primary, and its permanent injunction on September 18, 2020.)

While most federal court claims were constitutional claims, plaintiffs also brought federal statutory claims under the Americans with Disabilities Act (ADA) and the Voting Rights Act. A U.S. district court in Alabama [rejected](#) a claim that, in the context of the pandemic, Alabama's requirement of two witnesses or a notary violated the ADA by discriminating against individuals who were particularly vulnerable to developing serious complications with COVID-19. The court [found](#) that the requirement did not violate ADA "[b]ecause the witness requirement is deemed a condition precedent to eligibility under state law, and essential eligibility requirements are not subject to reasonable modifications." Another court, in [Thomas v. Andino](#), rejected a claim that South Carolina's witness requirement is a "test or device" prohibited under the Voting Rights Act.

Plaintiffs had some success challenging witness requirements under state law claims. On October 12, 2020, the Alaska State Supreme Court upheld a preliminary injunction [waiving](#) the state's witness requirement for the general election. Applying a state law balancing test similar to *Anderson-Burdick*, the court reasoned that the witness requirement, as applied during the pandemic, impermissibly burdened the right to vote in violation of Article 1, Section 5 of the Alaska Constitution. Having to choose between voting and protecting one's health, the court said, placed a severe burden on the right to vote. In Oklahoma, the state supreme court [struck down the notarization requirement](#) for absentee ballots, on the grounds that it contravened a state law. The state legislature then amended state law two days later, to reverse the Oklahoma Supreme Court and reinstate the notarization requirement.

iii. Post-Election Witness Requirement Challenges

After the 2020 election, petitioners filed a wave of election contests in Minnesota in which they alleged that the secretary of state impermissibly suspended the witness requirement for absentee ballots. The lawsuits argued that this action violated the separation of powers clause of the Minnesota constitution and the equal protection clause of the U.S. Constitution (e.g. [Kistner v. Simon](#), [Quist v. Simon](#), [Rodriguez v. Simon](#)). The state courts in which the cases were filed held that such courts lacked jurisdiction because the petitioners failed to seek a change in the outcome of the election and that the petitioners were barred by laches (i.e., unreasonable delays) because the witness-signature requirement was suspended in August and petitioners filed only after the election.

In Wisconsin, the Trump campaign filed three lawsuits after state election officials certified his opponent as the winner. These lawsuits alleged, among other things, that election officials tampered with ballot witness addresses. Two of these cases failed—one for lack of standing, the other barred by laches, and both refused by the U.S. Supreme Court. The third case, [Trump v. Wisconsin Elections Commission](#), alleged a wide range of malfeasance—from criticisms of drop boxes to Wisconsin's allowing voters "indefinitely confined" to home to vote absentee. The Seventh Circuit [found](#) no violations and upheld the election results, and the U.S. Supreme Court denied certiorari on March 8, 2021.

iv. Litigation Conclusion

In sum, the large volume of litigation in 2020 challenging signature and witness ballot requirements had mixed results. Several states voluntarily altered their signature verification policies after being sued. Some issued new signature matching guidelines likely to result in fewer erroneous ballot rejections (e.g. Michigan, New Jersey), others eliminated signature mismatch as a grounds for rejecting a ballot (e.g. Pennsylvania), and others implemented procedures to provide voters an opportunity to cure signature defects to avoid having their ballots rejected (e.g. Maine, New York, Louisiana, Mississippi). In cases seeking notice and cure that were decided on the merits, courts went both ways. Some U.S. district courts required states to implement cure opportunities for voters (e.g. South Carolina, North Carolina, Indiana)

and others rejected such claims (e.g. Tennessee and the Fifth Circuit). Lawsuits challenging witness requirements won favorable concessions and consent decrees in several states and succeeded to some extent at the district court level; but, for federal law claims, they generally failed on appeal.

In the end, mail ballot rejection rates during the 2020 general election were [down from prior elections](#). Policy changes driven by litigation—both settlements and rulings on the merits—likely played a part. Widespread voter education and increased public awareness regarding the details of mail balloting procedures were also likely important contributing factors.

In the aftermath of the 2020 general election, legislators in many states began [seeking to shore up their voter verification laws](#). Proposed legislation in Pennsylvania and South Carolina—states where courts enjoined, respectively, the use of signature matching as the basis of rejecting a ballot and the practice of rejecting a ballot for signature mismatch with no opportunity to cure—is seeking to bring back the enjoined practices. Bills in several states are seeking to make it harder to satisfy witness requirements. A bill in Arizona seeks to require that all mail ballots be notarized. A bill in South Carolina would require witnesses to include their driver's license or state voter registration number. And two Virginia bills would require witnesses to print their names and provide their residential address. Just as voters are learning the details of how to vote by mail, proposed legislation in states around the country would make it harder to complete an absentee ballot.

Part II: Signature Verification: Swing State Profiles

This section provides an overview of the signature verification policies and practices, ballot rejection rates, and signature verification-related litigation across the six battleground states of Arizona, Florida, Michigan, North Carolina, Pennsylvania, and Wisconsin for the 2020 general election.

Arizona Signature Verification

Arizona's signature verification laws are codified and include a provision that gives notice to voters of any absentee ballot defects and an opportunity to cure mismatched signatures within five business days after Election Day. State law does not include specific standards for signature verification, apparently leaving it up to counties to determine what signature comparison methods to use. Approximately half of all ballots rejected in both 2016 and 2018 were rejected for signature-related issues.

Relevant Laws, Policies, and Deadlines

- **Canvassing Start Date:** Officials can begin processing absentee ballots 14 days before the election, which, in 2020, meant that processing started on October 20, 2020. ([Ariz. Rev. Stat. § 16-550](#)).
- **Training:** Arizona **does not have specific statutory language** indicating what methods election officials should use in comparing and verifying signatures, and there is no statewide training or guidance on signature verification standards or processes.
- **Comparing Signatures:** Arizona requires county recorders to match signatures on return ballot envelopes with signatures on the voters' affidavit of registration. ([Ariz. Rev. Stat. §19-121.02](#)). Upon receiving the envelope containing an early ballot and ballot affidavit, Arizona law states that, "The county recorder or other officer in charge of elections shall **compare the signatures thereon with the signature of the elector on the elector's registration record.**" ([Ariz. Rev. Stat. §16-550](#)). The statute does not specify standards for verification; it simply explains that, "if the signature is **inconsistent** with the elector's signature on the elector's registration record, the county recorder must make "reasonable efforts" to contact those voters ([Ariz. Rev. Stat. §16-550](#)).
- **Notice:** If election officials determine the signatures are "inconsistent," the county recorder or other officer in charge of elections "shall make reasonable efforts to contact the voter, advise the voter of the inconsistent signature and allow the voter to correct or the county to confirm the inconsistent signature." ([Ariz. Rev. Stat. § 16-550\(A\)](#)). "County Recorder shall make a reasonable and meaningful attempt to contact the voter via mail, phone, text message, and/or email, notify the voter of the inconsistent signature, and allow the voter to correct or confirm the signature. The County Recorder shall attempt to contact the voter as soon as practicable using any contact information available in the voter's record and any other source reasonably available to the County Recorder." ([2019](#)

[State of Arizona Elections Procedures Manual](#).) In **Maricopa County**, to notify voters of a signature defect, election officials **call or email voters** to ask if they signed and returned their ballot and why their signatures are mismatched or missing.

- **Cure:** Election officials are required to “allow [inconsistent] signatures to be corrected not later than the fifth business day after a ... general ... election that includes a federal office.” ([Ariz. Rev. Stat. § 16-550\(A\)](#)). If the voter confirms the signature is theirs and provides a reason for the appearance of a mismatch, the ballot is considered “cured.” (Per conversation with Maricopa County Recorder, 9/16/20). Arizona voters had [until five business days after the election](#) (in 2020, **November 10**) to cure an *inconsistent* signature, but only until Election Day to cure a *missing* signature on their ballot. (In September 2020, a district court [extended](#) the deadline for curing a *missing* signature to match the already existing five-day deadline for curing a *mismatched* signature, but on October 6, 2020, the Ninth Circuit [stayed the order](#)).

The Signature Matching Process and Standards

Although state law does not require it, Maricopa County, Arizona’s most populous county, trains its election officials every two years by the same team that trains the FBI on forensic signature verification techniques. County election officials responsible for signature verification are trained to look at 27 different points of comparison on a signature, such as slope and pen drop. (Per conversation with Maricopa County Recorder, 9/16/20). Signature verification proceeds through three levels of review in the county. First, a technician reviews a batch of 200 to 250 signatures to determine if each signature matches a signature on record. The technician compares the signature on the ballot envelope to the voter’s signatures already on file, including non-election-related signatures, such as those from housing records or trusts. [If the signatures match](#), the ballot envelope is marked as a “Good Signature.” All of the “Good Signature” ballot packets are then sent to citizen boards, comprised of two members from different political parties. The citizen boards process the unopened packets to prepare the ballots for tabulation and check again to see if any ballots have missing or non-matching signatures. If a ballot envelope is discovered to have a missing or non-matching signature at this point, the citizen board sends it to a higher-level staff member. If the staff member agrees a signature does not appear to match, the staff member directs the ballot through the signature verification process a second time by sending the ballot envelope for review by another technician. If the ballot envelope is still determined to have a non-matching signature, a senior managing auditor reviews the signature prior to its being rejected as a “mismatch.” The county tries to “rule in favor of the voter.” (Per conversation with Maricopa County Recorder, 9/16/20).

There is no requirement that outside observers be allowed to watch the signature verification process. (Per conversation with Maricopa County Recorder, 9/16/20). Observers may be present if the process is occurring in an area where observers are allowed, but they are not permitted to challenge the match determination.

Rejection Rates Due to Signature Defects

As of the time of writing, Arizona has not published ballot rejection rates for the 2020 general election.

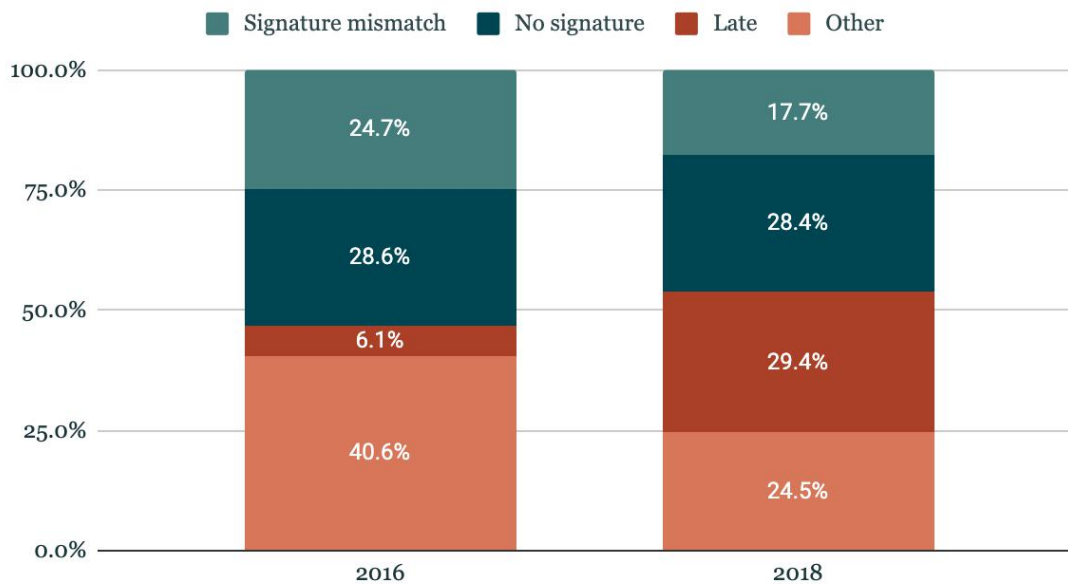
As displayed in *Table 5* below, signature defects on Arizona ballots accounted for over half (approximately 52%) of all ballot rejections across the state in 2016 and 48% of ballot rejections across the state in 2018. Lateness accounted for 6% of ballot rejections in 2016 and increased to 29% in 2018.

Two new state laws, both passed in April 2019, may have helped to reduce the ballot rejection rate in Arizona in the 2020 election. The first [law](#) implemented a cure period—five business days after Election Day—for voters to cure mismatched signatures. The second [law](#) enabled election officials to start tallying incoming ballots 14 days before Election Day, instead of the previously allowed seven days. Each of these changes gave some voters more time to cure signature defects.

Table 5. Rejection Rates in Arizona due to Late Ballots, Missing Signatures, or Signature Mismatches.

	<i>Total ballots cast</i>	<i>Total VBM ballots counted</i>	<i>Total VBM ballots rejected</i>	<i>Rejected for lateness</i>	<i>Rejected for missing signature</i>	<i>Rejected for signature mismatch</i>
2016 General (#)	2,722,660	2,017,722	10,769	660	3,079	2,657
2016 General (%)		74.1%	0.5%	6.1%	28.6%	24.7%
2018 Midterm (#)	2,409,906	1,899,240	8,567	2,515	2,435	1,516
2018 Midterm (%)		78.8%	0.5%	29.4%	28.4%	17.7%

(2016 and 2018 EAVS Data)

Figure 3. Reason for ballot rejections in Arizona in 2016 and 2018.

(2016 and 2018 EAVS data)

Arizona Signature Verification Litigation

Pre-Election Litigation

Arizona Democratic Party v. Hobbs, No. 2:20-cv-1143 (D. Ariz.), No. 20-16795 (9th Cir.)

A [lawsuit](#) filed in June 2020 challenged the state's policy of allowing voters with *mismatched* signatures up to *five business days after Election Day* to cure their ballots, while allowing voters with *missing* signatures only until *7 p.m. on Election Day* to remedy that error. On September 10, 2020, a U.S. district court granted plaintiffs a [permanent injunction](#), requiring Arizona election officials to extend the deadline for voters to cure a missing signature. Pursuant to the injunction, voters who returned unsigned ballot envelopes would have up to five business days after Election Day to fix the missing signature, the same time allowed for voters to cure ballots with mismatched signatures and for in-person voters to cure lack of proper identification at the polls.

The state [appealed](#) the decision to the U.S. Court of Appeals for the Ninth Circuit. On October 6, 2020, the court of appeals [granted](#) the state's request to put the district court's order on hold while the state litigated its appeal. The court concluded that the requirement that voters supply a missing signature by Election Day imposed only a "minimal" burden on voters. It also said that, given the nearness of the 2020 Election Day, "the public interest is well served by preserving Arizona's existing election laws, rather than by sending the State scrambling to implement and to administer a new procedure for curing unsigned ballots at the eleventh

hour.” The court noted that the U.S. Supreme Court has repeatedly admonished lower federal courts not to change the rules of an election “on the eve” of an election.

Post-Election Litigation

[*Bowyer v. Ducey*](#), No. 2:20-cv-02321-DJH (D. Ariz.)

Thirteen Arizona voters and one candidate for Republican Arizona presidential elector brought suit in U.S. District Court against Arizona state officials, alleging that poll watchers failed to verify signatures on ballots adequately. On December 9, 2020, [the court dismissed the suit](#), holding that plaintiffs lacked standing because they are not candidates and could not allege any concrete harm. It also held that plaintiffs failed to state a claim, that they delayed too long in bringing a claim and that their claims were moot. With respect to signature verification standards, the court held that the basis of plaintiffs’ complaint was known in October, well before the election, and plaintiffs only first raised it in December.

[*Ward v. Jackson*](#), No. CV2020-015285 (Ariz. Super. Ct., Maricopa County.)

An Arizona voter alleged, among other things, that, in violation of state law, poll workers were not fit to verify absentee ballot signatures. The lawsuit requested an audit and an annulment of the election results. On December 4, 2020, the superior court held that evidence from the court-mandated audit did not demonstrate fraud or misconduct and showed only a low error rate, without any impact on the outcome. The court [denied relief](#) and confirmed the election certification. On December 8, 2020, the Arizona Supreme Court, sitting en banc, [held](#) that the superior court correctly determined that the hand-count audit was adequate and that there was no evidence of misconduct. On February 22, 2021, the U.S. Supreme Court denied a [petition for certiorari](#) in the case.

Florida Signature Verification

Florida's signature verification practices are codified, including a law from 2019 that extends Florida's deadline for voters to cure mismatched or missing signatures from 5 p.m. the day *before* Election Day to 5 p.m. on the second day *after* Election Day. State law does not include specific standards for signature verification, leaving standards up to the discretion of each of the 67 counties. Since 2019, the state has been required to provide signature matching training to all supervisors of elections and members of county canvassing boards. Over half of all ballots rejected in 2016 and almost 40% in 2018 were rejected for signature-related issues.

Relevant Laws, Policies, and Deadlines

- **Canvassing Start Date:** On June 17, 2020, Florida Governor Ron DeSantis signed [Executive Order 20-149](#), **extending the statutory time frame for canvassing** to allow it to begin on the **40th day before the election**, after a [logic and accuracy](#) (L&A) test has been completed. Previously, counting mail ballots could not begin sooner than [22 days](#) before the election. The L&A test is [performed](#) to ensure the voting equipment "system is properly programmed, the election is accurately defined on the voting system, and the input, output, and communication devices are working correctly." The earliest date a logic and accuracy test could be conducted for the 2020 general election was [September 24, 2020](#), the 40th day before the election.
- **Training:** In 2019, Florida enacted a law requiring the state to provide training in signature verification and matching to supervisors of election and members of county canvassing boards ([Fla. Stat. § 97.012\(17\)](#)). The state forensic document examiner, [Thomas Vastrick](#), provided the first major presentation in October 2019 at the Florida State Association of Supervisors of Election (FSASE) Canvassing Board Workshop in Orlando, Florida. Officials can find the [original training presentation](#), as well as a [refresher course](#), online (per email from the Director of the Florida Division of Elections, 9/30/20). The Orlando training was just short of two hours and attended by about 200 election officials. (per [interview](#) between ABC Action News and Thomas Vastrick, 9/18/20).
- **Comparing Signatures:** While the act of signature verification is codified ([Fla. Stat. § 101.68](#)), the specific process and standards are left entirely to each county's discretion. The statute provides only that "the supervisor shall compare the signature of the elector on the voter's certificate with the signature of the elector in the registration books or the precinct register to determine whether the elector is duly registered in the county." A finding that a signature does not match must be made by a majority of the canvassing board and be considered "beyond a reasonable doubt."
- **Notice:** A county supervisor of elections is **required to send a cure affidavit** ([Form DS-DE 139](#)) by first-class mail to any voter who returns a vote-by-mail ballot certificate that does not include the voter's signature or whose signature does not match the voter's signature on file. The supervisor is also required to notify the voter of the signature deficiency by email, text message, or telephone and direct the voter to the cure affidavit and instructions on the supervisor's website ([Fla. Stat. §101.68\(4\)\(a\)\(1-3\)](#)).

Starting the day before the election, the supervisor is not required to notify the voter of the signature deficiency by first-class mail but must provide notice as required by email, text message, or telephone call ([Fla. Stat. §101.68\(4\)\(a\)](#)).

- **Cure:** The affidavit with a new signature, along with a copy of a form of identification, can be returned by **mail, email, fax, or in person** to the county supervisor of elections. The voter has **until 5 p.m. on the second day after the election (November 5, 2020)** to submit their cure affidavit for the general election ([Fla. Stat. §101.68\(4\)\(b\)](#)). A ballot **may not be counted** if the instructions on the affidavit have not been followed.

The Signature Matching Process and Standards

The signature matching process in Florida is at the discretion of each of the 67 counties. To learn more about the matching process in different counties, the Healthy Elections Project contacted three counties and listened to an interview with a fourth county's supervisor of elections. The four counties follow similar procedures for verifying signatures:

In **Miami-Dade County**, the [most populous](#) county in Florida (with a population of 2.7 million), ballot processing starts with a machine scan of the barcode on each ballot's return envelope, which identifies the intended voter of that ballot (per conversation with Miami-Dade County election official, 9/21/20). The machine then displays the signature on the ballot envelope next to the signature on record for the intended voter. The voting record can include a signature from the DMV (usually the signature on a driver's license), a signature used to register to vote, or an electronic signature provided by the voter from a previous time they voted in person. All signature-matching in Miami-Dade County is done by a staff member or temporary worker. Depending on the type of election, the county hires between 30 to 100 temporary staff, most of whom work annually as temporary staff for the county. All staff members and temporary workers are trained annually by a licensed forensic scientist who specializes in signatures and fraud, and all must pass an annual test to become certified to examine signatures (per conversation with Miami-Dade County executive assistant to the supervisor of elections and former voter services supervisor, 10/1/20).

The signature verification process in Miami-Dade follows a three-tiered process. First, a staff member or temporary worker compares every ballot envelope's signature with a signature in the voter's official records. If the initial reviewer determines the signatures match, the ballot will be counted. If the initial reviewer flags the signatures as a mismatch, election officials mail a [cure affidavit](#) to the voter. If the voter has provided sufficient contact information, officials will also try to contact the voter by email, text message, and phone, to give them instructions on how to complete a cure affidavit. Regardless of whether election officials reach the voter or whether the voter cures, ballots flagged as mismatches in the first tier of review proceed to a second tier of review, in which a ballot review *team* examines the signature. If the ballot review team determines the signatures match, the ballot will be counted (even if the voter never files the cure affidavit). If the ballot review team agrees the signature should be challenged, the ballot envelope is sent to the county canvassing board composed of government-appointed officials who also receive annual training and testing in signature verification. This canvassing

board reviews the ballot envelope signature and makes the final determination of whether to accept or reject the signature. For the 2020 general election, the canvassing board aimed to [meet](#) to review signature challenges at least 15 times between when ballots were mailed out and when cure affidavits had to be received by the county (per conversation with Miami-Dade County deputy supervisor of elections, government affairs, and media relations, 10/2/20).

In **Broward County**, the [second most populous](#) county in Florida (with a population of 1.9 million), ballot return envelopes are run through a machine, and computer software compares the signatures on the envelopes with signatures on file and determines whether there is a match (per conversation with a Broward County election official, 9/21/20). If the computer rejects a signature, a group of two to three election officials examine the signatures. If that group rejects the ballot based on a signature mismatch, a second team reviews it. If both teams of election officials reject the signature, election officials will email, call, or mail a postcard to the voter to explain how the voter can fill out the [cure affidavit](#) online to cure their ballot. Broward County election officials follow the signature verification protocol outlined in the secretary of state's training (per conversation with a [communications manager](#) for Broward County supervisor of elections, 9/29/20).

Wakulla County, one of the [least populated counties](#) in Florida (with a population of 33,000), scans a barcode on its ballot return envelopes and pulls up the voter's signature on file (per conversation with a Wakulla County official, 9/21/20). Wakulla uses one to two people to verify all signatures on mail-in ballots. A county election official said that, while they are "no experts" in signature verification, they look for "similarities" between the two signatures they are comparing. These two people have not gone through formalized training but, according to a county official, have honed their skills over time. If the election officials detect a mismatched signature, they direct it to the county supervisor of elections. If the supervisor also rejects it, the elections office will mail to the voter a [cure affidavit](#) ([Fla. Stat. §101.68\(4\)\(c\)](#)). If the office has the voter's email or phone number, an election official will also call or email the voter to alert them to the mismatched signature (per conversation with a Wakulla County official, 9/29/20).

Sarasota County, a county with a population of about [419,000](#) people, uses a computer to scan all ballot envelopes and compare the signatures on those envelopes to signatures in the voters' records. If the computer cannot match a signature, then, according to the county supervisor of elections, the ballot envelope is directed to "human sets of eyes" that are required to determine "beyond a reasonable doubt that this isn't the voter's signature" for it to be challenged (per [interview](#) between ABC Action News and Ron Turner, Sarasota County's supervisor of elections, 9/18/20). If a ballot is challenged because of a signature mismatch, county election officials will send a letter to the voter with a cure affidavit; they will also attempt to alert the voter by mail, text message, or telephone call, if the county has that additional contact information.

Observers: In Florida, the public may inspect or examine official ballots as long as the ballots are in the custody of the supervisor of elections or the county canvassing board ([Fla. Stat. §101.572](#)). Any eligible voter may be present for the canvass of votes. If an observer believes an unopened ballot (still in the envelope) is "illegal due to any defect apparent on the voter's

certificate,” the observer may file a “protest against the canvass of such ballot, specifying the reason he or she believes the ballot to be illegal” ([Fla. Stat. §101.6104](#)). The observer files that protest with the canvassing board. In addition to the public, candidates and their representatives are allowed to be present for inspection and may also file protests with the canvassing board ([Fla. Stat. §101.572](#)). Once a ballot is removed from the return mailing envelope, no party may challenge it ([Fla. Stat. §101.6104](#)).

Rejection Rates Due to Signature Defects

As of the time of writing, Florida has not published the total number of rejected mail ballots in the 2020 general election. According to an ABC News [article](#), the total rejection rate in the 2020 general election represented a “dramatic decrease” over the rejection rate in the 2016 general election. According to the article, in the 2020 general election, at least 14,000 ballots were rejected statewide for signature issues and missed deadlines, and about half of all rejected ballots were due to signature issues.

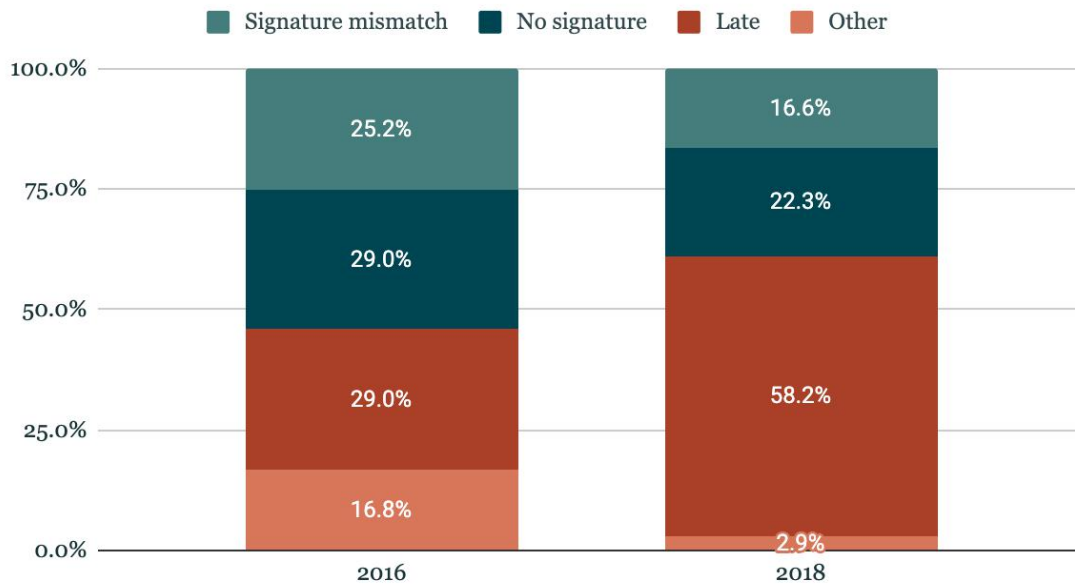
As displayed in *Table 6* below, in 2016, signature defects on ballot envelopes accounted for 54% of ballot rejections across the state. In 2018, signature defects accounted for approximately 39% of ballot rejections. The rejection rate for late ballots increased from 29% in 2016 to 58% in 2018. In 2020, about [one-third](#) of the vote-by-mail ballots in the state arrived late (many election offices do not consider late arrivals in rejection counts).

Since the 2018 election, two changes to Florida state law could potentially account for the reduced rejection rate of mail ballots due to signature defects in the 2020 general election. Enacted in 2019, a new law extended Florida’s deadline for voters to cure mismatched or missing signatures to 5 p.m. on the second day after Election Day ([Fla. Stat. §101.68\(3\)\(b\)](#)), when the prior deadline had been by 5 p.m. the day before the election. ([Fla. Stat. §101.68\(4\)\(a\)](#)). Additionally, in 2019, the state began providing a training program on signature verification and matching to supervisors of elections and county canvassing board members ([Fla. Stat. § 97.012\(17\)](#)). This training might have helped signature reviewers reduce the rate of erroneous mismatch determinations.

Table 6. Rejection Rates in Florida Due to Late Ballots, Missing Signatures, or Signature Mismatches.

	<i>Total ballots cast</i>	<i>Total VBM ballots counted</i>	<i>Total VBM ballots rejected</i>	<i>Rejected for lateness</i>	<i>Rejected for missing signature</i>	<i>Rejected for signature mismatch</i>
2016 General (#)	9,613,669	2,679,049	21,973	6,381	6,372	5,545
2016 General (%)		27.9%	0.8%	29.0%	29.0%	25.2%
2018 Midterm (#)	8,355,817	2,604,544	30,540	17,780	6,803	5,081
2018 Midterm (%)		31.2%	1.2%	58.2%	22.3%	16.6%

(2016 and 2018 EAVS data; [Florida Department of State](#))

Figure 4. Reason for ballot rejections in Florida in 2016 and 2018.

Florida Signature Verification Litigation

There was no litigation about signature verification in Florida in the leadup to or after the 2020 general election.

Michigan Signature Verification

Michigan uses signature verification for both absentee ballot applications and absentee ballots. After a civic organization sued the state for lack of statewide standards for signature verification, Secretary of State Jocelyn Benson issued statewide “[Signature Verification and Voter Notification Standards](#)” on October 6, 2020. The Standards instructed local election officials to “presum[e] that the voter’s [absentee voter] application or envelope signature is his or her genuine signature.” It also required that ballots be rejected for mismatched signatures only if there were “multiple, significant, and obvious differences” between the ballot signature and the reference signature on file. The guidance was in effect for the 2020 presidential election, but on March 9, 2021, a state court of claims [ruled](#) that the guidance was invalid because it was issued in violation of the state Administrative Procedures Act.

Relevant Laws, Policies, and Deadlines

- **Canvassing start date:** The canvass of absentee ballots begins at 10 a.m. the day before Election Day ([SB 757](#)), but election clerks can begin verifying signatures **as soon as they receive absentee ballots** (per conversation with Tracy Wimmer, director of media relations for Michigan’s secretary of state, 9/29/20).
- **Comparing signatures:** State law requires election officials to compare and verify signatures twice: when the voter applies for an absentee ballot and again when the voter submits the absentee ballot. In both cases, the city or township clerk is required to compare the voter’s signature on the ballot application or on the envelope of the ballot envelope itself, as the case may be, to the voter’s **digitized reference signature stored in the state’s Qualified Voter File (QVF) database** and **to determine if the two signatures “agree.” When signatures on applications and return envelopes do not “agree sufficiently” with those on file, they are to be rejected.** ([Mich. Comp. Laws § 168.761](#)).
- The QVF database stores the most recent digitized signature of the voter, as may be captured from the voter’s voter registration application or driver’s license ([Mich. Comp. Laws § 168.509q](#)). If the QVF signature is unavailable, the clerk instead uses the signature on the “master card” as the reference signature, which is the voter’s registration form ([Mich. Comp. Laws § 168.759](#), [Mich. Comp. Laws § 168.766](#), [Mich. Comp. Laws § 168.767](#)).
- In the case of an absentee ballot, in some jurisdictions, once the local election clerk determines that the signature on the absentee ballot envelope and the reference signature in the file “agree,” the clerk sends the absentee ballot to the board of election inspectors, which again compares the voter’s signature on the absentee ballot envelope with the reference signature to “to determine the genuineness of a signature.” ([Mich. Comp. Laws § 168.766\(1\)\(a\), \(2\)](#)). If the board of election inspectors agrees that the signature is genuine, the ballot is counted.
- **Signature-matching guidance in statute:** The state election statutes do not include standards or guidance on how to determine whether signatures match. They state only

that the election officials must determine if the signatures “agree,” “agree sufficiently,” or if the voter signature is “genuine.”

- **Training:** The secretary of state is required to “establish a curriculum for comprehensive training and accreditation” and “a continuing election education program” for election officials ([Mich. Comp. Laws § 168.31](#)). The [training and accreditation process](#) cover the “Absent Voter Process” and [Election Day processing of absentee ballots](#), but it does not spell out how to determine if two signatures “agree.” State law does not require local election officials (neither clerks nor the board of election inspectors) to undergo training in signature or handwriting analysis.
- **Lawsuit alleged lack of statewide signature verification standards.** A civic organization called [Priorities USA](#) [sued](#) the state in December 2019 (before the pandemic), alleging that the state lacked uniform standards for reviewing and comparing signatures and that many officials engaging in the matching process did not have sufficient training and skills to compare signatures accurately. The lawsuit said these deficiencies allowed election officials throughout the state to employ arbitrary and diverging criteria in the matching process.
- **Secretary Benson’s signature verification guidance.** In April 2020, the Michigan secretary of state released new [signature verification guidance](#), and plaintiffs dropped their [lawsuit](#). The secretary released substantially similar guidance on October 6, 2020, which was in effect for the 2020 presidential election. The new guidance did not eliminate the practice of signature verification altogether, but it implemented a statewide standard designed to reduce erroneous rejections. It instructed clerks to:
 - **“presum[e] that the voter’s [absentee voter] application or envelope signature is his or her genuine signature.”** It said that a signature should be considered questionable “only if it differs in multiple, significant and obvious respects from the signature on file. **Slight dissimilarities should be resolved in favor of the voter whenever possible.**” The presence of “any redeeming qualities,” such as “distinctive flourishes” and “more matching features than non-matching features” should render the signature valid.
 - The guidance also included examples of matching and non-matching signatures and lists permissible inconsistencies.
- **Notice:** Pursuant to an [October 6, 2020, amendment to the elections code](#), if the election clerks determine that the signature on the absent voter ballot application or on the absent voter ballot return envelope “does not agree sufficiently” with the reference signature, they must, “as soon as practicable, but in no event later than **48 hours** after determining the signatures do not agree sufficiently or that the signature is missing, or by **8 p.m. on the day before Election Day**, whichever occurs first, notify the elector of the rejection by mail, telephone, or electronic mail” ([Mich. Comp. Laws §168.765a\(6\)](#), [Mich. Comp. Laws § 168.761](#), [SB 757](#)).
- **Cure:** If a ballot envelope is missing a signature, a voter can provide the signature in person at the clerk’s office until the close of polls ([Election Officials’ Manual, Ch. 6](#)). If a ballot envelope suffers from a signature mismatch, there is no “cure” process set forth in law, but voters can submit a **written request to spoil their original ballot and receive a replacement**. Voters can request and receive a new ballot **by mail** until 2

p.m. on October 31, 2020, and in person at the clerk's office until **4 p.m. on November 2, 2020** ([Mich. Comp. Laws § 168.765b](#)).

- **Bill that did not pass.** A proposed state bill, [HB 5991](#), sought to require clerks to notify voters of signature mismatches by 10 days before election certification and allow voters to cure the defect through a signature verification statement until three days before certification. The bill did [not leave](#) committee.
- **Court ruled that Secretary Benson's October 6, 2020, signature verification guidance was invalid.** On March 9, 2021, in *Genetski v. Benson*, a Michigan court of claims [ruled](#) that the signature verification guidance Secretary Benson issued on October 6, 2020, was invalid because the guidance constituted a "rule" as defined by the state Administrative Procedures Act (APA) but was issued without following the formal rule-making procedures required by the APA. Thus, though the guidance was in effect for the 2020 presidential election, it will not be in effect for future elections, unless Secretary Benson complies with the procedural requirements of the APA.

The Signature Matching Process

Michigan law requires a signature verification process in place for election officials to evaluate both absentee ballot *applications* and absentee ballots. The state requires voters to sign applications for absentee voter ballots in order to receive a ballot. In addition, the state's election laws require voters who choose to vote by absentee ballot to sign their absentee ballot return envelopes in order to have their ballots counted. The signatures on the applications and the ballot return envelopes are compared against reference signatures in the Qualified Voter File (QVF) or those that appear on the "master registration card" in order to determine whether the signatures match. Signatures on applications or return envelopes that do not "agree sufficiently" with those on file are to be rejected. Effective [October 6, 2020](#), Senate Bill 757 (also known as [2020 Public Act 177](#)) amended existing state election law to give notice to voters whose signatures do not "agree sufficiently" that their absent voter ballot application or absentee ballot has been rejected. The purpose of the notice is to give voters the opportunity to correct problems with absentee voter signatures. The state's election law does not define what it means for signatures to "agree" or to "agree sufficiently" for purposes of comparing the signature on file with the signature on a received absent voter ballot application or ballot.

The envelope signature is typically compared with the digital signature stored in the state's Qualified Voter File (QVF), by law and in practice. During training of election clerks, the Michigan Bureau of Elections (MBE) recommends that election clerks also compare the envelope signature with an additional signature—the signature from the voter's application for an absentee ballot or, in some cases, with the signature from the voter registration (called the "master card").³ In Detroit, clerks typically turn to physical paper records only if there is a question of mismatch. There is no statewide move towards using automated software for

³ Unless specified otherwise, information in this section was obtained from conversations with David Foster and other elections specialists at the Michigan Bureau of Elections, Alecia Brown at the Detroit Department of Elections, and Tracy Wimmer at the Secretary of State's office, 9/18/20 - 9/29/20.

signature verification, but Detroit is in the early stages of exploring systems to help automate aspects of signature verification.

State statutes do not indicate how election officials should determine whether signatures “agree.” In April 2020, and then again on October 6, 2020, Secretary Benson issued [guidance](#) that instructed election officials, when comparing signatures, [to presume the voter signed their ballot](#). The guidance also offered additional tips and criteria for how to compare signatures and provided illustrative examples. Some election officials were unfamiliar with these recommendations, but they were in use at the Detroit Department of Elections during the 2020 elections. On March 9, 2021, a Michigan court [ruled](#) that the October 6, 2020, guidance was invalid because it was issued without following the rule-making procedures required by the state Administrative Procedures Act (APA). Thus, though the guidance was in effect for the 2020 presidential election, it is no longer in effect.

Signature verification is a concern in Michigan’s hiring and training of election clerks. Each of Michigan’s 1,773 election jurisdictions (towns and cities) has an election clerk. When election clerks enter office, they undergo a two-day training for [accreditation](#) that includes signature verification training. The Michigan Board of Elections (MBE) also holds in-person [refresher training](#) during election years. In 2020, the state conducted training primarily on the virtual Elections ELearning platform. Jurisdictions could hire and train temporary staff to do signature verification but, ultimately, it was the responsibility of the election clerk to finalize the determination of a mismatch and notify the voter. In Detroit, there were intermediate supervisors below the city clerk level who could declare a mismatch. The MBE primarily communicated with counties to provide training materials and other resources (eg. PPE), but it also worked directly with election clerks of larger jurisdictions.

When election clerks are required to contact voters about a signature mismatch or missing signature, they do so as soon as possible, by phone, email, or regular mail. Once notified, voters can sign their unsigned ballot envelope in person at the clerk’s office. In case of a signature mismatch, the voter must spoil their original ballot and request a new one. The [secretary of state’s guidance](#) says that voters can visit the local clerk’s office “to provide the omitted signature or corrected signature, or have a new AV ballot issued immediately.” The statute itself does not set forth a procedure to cure a defective ballot; it simply requires that ballots be spoiled and the voter issued a new ballot. The secretary of state’s office encouraged voters to either mail their ballots before October 19, 2020, or to deliver them in person to ensure there would be sufficient time for notice and cure, if necessary.

While the Michigan Election Officials’ Manual does not expressly mention the right of challengers to observe the signature verification process, it states that challengers were permitted to “observe all election procedures being carried out.” One appointed election challenger per eligible group was permitted to observe the conduct of the “absent voter counting board,” which processed absentee votes starting the day before Election Day. If a challenger believed an absentee ballot was submitted by a person unqualified to vote in their precinct, the challenger was permitted to challenge that ballot. Additionally, members of the public were also permitted to observe the conduct of the board ([Election Officials’ Manual](#)).

Rejection Rates Due to Signature Defects

When a state trial court ruled in September (in [Michigan Alliance for Retired Americans v. Benson](#)) that the receipt deadline for completed absentee ballots would be extended from Election Day to 14 days after Election Day, as long as ballots were postmarked by November 2, scholars predicted that the rejection rates for lateness would drop in the November 2020 general election. After all, 60 percent of all absentee ballots rejected in the August primary were rejected for being late. But on October 16, the Michigan Court of Appeals [overruled the lower court](#) and reinstated the Election Day receipt deadline.

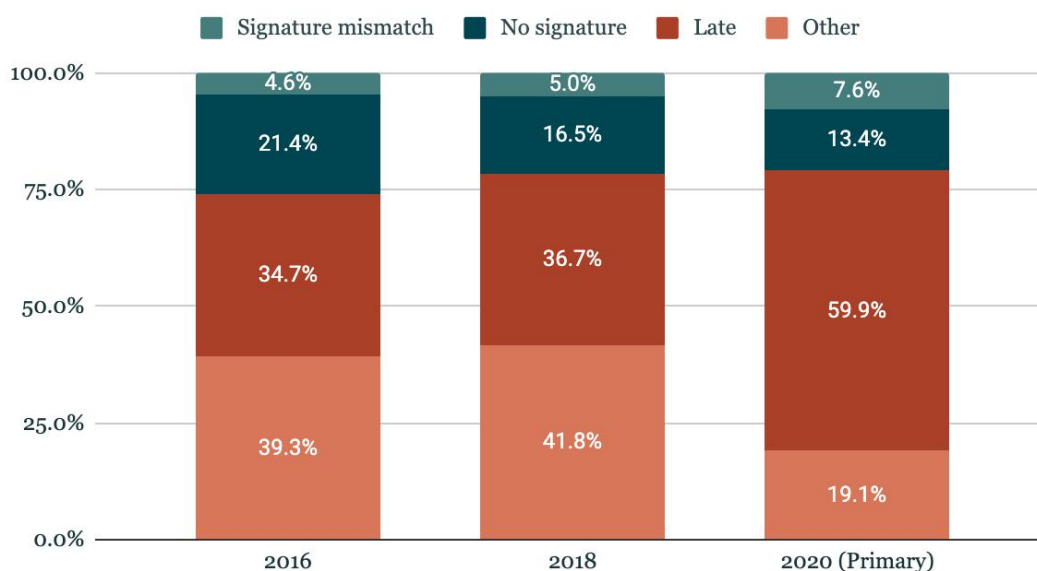
Nonetheless, as seen in *Table 7* below, a smaller percentage of mail ballots was rejected in the 2020 general election as compared with prior years, a fact that is largely attributable to a substantial decrease in the percentage of *late* ballots. As a share of overall rejected ballots, the percentage of rejections for lateness fell dramatically, the percentage of rejections due to missing signatures declined slightly, and the percentage of rejections due to signature mismatch increased slightly.

Senate Bill 757, signed into state law on October 6, 2020, implemented a new notice and cure rule that required clerks to notify voters within 48 hours if their mail-in ballot was missing a signature or had a mismatched signature. As of the time of writing, the state had not released the number of voters who cured ballot signature defects (by ballot spoliation or otherwise), so it is difficult to assess the impact of the new notice and cure procedure implemented by SB 757 or Secretary Benson's signature matching guidance ([which was invalidated by a court ruling on March 9](#)).

Table 7. Rejection Rates in Michigan Due to Ballots, Missing Signatures, or Signature Mismatches.

	<i>Total ballots cast</i>	<i>Total VBM ballots counted</i>	<i>Total VBM ballots rejected</i>	<i>Rejected for lateness</i>	<i>Rejected for missing signature</i>	<i>Rejected for signature mismatch</i>
2016 General (#)	4,874,619	1,260,218	6,171	2,140	1,319	283
2016 General (%)		25.9%	0.5%	34.7%	21.4%	4.6%
2018 Midterm (#)	4,341,340	1,061,835	6,013	2,207	990	300
2018 Midterm (%)		24.5%	0.6%	36.7%	16.5%	5.0%
2020 Primary (#)	2,520,850	1,600,000	10,694	6,405	1,438	787
2020 Primary (%)		63%	0.7%	59.9%	13.4%	7.4%
2020 General (#)	5,568,097	3,300,000	15,302	3,328	1,852	1,400
2020 General (%)		59%	0.5%	21.7%	12.1%	9.1%

(2016 and 2018 EAVS data; 2020 [primary](#) and [general](#) data from Michigan Secretary of State)

Figure 5. Reason for ballot rejections in Michigan in 2016 and 2018.

(2016 and 2018 EAVS data)

Michigan Signature Verification Litigation

Pre-Election Litigation

[*Priorities USA v. Benson*](#), No. 3:19-cv-13188-RHC-APP (E.D. M.I.)

Plaintiffs alleged that Michigan's signature matching regime imposed a severe burden on the right to vote because (i) it called for election workers to reject ballots for mismatched signatures without providing statewide standards or signature-analysis training, and (ii) it did not require election officials to give voters any notice or opportunity to cure ballots rejected for mismatched signatures. *Priorities USA* [voluntarily withdrew](#) its suit after the secretary of state issued [new guidance](#) in April 2020. This new guidance elaborated on signature matching criteria and encouraged clerks to notify voters by the end of the next business day if their ballot was not in compliance. (On October 6, 2020, the secretary renewed the guidance and it was in effect for the 2020 presidential election. After the general election, however, a court ruled that the guidance was invalid because it was issued without following the rule-making procedures required by the state Administrative Procedures Act. *See Genetski v. Benson* below).

[*Michigan Alliance for Retired Americans v. Benson*](#), No. 2020-000108-MM (Mich. Ct. Claims)

On September 18, 2020, a state court [ruling](#) extended the ballot receipt deadline and ordered that ballots postmarked by the day before Election Day and received within 14 days of Election Day must be counted, as requested by plaintiffs. The Republican-controlled legislature appealed the order to the Michigan Court of Appeals, which [reversed](#) the lower court.

Post-Election Litigation

[*King v. Whitmer*](#), No. 2:20-cv-13134-LVP-RSW (E.D. Mich.)

Six Michigan voters filed suit, alleging that election officials, in violation of the state election code, counted ineligible ballots with no signatures or postmarks on the ballot envelope. They asked the court either to decertify Michigan's results showing Democratic presidential candidate Joe Biden the winner or certify the election results for Republican presidential candidate Donald Trump. The court [held](#) that the lawsuit was barred by the Eleventh Amendment of the U.S. Constitution, that the case was moot, that the doctrine of laches applied because plaintiffs waited too long to bring their claims, that the abstention doctrine applied because parallel state proceedings were ongoing, and that plaintiffs failed to establish an injury sufficient to meet standing requirements. On December 11, 2020, plaintiffs filed a [petition for certiorari](#) at the United States Supreme Court, which the Court denied on [February 22](#).

[*Costantino v. Detroit*](#), No. 20-014780-AW (Mich. Cir. Ct., Wayne County)

Two Wayne County voters filed suit, alleging that Detroit election officials instructed election workers not to verify signatures on absentee ballots, to backdate absentee ballots, and to process such ballots regardless of their validity. Plaintiffs sought an audit, an order to stop the count, an injunction against certifying election results, an order voiding the November 3, 2020, election results, and an order that a new election be held. On November 13, 2020, the court [found](#) that the affidavits supplied by plaintiffs were "rife" with generalizations, speculation, and hearsay and that the supplied evidence supported no credible finding of fraud. Furthermore, the injunctive relief plaintiffs asked for, said the court, would amount to judicial activism, in light of the other remedies available. The court denied the injunction. On November 16, 2020, the Michigan Court of Appeals [denied](#) both the application for reversal and the application for appeal. On November 23, 2020, the Michigan Supreme Court [denied an appeal](#) as moot (since the state board of elections had already certified the election results).

[*Genetski v. Benson*](#), No. 20-000216-MM (Mich Court of Claims)

On March 9, 2021, in *Genetski v. Benson*, a state court of claims [ruled](#) that the signature verification guidance issued by Secretary of State Jocelyn Benson on October 6, 2020, was invalid because the guidance constituted a "rule" as defined by the state Administrative Procedures Act (APA) but was issued without following the formal rule-making procedures required by the APA. Benson's guidance set forth statewide standards and guidelines for how local election officials should conduct signature verification and instructed workers to approach signature verification with a presumption that the signature on the ballot or the ballot application is the voter's genuine signature. The court ruled that this state guidance constituted a rule under the APA because it is generally applicable and requires local election officials to apply a presumption of validity.

North Carolina Signature and Witness Requirements

North Carolina does not have a signature matching requirement but does require the signatures of both the absentee voter and a witness. In the months before the general election, the rules relating to the notice and cure processes for defects with the voter or witness signature changed four times, based on at least four court rulings. After a U.S. Supreme Court action on October 28, 2020, however, the rules were finalized: The state would not allow voters to cure a ballot submitted without a *witness* signature, but it would allow cure of all other signature defects, including a missing *voter* signature or a witness signature placed on the wrong line.

Relevant Laws, Policies, and Deadlines

Source of Law: In the months leading up to the general election in 2020, the bipartisan North Carolina State Board of Elections (NCSBE), the board with general supervisory authority over elections, disseminated its rules for “reviewing and processing” absentee ballots. Its August 21 memo underscored the need to ensure that voters were provided “every opportunity to correct certain deficiencies” and that election officials were able to complete their processing and counting of votes in a timely manner. But before Election Day, the memo from the NCSBE had to be revised three times, each time prompted by a court ruling in ongoing litigation. In addition to the [August Memo](#), there was the [September Memo](#), the [October 4 Memo](#), and the [October 17 Memo](#).

Three rules remained the same in all four memos: 1) the starting date for canvassing mail-in ballots (the fifth Tuesday before Election Day, or September 29, 2020) ([N.C.G.S.A. § 163-230.1](#) and [163-234](#)); 2) the requirement that each absentee voter mark their ballot in the presence of one witness ([S.L. 2020-17](#)); and 3) notice of the change, made pursuant to a [federal court order](#), that the NCSBE eliminated signature matching and that election officials should *not* compare a voter’s signature on the ballot return envelope with their signature on file.

Five other rules varied from memo to memo, including rules governing 1) which ballot deficiencies could be cured, 2) which deficiencies could not be cured, 3) the notification to voters of absentee ballot deficiencies that require their curing, 4) the deadline for curing a missing signature, and 5) the process for curing a missing signature. These specific rule changes in each memo are detailed in *Table 8* below. Officials of the national and state Republican Party challenged the state board’s memos from September and October, saying they amounted to an “administrative rewrite” of duly enacted laws passed by the state legislature. They asked the U.S. Supreme Court to enjoin the state board from enforcing the rules enumerated in the October 17 memo. The Supreme Court denied the request, leaving the October 17 memo undisturbed for the remaining weeks of the 2020 general election.

Table 8. North Carolina's Changing Legal Landscape for VBM in 2020 General Election.

October 17 NCSBE Memo Rules	October 4 NCSBE Memo Rules	September NCSBE Memo Rules	August NCSBE Memo Rules
(In effect as of October 17, 2020, to implement Judge Osteen's October 14, 2020, order)	(In effect October 4-16, 2020, to implement Judge Dever's October 3, 2020, temporary restraining order)	(In effect September 22-October 3, 2020, to implement the September 22, 2020, settlement agreement)	(In effect from August 21 -September 21, 2020, following Judge Osteen's August 4, 2020, order)
Five deficiencies can be cured via affidavit: 1) a voter failing to sign the Voter Certification; 2) a voter signing in the wrong place; 3) a witness or assistant failing to print their name; 4) a witness or assistant failing to print their address; and 5) a witness or assistant signing on the wrong line.	No deficiencies can be cured via affidavit	Six deficiencies can be cured via affidavit : 1) a voter failing to sign the Voter Certification; 2) a voter signing in the wrong place; 3) a witness or assistant failing to print their name; 4) a witness or assistant failing to print their address; 5) a witness or assistant failing to sign; and 6) a witness or assistant signing on the wrong line .	Two deficiencies can be cured via affidavit : 1) a voter failing to sign the Voter Certification, and 2) a voter signing in the wrong place.
There are three deficiencies that <u>cannot be cured by an affidavit and which result in the ballot being spoiled</u> : 1) if the witness or assistant did not sign; 2) if the envelope is unsealed upon arrival at the county board office; and 3) if the envelope indicates the voter is requesting a replacement ballot.	All ballot deficiencies result in the ballot being stored and not considered by the county boards until pending litigation is resolved and/or a new guidance is issued.	There are two deficiencies that <u>cannot be cured by an affidavit and which result in ballots being spoiled</u>: 1) if the envelope is unsealed upon arrival at the county board office, and 2) if the envelope indicates the voter is requesting a replacement ballot .	There are five deficiencies that <u>cannot be cured by an affidavit and which result in the ballot being spoiled</u> : 1) a witness or assistant failing to print their name; 2) a witness or assistant failing to print their address; 3) a witness or assistant failing to sign; 4) a witness or assistant signing on the wrong line; 5) the envelope, upon arrival at the county board office, is unsealed or appears to have been opened and resealed.

<p>October 17 NCSBE Memo Rules</p> <p>(In effect as of October 17, 2020, to implement Judge Osteen's October 14, 2020, order)</p>	<p>October 4 NCSBE Memo Rules</p> <p>(In effect October 4-16, 2020, to implement Judge Dever's October 3, 2020, temporary restraining order)</p>	<p>September NCSBE Memo Rules</p> <p>(In effect September 22-October 3, 2020, to implement the September 22, 2020, settlement agreement)</p>	<p>August NCSBE Memo Rules</p> <p>(In effect from August 21 -September 21, 2020, following Judge Osteen's August 4, 2020, order)</p>
<p>Notice: North Carolina requires the county board offices to contact a voter in writing, via either email or mail, within one business day of identifying a ballot deficiency and enclose either a cure affidavit or new ballot. If the voter did not provide an email address, the county board is required to call the voter to inform them that their cure affidavit or new ballot has been sent.</p>	<p>Notice: The entire notice and cure process is temporarily suspended . No voters will be notified of deficient ballots, and any deficient ballot will be stored without being considered by the county boards until a new guidance is issued .</p>	<p>Notice: North Carolina requires the county board offices to contact a voter in writing, via either email or mail, within one business day of identifying a ballot deficiency and enclose either a cure affidavit or new ballot. If the voter did not provide an email address, the county board is required to call the voter to inform them that their cure affidavit or new ballot has been sent.</p>	<p>Notice: North Carolina requires the county board offices to contact a voter in writing, via either email or mail, within one business day of identifying a ballot deficiency and enclose either a cure affidavit or new ballot . If the voter did not provide an email address, the county board is required to call the voter to inform them that their cure affidavit or new ballot has been sent.</p>
<p>Cure Deadline: Absentee/mail ballot signature cure deadline is 5 p.m. November 12, 2020, for both civilian and UOCAVA voters. The ballot cure deadline is determined by the ballot receipt deadline.</p>	<p>Cure Deadline: Because the notice and cure process is temporarily suspended, there is currently no cure deadline.</p>	<p>Cure Deadline: Absentee/mail ballot signature cure deadline is 5 p.m. November 12, 2020, for both civilian and UOCAVA voters.</p>	<p>Cure Deadline: Absentee/mail ballot signature cure deadline is November 6, 2020, for civilian ballots postmarked by 5 p.m. on Election Day.</p>
<p>Cure Process: The cure affidavit can be submitted to the county board office by fax, email, in person, or by mail or commercial carrier. If a voter shows up in person at the county board office, they may also be given a new cure affidavit to fill out . The cure affidavit may be returned only by the voter, the voter's near relative, or legal guardian, or by a multipartisan assistance team (MAT).</p>	<p>Cure Process: The cure process is temporarily suspended and voters will not be notified of or able to cure any deficient ballots.</p>	<p>Cure Process: The cure affidavit can be submitted to the county board office by fax, email, in person, or by mail or commercial carrier. If a voter shows up in person at the county board office, they may also be given a new cure affidavit to fill out. The cure affidavit may be returned only by the voter, the voter's near relative, or legal guardian, or by a multipartisan assistance team (MAT).</p>	<p>Cure Process: The cure affidavit can be submitted to the county board office by fax, email, in person, or by mail or commercial carrier. If a voter shows up in person at the county board office, they may also be given a new cure affidavit to fill out. The cure affidavit may be returned only by the voter, the voter's near relative, or legal guardian, or by a multipartisan assistance team (MAT).</p>

The Signature Matching Process and Standards

North Carolina does not have a signature matching verification process, but county board staff do inspect envelopes to ensure they are signed by the voter and the witness and that the witness information is provided ([October 17 Memo](#)). The North Carolina State Board of Elections (NCSBE) requires the county board staff to confirm that the voter has signed the voter certificate in the correct place on the return envelope and that the witness or assistant has provided their name and address, signed on the correct line, sealed the ballot envelope, and that the voter has not indicated on their ballot that the voter is requesting a replacement ballot ([October 17 Memo](#)). The NCSBE gives specific instructions guiding county board staff on what sort of missing information does and does not require a cure ([October 17 Memo](#)). Specifically, the county board office must contact a voter in writing, via either email or mail, within one business day of identifying a ballot deficiency and enclose either a cure affidavit or new ballot. Five deficiencies can be cured via affidavit: 1) a voter failing to sign the Voter Certification; 2) a voter signing in the wrong place; 3) a witness or assistant failing to print their name; 4) a witness or assistant failing to print their address; and 5) a witness or assistant signing on the wrong line. But the failure of a witness to sign at all is a defect that cannot be cured. The only way to remedy a missing witness signature is to spoil the ballot altogether and have the voter vote again from scratch—a more onerous process available only on or before Election Day.

County boards are involved in the review of ballot deficiencies when they are first noticed, including when there is no ballot or more than one ballot in the official return envelope. If, by majority vote in a board meeting, the county board rejects a return envelope due to a deficiency, the voter is notified of the deficiency in accordance with the notification process.

North Carolina does not allow observers for its signature verification process ([N.C.G.S.A. § 163 45](#)).

Rejection Rates Due to Signature Defects

In the 2020 general election, the overall mail ballot rejection rate in North Carolina was lower than it was in the 2016 general election. While the absolute number of rejections increased from 4,861 rejected ballots in 2016 to [12,272 ballots](#) (about a 150% increase), the number of mail ballots increased from about 174,000 to [just over a million](#) ballots in 2020 (more than 500%). As of the time of writing, the number and percentages of mail ballot rejections for different reasons was not publicly available.

The elimination of the signature matching requirement in 2020 was not expected to significantly reduce the overall rejection rate of mail ballots, as signature mismatches comprised less than one percent of all rejected mail ballots in both the 2016 and 2018 elections. On the other hand, the notification and cure process established for missing signatures and some witness-related errors, by the NCSBE's [October 17 Memo](#), had the potential to significantly reduce the vote-by-mail rejection rate, as both deficiencies were

common reasons for ballot rejections in the 2016 and 2018 elections. Similarly, the decision to extend the absentee ballot receipt deadline from November 6 to November 12 (provided the ballot was postmarked on or before Election Day) may have helped to reduce ballot rejection rates in North Carolina.

Historically, vote-by-mail has made up only a small fraction of ballots cast in North Carolina, but state election officials reported that [18.1% of votes](#) were cast by mail in the 2020 general election.

According to an analysis by ProPublica, in the 2018 election, [Black voters' ballots were more than twice as likely to be rejected as those sent in by white voters](#). The 2020 general election followed the same trend. As of October 27, 2020, Black voters' ballots in North Carolina had been [rejected](#) at more than [2.5 times](#) the rate of white voters. These numbers included ballots rejected for all reasons, and the vast majority of ballot rejections were due to [incorrect or missing witness information](#).

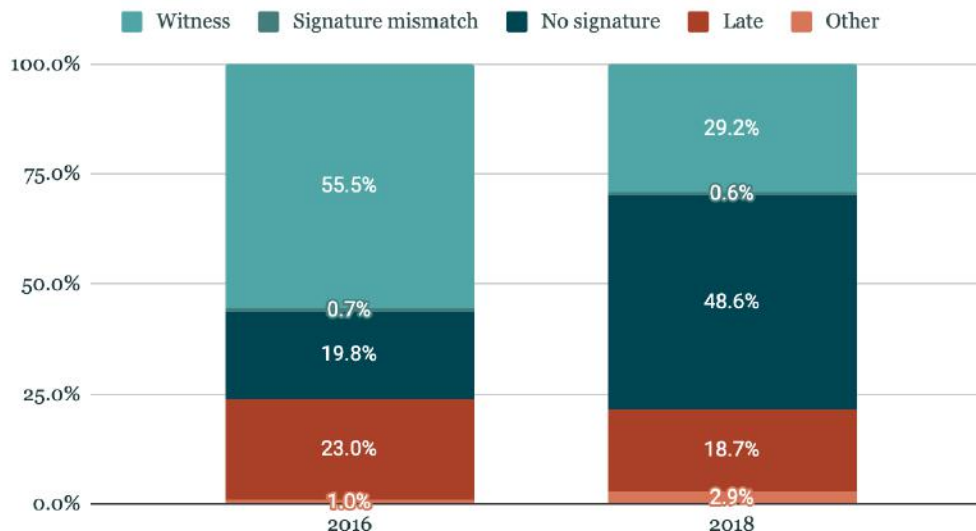
Table 9. Rejection Rates in North Carolina Due to Late Ballots, Missing Signatures, or Signature Mismatches.

	<i>Total ballots cast</i>	<i>Total VBM ballots counted</i>	<i>Total VBM ballots rejected</i>	<i>Rejected for lateness</i>	<i>Rejected for missing signature</i>	<i>Rejected for signature mismatch</i>	<i>Rejected for witness info incomplete</i>
2016 General (#)	4,690,195	174,402	4,861	1,119	963	32	2,700
2016 General (%)		3.8%	2.7%	23%	19.8%	0.7%	55.5%
2018 Midterm (#)	3,754,895	89,711	5,835	1,089	2,835	33	1,701
2018 Midterm (%)		2.4%	6.1%	18.7%	48.6%	0.6%	29.2%
2020 General (#)¹	5,545,848	1,001,596	12,221	1,084	5,090*	29	5,938
2020 General (%)		18.1%	1.2%	8.8%	41.6%*	0.2%	48.6%

(2016 and 2018 EAVS data)

¹Source: [North Carolina State Board of Elections 2020 Absentee File](#)

*5,090 rejections were labeled “pending cure.” Five deficiencies were subject to cure that collectively can be categorized as voter signature errors or witness or assistant errors: 1) a voter failing to sign the Voter Certification; 2) a voter signing in the wrong place; 3) a witness or assistant failing to print their name; 4) a witness or assistant failing to print their address; and 5) a witness or assistant signing on the wrong line. Because the latter three categories were separately reported, we surmise that most of those reported as “pending cure” were voters failing to sign or signing in the wrong place.

Figure 6. Reason for ballot rejections in North Carolina in 2016 and 2018.

North Carolina Signature Verification Litigation

Pre-Election Litigation

[*Stringer v. The State of North Carolina*](#), No. 20-CVS-5615 (N.C. Super. Ct., Wake County.)

In May 2020, six North Carolina citizens filed a lawsuit, alleging that the state was “woefully underprepared for the rapid expansion of absentee voters.” The complaint alleged that the state’s practices infringed on citizens’ right to participate in free and fair elections and placed an undue burden on the right to vote in violation of the North Carolina Constitution.

The suit asked for election officials to be prevented from rejecting ballots based on signature mismatches unless the voter was notified in advance and given “an opportunity to cure the alleged signature defect.” The notice and cure relief sought in this case was granted on August 4, 2020, by another court in *Democracy North Carolina v. North Carolina State Board of Elections* (see immediately below) and ultimately unnecessary for signature mismatches because the North Carolina Election Board eliminated the practice of signature matching in its August Memo, a change that stuck for the general election.

[*Democracy North Carolina v. North Carolina State Board of Elections*](#), No. 1:20-cv-457 (M.D.N.C.); No. 20-2104 (4th Cir. 2020) (en banc)

Democracy North Carolina, the League of Women Voters of North Carolina, and eight voters [sued](#) several state agencies in May 2020 over alleged violations of voters’ First and Fourteenth Amendment rights. The plaintiffs argued that the state voting laws, within the context of the pandemic, would significantly restrict North Carolinians’ right to vote in the upcoming election.

On August 4, 2020, U.S. District Court Judge William Osteen granted a [preliminary injunction](#), enjoining the state from rejecting absentee ballots without allowing voters an opportunity to cure the deficiencies. The court denied the plaintiffs' motion for a preliminary injunction against the witness requirement for absentee voting but granted a preliminary injunction giving voters the chance to cure a number of issues, such as a missing signature or witness related errors. Following the preliminary injunction, the NCSBE issued its [August Memo](#) (on August 21, 2020), which eliminated the practice of signature matching and, as ordered by the court, established a notification and cure process for other ballot defects. The August Memo required election officials to allow voters to cure missing or misplaced voter signatures by affidavit and to cure witness deficiencies by ballot spoliation and return of a new, reissued ballot. The August Memo was amended on [September 22, 2020](#), as part of a settlement of [a separate suit](#) between the state and the North Carolina Alliance for Retired Americans (below). That settlement extended the time period for cure by affidavit from November 6 to November 12 and expanded the list of deficiencies that could be cured by affidavit to include witness deficiencies.

However, on September 30, 2020, Judge Osteen [warned](#) that the rule changes in the [September Memo](#) did not comply with his August 4 preliminary injunction. He [stated](#) "[n]othing about this court's preliminary injunction order can or should be construed as finding that the failure of a witness to sign the application and certificate as a witness is a deficiency which may be cured with a certification after the ballot has been returned." Judge Osteen held a hearing to consider how the September Memo related to both his initial injunction and to two separate lawsuits that were also related to the September Memo, [Wise v. North Carolina State Board of Elections](#) and [Moore v. Circosta](#). The two additional cases were transferred to him by Judge James C. Dever III, so that Judge Osteen could simultaneously consider and resolve all three pending and related federal lawsuits. On October 4, 2020, the NCSBE issued [guidance](#) that temporarily suspended its notice and cure process altogether pending clear judicial guidance. During this suspension, ballots with deficiencies were simply stored.

On October 14, 2020, Judge Osteen issued an [injunction](#) preventing the state from curing absentee ballots that were missing witness signatures. Per his order, all other cures could go forward, and the extended deadline (to November 12, 2020, if the envelope was postmarked by or before November 3) remained in place. On October 17, 2020, the NCSBE issued [guidance](#) that reestablished the notice and cure process in North Carolina as stipulated by the October 14 order. Following Judge Osteen's order, the plaintiffs in *Wise* and *Moore* sought an emergency motion for injunction pending appeal to the U.S. Court of Appeals for the Fourth Circuit. They asked the appeals court to block the extension for accepting ballots. On October 20, 2020, the Fourth Circuit [declined](#) to block the extension, in a [12-3 ruling](#) where all 15 of the court's active judges participated. The opinion noted that, if the court forced the state to shorten the deadline, it would violate a legal principle (articulated in *Purcell*) that limits how federal courts intervene in ballot rules close to Election Day. The three dissenting judges [urged the appellants](#) to take the issue to the U.S. Supreme Court, and the appellants did so. The [Trump campaign](#) and the [GOP leadership](#) both filed separate applications to the Supreme Court for injunctive relief. On October 28, 2020, the Supreme Court, in a 5-3 decision, denied both applications.

[North Carolina Alliance for Retired Americans v. North Carolina](#), No. 20 CVS 08881 (N.C. Super. Ct., Wake Cnty.)

Plaintiffs, an organization for retired persons, brought suit against North Carolina and the State Board of Elections. They challenged the state's alleged failure to provide in-person voting opportunities that complied with health recommendations during the pandemic, as well as the state's enforcement of absentee voting restrictions. The challenged provisions included limitations on early voting, requirements that absentee ballots be signed by a witness, a failure to provide pre-paid postage for mail ballots, the receipt deadline for absentee ballots, rejection of ballots for signature defects, a ban on voter assistance, and limits to ballot delivery aids. The parties reached a [settlement agreement](#) on September 22, 2020, in which defendants agreed to: (1) to extend the deadline for receipt of absentee ballots to nine days after Election Day to match the UOCAVA deadline, as long as the ballots were mailed on or before Election Day; (2) to implement a revised cure process; and (3) to establish separate absentee ballot “drop off stations” staffed by elections officials at each early voting site and at each county board of elections to reduce the congestion and crowding at early voting sites and county board offices. The court approved the settlement agreement on October 2, 2020.

[Democratic Senatorial Campaign Committee v. North Carolina State Board of Elections](#), No. 20CV09947 (Gen. Ct. Justice, Super. Ct. Division, Wake County.)

This state court lawsuit challenged the state's lack of a process for curing an absentee ballot with a defect in the witness requirement. As discussed above, however, this issue was ultimately resolved in a separate suit, [North Carolina Alliance for Retired Americans v. North Carolina](#), when a state court approved, on October 2, 2020, a September 22 settlement agreement approved unanimously by the bipartisan NCSBE. Pursuant to the settlement agreement, NCSBE revised its [August Memo](#) on [September 22, 2020](#), and made deficiencies related to the witness requirement curable via an affidavit. (The settlement also extended the date that county boards would accept ballots to [5 p.m. on November 12](#), if they were postmarked on or before Election Day.) However, the rule changes that were established in the settlement and memorialized in the September Memo were halted by the temporary restraining order issued by Judge Dever in federal court and the associated October 4, 2020, guidance issued by the NCSBE. Consistent with Judge Osteen's [order](#), all aspects of the settlement *except for* the ability to cure via affidavit missing witness or assistant signatures were memorialized and adopted in the [October 17 Memo](#). The memo clarified that voters were not permitted to cure witness signatures via affidavit and that ballot spoliation was the only option for curing a missing witness signature.

[Wise v. North Carolina State Board of Elections](#), No. 5:20-cv-505 (E.D.N.C.) and **[Moore v. Circosta](#)**, No. 4:20-CV-182 (E.D.N.C.); No. 20-2104 (4th Cir. 2020) (en banc)

Plaintiffs filed two separate lawsuits in federal court on September 26, 2020, to block officials in North Carolina from enforcing the guidance set forth in the NCSBE's [September Memo](#). One [suit](#) was filed by President Trump's campaign committee and the RNC, and the other was [filed](#) by the GOP leaders of the North Carolina General Assembly.

Following the rule changes established by the September Memo, members of the [North Carolina Republican Party expressed their displeasure](#) with the settlement agreement that led to the NCSBE's September Memo, even though both Republican members of that board agreed to the settlement. The two Republican members [resigned](#) after the settlement was finalized, asserting after the fact that they had been misled about its substance.

On October 3, 2020, U.S. District Court Judge Dever granted a [temporary restraining order](#) that temporarily enjoined the NCSBE from enforcing its [September Memo](#) or any similar memoranda/policy statement.

Because of Judge Dever's October 3 [temporary restraining order](#) in this case and Judge Osteen's September 30, 2020, statement in a different case—that the guidance in the September Memo was inconsistent with Judge Dever's preliminary injunction—the NCSBE issued an [October 4 Memo](#) that temporarily suspended the notice and cure process set forth in its earlier memos, until the ongoing litigation could be resolved. Following Judge Osteen's order, the plaintiffs in *Wise* and *Moore* sought an emergency motion for an injunction, pending appeal to the U.S. Court of Appeals for the Fourth Circuit. The emergency motion sought to block the extension of the ballot receipt deadline (and the associated extension of the time to cure ballot defects). But on October 20, 2020, the Fourth Circuit [declined](#) to block the extension, in a [12-3 ruling](#) in which all 15 of the court's active judges participated.

The multiple lawsuits resulted in nearly daily changes in vote-by-mail rules for voters in North Carolina, during the 2020 early voting period. These two cases were transferred from Judge Dever to Judge Osteen and consolidated with [Democracy North Carolina v. North Carolina State Board of Elections](#). A hearing for all three cases took place on October 7, 2020.

As noted above, on October 14, 2020, Judge Osteen issued an [injunction](#), preventing the state from allowing voters to cure absentee ballots with missing witness signatures. Per Judge Osteen's order, all other cures at issue were permitted, and the extended ballot receipt deadline of November 12, 2020, remained in place. (By state statute, the ballot receipt deadline is also the deadline for cure of ballot defects.) On October 17, 2020, the NCSBE issued [guidance](#) that reestablished the notice and cure process in North Carolina as stipulated by Judge Osteen's order. Following that decision, both the Trump campaign (in *Wise v. Circosta*) and state Senate Republican Leader Thomas Moore (in *Moore v. Circosta*) applied for injunctive relief. They asked the U.S. Supreme Court to stay the Fourth Circuit order that maintained the extended deadline. On October 28, 2020, the Supreme Court, in a 5-3 decision, [denied](#) the linked applications for injunctive relief and maintained the November 12 extended deadline.

Pennsylvania Signature Verification

Due to litigation, the office of the Pennsylvania Secretary of the Commonwealth advised its county election officials *not* to reject ballots based solely on signature mismatches in the 2020 general election. Officials still verified whether ballot envelopes were *missing* a signature and rejected such ballots on that basis. The Pennsylvania Supreme Court ruled that election officials should also reject ballots if the voters failed to insert their ballots into a secrecy sleeve. Some stakeholders [estimate](#) this ruling might result in the rejection of an additional 100,000 mail-in ballots in November, but such estimates proved to be significantly overstated. After the election, multiple lawsuits challenged various county procedures related to verifying, curing, and observing voter signatures and related requirements (to write addresses and printed names), but almost all failed, and the few wins were relatively insignificant.

Relevant Laws, Policies, and Deadlines

- **Canvassing start date:** Neither processing nor tabulation of received mail-in ballots was allowed to commence before Election Day. The secretary of the commonwealth had urged the state legislature to amend the election code to add a pre-canvass deadline of 21 days before Election Day, but the legislature did not change the law.
- **Training:** No evidence of any state-issued guidance or training for the evaluation of ballot envelope signatures.
- **Comparing signatures:** Pennsylvania did not engage in signature verification or matching for absentee ballots in the 2020 general election.
 - In prior elections, Pennsylvania election officials compared the signature on the ballot envelope to the signature stored in the voter file and rejected ballots that election officials determined did not match.
 - As a result of litigation alleging a lack of statewide signature verification standards or training, Secretary of the Commonwealth Kathy Boockvar published new guidance on September 11, 2020. ([PA DoS Examination of Absentee and Mail-In Ballot Return Envelopes](#), 2020)
 - The new guidance prohibited any of the 67 county boards of elections from rejecting “returned absentee or mail-in ballots based solely on signature analysis.”
 - The guidance was challenged in court but, on [October 23, 2020](#), the Pennsylvania Supreme Court granted the secretary’s request for a declaration that counties could not reject absentee ballots based on signature comparison.
- **Ballot Requirements:**
 - The ballot envelope does not have a witness or notary requirement.
 - The ballot envelope requires a voter signature, printed name, date, and address.
 - According to the new guidance, the only causes for challenging or rejecting ballots are address discrepancies, missing signatures, duplicate ballots, or the death of the voter before the polls open on Election Day.

- The Pennsylvania [Supreme Court ruled](#) on September 17, 2020, ruled that any mail-in ballot postmarked by Election Day and received up to three days later (November 6, 2020, by 5 p.m.) must be counted. The Republican leaders of the Pennsylvania Senate [asked](#) the U.S. Supreme Court for an emergency stay of the state supreme court ruling. On October 19, 2020, in a 4-4 vote, [the Supreme Court rejected the application](#) for stay, allowing Pennsylvania to count ballots received up to three days after Election Day.
- **Notice and cure:** The state has no requirement that election officials notify voters and afford them the chance to cure any ballot defects, such as a missing signature, unless the ballot is subject to a formal ballot challenge by the representative of a party or candidate during an election board's formal canvassing process. [25 P.S. § 3146.8\(3\), \(5\) & \(6\)](#). The statute indicates that, when the ballot has undergone a formal challenge, "notice shall be given where possible to all absentee electors and mail-in electors thus challenged and to every individual who made a challenge."
 - There is also no clear prohibition against publicizing the names of voters whose ballots were rejected and, in the November 2020 election, some counties notified political parties of the names of voters whose ballots were rejected (so the parties could encourage them to cure their ballots); other counties did not, which led to some post-election litigation.
- **Poll Observers:** Pennsylvania [statutes](#) allow partisan poll watchers to observe mail ballot verification and allow public participation when overseeing ballot tabulation. For more information on election observers see the Stanford-MIT Healthy Elections Project report [Election Observer Rules and Litigation](#).

The Stanford-MIT Healthy Elections Project team reached out by phone to the Philadelphia County Elections Office (the most populous county in the state) and spoke with the Elections Compliance Specialist, on September 15, 2020. The elections specialist informed the team that, due to ongoing litigation, they were unable to discuss signature verification. The specialist said he did not believe there was any statewide guidance on assessing and comparing signatures on ballot envelopes or for training volunteers.

The Signature Matching Process and Standards

As of September 2020, Pennsylvania election officials no longer engaged in signature matching to verify a voter's identity for a ballot. According to Secretary Boockvar's [September 11 guidance](#) on signature verification, "Pennsylvania Election Code does not authorize the county board of elections to set aside returned absentee or mail-in ballots based solely on signature analysis by the county board of elections." However, there were still laws in place that addressed signatures and signature matching from before the new guidance. Those pre-existing laws did not provide any clear standards for assessment of signatures, other than to say there should be a comparison of a voter's signature with the signature on the district register ([§ 1210](#)). Election officials should also examine the ballot envelope to ensure it has been signed.

In the event a ballot was missing a signature, Secretary Boockvar [directed counties to cancel the voter's ballot](#), which would then trigger an automatic email notification to the voter (for voters with an email on file) that their ballot was cancelled and could be cured by casting a provisional ballot. However, not all counties followed the directions, and different counties managed defective ballots differently. For example, in Montgomery County, Pennsylvania, election officials did not cancel ballots but instead proactively reached out to voters `` to tell them they can come in and complete any missing information on their envelopes, request a replacement ballot, or use a provisional ballot.” In Allegheny County, election officials mailed flawed ballots back to voters without canceling or otherwise marking them in the system.

The state code regarding observers does not specifically state whether observers can observe or challenge the signature matching process, and the question became moot when signature matching no longer existed in Pennsylvania. According to Pennsylvania Election Code § 2687 and the 2008 Commonwealth of Pennsylvania document, “[Rights of Watchers, Candidates & Attorneys](#),” partisan citizen observers can have access to pre-election, Election Day, or post-election procedures in the state. Furthermore, in Section 310(c), “Any candidate, attorney or watcher present at a recount or recanvass is entitled to examine the ballots and raise objections regarding such ballots.” Counties’ boards of elections can reasonably issue regulations on the behavior and duties of observers ([25 P.S. 2687 section 417](#) (Act 2004-97); 52 Pa. Code 102.2, 102.4; 34 Pa. Code 95.52).

Rejection Rates Due to Signature Defects

In the 2020 general election, the overall rejection rate of absentee ballots in Pennsylvania was lower than it was in the 2016 general election. Though the absolute number of rejected absentee ballots increased from about 2,500 ballots in 2016 to an estimated [7,400 ballots](#) in 2020 (almost triple), the total number of absentee ballots increased from about 266,000 to over [2.6 million](#) (an increase of almost 10-fold). As of the time of writing, an official accounting of rejected mail ballots, and the number rejected for various reasons, was not publicly available.

In response to a court ruling that absentee ballots submitted without secrecy sleeves had to be rejected, the Chairwoman of Philadelphia City Commissioners expressed concern that an estimated [100,000 absentee ballots](#) might be rejected for lack of secrecy sleeve. Her fear did not materialize. While the number of absentee ballots rejected for lack of a secrecy sleeve is not public at the time of writing, the total number of ballots rejected in Pennsylvania in the 2020 general election was 7,400 ballots.

Several factors likely contributed to the reduced rejection rate of mail ballots in Pennsylvania in the 2020 general election. The secretary of the commonwealth removed the signature-matching requirement, a move [upheld](#) by the Pennsylvania Supreme Court. And publicity around the importance of including the secrecy sleeve and mailing ballots early also likely contributed.

A review of the rejection rates in Pennsylvania from the 2016 general election and 2018 Midterm reveals a few observations:

- The bulk of rejections in 2018 were due to late-arriving ballots to county election offices.
- The [rejection rate of VBM ballots in the June 2020 primary](#) was 1.7% (about 26,000 of 1,500,000 rejected ballots).
- The number of VBM ballots increased 750% from the 2018 midterm election to the June 2020 primary. This was largely due to the passage of [Act 77](#) in 2019, which expanded access to mail-in balloting by eliminating the need for an “excuse,” combined with increased voter demand for mail voting due to the pandemic.

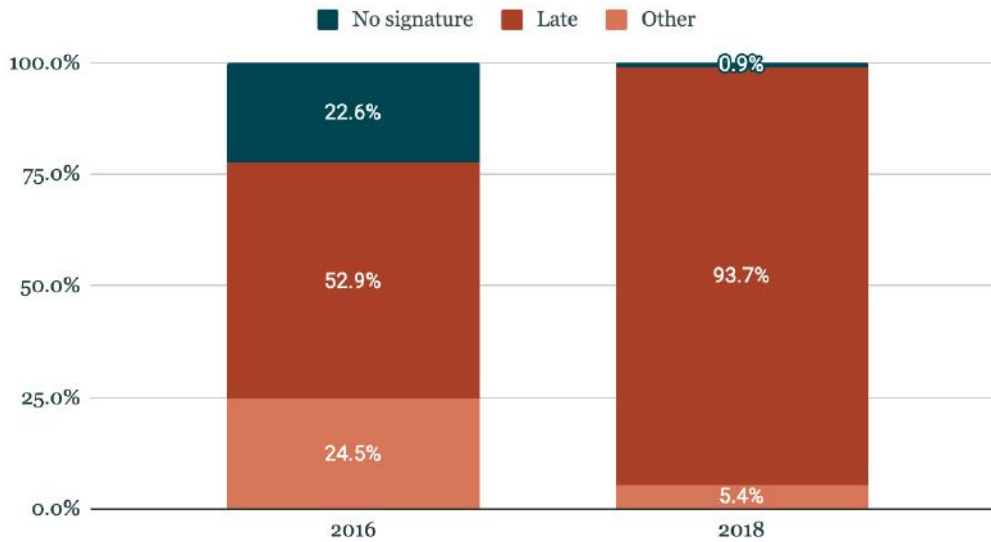
Table 10. Rejection Rates in Pennsylvania Due to Late Ballots or Missing Signatures.

	<i>Total ballots cast</i>	<i>Total VBM ballots counted</i>	<i>Total VBM ballots rejected</i>	<i>Rejected for lateness</i>	<i>Rejected for missing signature</i>
2016 General (#)	6,223,150	266,208	2,534	1,341	573
2016 General (%)		4.3%	1.0%	52.9%	22.6%
2018 Midterm (#)	5,057,630	195,953	8,714	8,162	77
2018 Midterm (%)		3.9%	4.4%	93.7%	0.9%
2020 General (#)	6,835,095 ¹	2,637,065 ¹	7,411 ²	Data Not Available	Data Not Available
2020 General (%)		38.6%	0.28%	Data Not Available	Data Not Available

(2016 and 2018 EAVS data)

¹Source: [Pennsylvania's Election Stats](#)

²Source: [Pennsylvania Early Voting Statistics](#)

Figure 7. Reason for ballot rejections in Pennsylvania 2016 and 2018.

Pennsylvania Signature Verification Litigation

Pre-Election Litigation

[*League of Women Voters of Pennsylvania v. Boockvar*](#), No. 2:20-cv-03850 (E.D. Pa.)

[*Donald J. Trump for President, Inc. v. Boockvar*](#), No. 2:20-cv-00966 (W.D. Pa.)

[*In Re: November 3, 2020, General Election*](#), No. 149 MM 2020 (Penn. Sup. Ct.)

In Pennsylvania in August 2020, the League of Women Voters of Pennsylvania [challenged](#) the state’s practice of signature matching in federal court, alleging the state failed to require any handwriting training or provide any statewide standards or guidelines to aid election officials in their signature analysis. Plaintiffs alleged violation of both equal protection and procedural due process, as well as infringement on the fundamental right to vote. Plaintiffs [dropped their lawsuit](#) after Secretary of the Commonwealth Kathy Boockvar [issued guidance](#) on September 11, 2020, prohibiting all of the state’s county boards of elections from rejecting returned absentee or mail ballots “based solely on signature analysis.”

The issue did not end there, however. In [*Trump For President v. Boockvar*](#), the Trump campaign challenged the secretary’s new guidance in federal court. The court [dismissed](#) the lawsuit on October 10, 2020, holding that Pennsylvania’s “Election Code does not impose a signature-comparison requirement for mail-in and absentee ballots” and that the lack of signature matching did not violate the due process or equal protection clauses of the U.S. Constitution.

Finally, on October 23, 2020, in response to Secretary Boockvar’s [request for declaratory relief](#), the Pennsylvania Supreme Court [unanimously held](#) that “county boards of elections are

prohibited from rejecting absentee or mail-in ballots based on signature comparison conducted by county election officials or employees, or as the result of third-party challenges based on signature analysis and comparisons.” The court explained that the state’s election code permits use of signature matching to verify in-person voters and provisional ballots but not for absentee or mail-in ballots. The court clarified, however, that absentee ballots could be rejected for the voter’s failure to sign and date the “declaration envelope” altogether.

[*Crossey v. Boockvar*](#), No. 266-MD-2020 (Penn. Commonw. Ct.)

Plaintiffs [argued](#) that Pennsylvania’s vote by mail process violated the Pennsylvania Constitution because it did not require the state to: (1) provide prepaid postage for all absentee and mail-in ballots; (2) establish emergency procedures to ensure that ballots delivered after 8 p.m. on Election Day due to mail service delays or disruptions would be counted, to the extent otherwise eligible to be counted; (3) allow voters to designate a third party to assist them in collecting and submitting absentee or mail-in ballots and ensure that all such ballots would be counted, if otherwise eligible; or (4) provide uniform guidance and training to election officials involved in verifying mail ballots and implement procedures to ensure that voters received reasonable notice and an opportunity to cure signature-related defects on absentee or mail-in ballots before any ballot was rejected.

On September 17, 2020, a state court [dismissed](#) as moot the petitioner’s request to extend the ballot receipt deadline for mail-in ballots because the court [granted](#) such an extension in *Pennsylvania Democratic Party v. Boockvar*. The court also dismissed as moot the petitioner’s request that prepaid postage be provided on mail-in ballots given that the department of state announced that it will provide funds to county election boards for postage on mail-in ballots. Finally, the court denied the petitioner’s request that voters be permitted third-party assistance with the return of mail-in ballots. The court did not order the state to provide signature verification guidance for election officials, likely because Secretary Boockvar ordered on September 11 that no county should reject ballots on the basis of handwriting analysis alone.

[*Pennsylvania Democratic Party v. Boockvar*](#), No. 407 MD 2020 (Commonwealth Ct. Pa.); No. 133 MM 2020 (Pa. Sup. Ct.)

Plaintiffs’ lawsuit, filed in July, requested (i) declaratory judgment that secure ballot drop boxes be permitted; (ii) an injunction requiring that mail-in and absentee ballots be counted if they are postmarked by 8 p.m. on Election Day (or by the deadline set by the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) for eligible voters); (iii) an injunction requiring boards to contact voters whose mail-in ballots contained facial defects and provide an opportunity to cure such defects by the UOCAVA deadline; (iv) a declaratory judgment that boards must “clothe” and count naked ballots and an injunction against boards from excluding such ballots; and, (v) a declaratory judgment that the poll watcher residency requirement does not violate the law.

On September 14, 2020, the Pennsylvania Supreme Court (i) [ruled](#) that the state election code permits drop boxes; (ii) extended the absentee and mail-in ballot received-by deadline to 5 p.m.

on November 6, 2020, if the ballot envelope was postmarked by 8 p.m. November 3, 2020; (iii) denied the plaintiffs' request that the board of elections contact individuals whose mail-in or absentee ballots contained a minor facial defect and provide them an opportunity to cure those defects; (iv) denied the request to count ballots returned without the secrecy envelope instead of invalidating them; and, (v) ruled that the poll watcher residency requirement was constitutional.

On October 19, 2020, in a 4-4 tie vote, [the U. S. Supreme Court](#) denied a petition from the Republican Party to stay the September state supreme court ruling. That denial meant the state would count mail-in ballots received up to three days after the November 2020 election. Neither side of the court explained its position.

Post-Election Litigation

[Metcalfe v. Wolf](#), No. 636 MD 2020 (Penn. Commonw. Ct.)

Eleven Pennsylvania voters filed suit in state court against the governor, the secretary of the commonwealth, and Pennsylvania's slate of Democratic presidential electors, alleging that local Democratic Party officials and the Pennsylvania Supreme Court violated numerous portions of the election code related to ballot signatures, secrecy envelopes, and poll observers. Plaintiffs sought a writ of mandamus directing the governor to withdraw the certification of the 2020 presidential election. On December 9, 2020, the court [held](#) that plaintiffs were not entitled to relief because their complaint was "an improper and untimely election contest" filed in an improper venue and within an improper time frame.

[Zicarelli v. Allegheny County Board of Elections](#), No. GD-20-11654/No. 1161 CD 2020 (Penn. Commonw. Ct.) and No. GD-20-011793/No. 1162 CD 2020 (Penn. Commonw. Ct.)

A candidate for Pennsylvania state senate appealed two decisions of the Allegheny County Board of Elections. First, the plaintiff appealed the board's decision to accept 2,349 absentee ballots containing undated or otherwise incomplete voter declarations. On November 23, 2020, the Pennsylvania Supreme Court held that the election code did not require boards of elections to disqualify mail or absentee ballots submitted by qualified voters who signed the declaration on their ballot's outer envelope but did not handwrite their name, address, and/or date. The court also held that the state election code did not require tossing out absentee ballots where no fraud or irregularity has been alleged. And the court affirmed the lower courts' decisions to count the ballots, citing Pennsylvania precedent to construe the law to save, not void, ballots.

Second, the plaintiff appealed the Allegheny County Board of Election's decision to accept 270 provisional ballots that had only one signature from the voter, instead of the requisite two. The court of appeals [prohibited](#) the 270 provisional ballots from being counted on the grounds that the plain language of the applicable statute required both a ballot signature and affidavit signature. On November 23, 2020, the Pennsylvania Supreme Court [refused to hear an appeal](#) of the case.

[*Donald J. Trump for Pres., Inc. v. Secretary of the Commonwealth of Pennsylvania*](#), No. 4:20-cv-02078 (M.D. Pa.)

The Trump campaign [alleged](#) in federal district court that the Pennsylvania Secretary of the Commonwealth and county boards of election violated the federal Elections Clause, did not allow for sufficient poll observation of absentee ballot counting, and “did not undertake any meaningful effort to prevent the casting of illegal or unreliable absentee or mail-in ballots.” It further alleged that the purported lack of uniform statewide standards for curing mistakes violated voters’ equal protection and due process rights. As a remedy, plaintiffs sought an injunction prohibiting Pennsylvania from certifying the election results statewide or, in the alternative, from including in its certification the tabulation of absentee and mail-in ballots which plaintiffs’ watchers were allegedly prevented from observing and those which some counties allegedly improperly permitted to be cured. On appeal, the Third Circuit U.S. Court of Appeals [held](#) that an injunction to undo Pennsylvania’s certification was not warranted, since “the number of ballots...challenged is far smaller than the roughly 81,000-vote margin of victory,” and that plaintiffs’ lawsuit “never claimed fraud or that any votes were cast by illegal voters.”

[*In re: Canvass of Absentee and Mail-In Ballots of November 3, 2020, General Election*](#), No. 2020-05627 (Penn. Ct. Common Pleas, Bucks Cnty.)

The Trump campaign sued in state court to overturn the five following Philadelphia County Board of Elections decisions: to count 1,211 ballots where the voter affixed their signature to the declaration envelope but provided no other information, preventing signature verification; to count 1,259 ballots where the voters did not date their signature but all other information was complete; to count 553 ballots where all the information was complete except for the voter’s printed name; to count 860 ballots missing a street address; and to count 4,466 ballots where the voters signed and dated but did not print their name and street address. The [state supreme court held](#) November 18, 2020, that the election code did not require boards of elections to disqualify absentee ballots submitted by qualified voters who signed the declaration on their ballot’s outer envelope but did not handwrite their name, their address, and/or date, where no fraud or irregularity has been alleged. It affirmed the common pleas court’s decision to count the ballots, citing Pennsylvania precedent to construe state law to save, not void, ballots.

[*Barnette v. Lawrence*](#), No. 2:20-cv-05477-PBT (E.D. Pa.)

A Republican congressional candidate alleged in federal court that Montgomery County, Pennsylvania, illegally pre-canvassed mail-in ballots and contacted some voters whose mail ballots had defects (such as a missing signature) to give them a chance to correct the problem. The plaintiff sought an order requiring election officials to discard and sequester defective ballots that were cured and to stop election officials from allowing voters to cure defects. On November 6, 2020, the U.S. district court [denied the motion](#) for a Temporary Restraining Order, saying it would not order the county to toss out ballots that initially contained errors that were later cured.

[*Hamm v. Boockvar*](#), No. 600 MD 2020 (Pa. Comm. Ct.)

Petitioners Joseph Hamm (a candidate for the Pennsylvania State House of Representatives) and Mike Kelly (a candidate for U.S. Congress), and others sought injunctive relief (i) to block Secretary Boockvar from permitting absentee and mail-in ballots that were submitted with errors to be “cured” by the submission of provisional ballots, and (ii) prohibit the state from disclosing identifying information about voters who submitted defective ballots (to prevent party and candidate representatives from reaching out to such voters to help them cure their ballots). Petitioners argued that Secretary Boockvar’s guidance allowing election officials to provide such information to parties and candidate representatives violated Pennsylvania law (25 P.S. Sec. 3146.8) and the Pennsylvania Supreme Court’s decision in *In re November 3, 2020, General Election* (Pa. Oct. 23, 2020), by allowing voters an opportunity to cure ballot defects. On November 6, 2020, the state court [granted in part and denied in part](#) the petitioners’ requests. The court ordered that all provisional ballots cast on Election Day (in cases where the voter’s absentee or mail-in ballot was timely received) be segregated and secured from other provisional ballots pending the legal determination of whether such provisional ballots are valid and may be counted.

Wisconsin Signature and Witness Requirements

Wisconsin does not have a signature matching requirement but does require the signature of [both](#) the voter and a witness, and the address of the witness.

Relevant Laws, Policies, and Deadlines

- **Canvassing Start Date:** November 3, 2020
- **Training:** Because Wisconsin does not have signature verification requirements, there is no training on this particular issue.
- **Comparing signatures:** Wisconsin **does not currently have a signature verification procedure to compare a voter's signature on a ballot envelope to a signature on record.** However, Wisconsin requires voters to sign their ballots along with a witness. The witness must also include their address information. ([Wisconsin Statute Section 6.87\(3\)](#)). Wisconsin voters and witnesses must complete all lines within each form, [as a missing address or signature is grounds for ballot rejection](#).
- The stringent witness requirements have produced at least one hotly contested lawsuit in the state, discussed in detail below.
- **Notice and Cure:** Voters are allowed to provide a corrected signature envelope until polls close at 8 p.m. on Election Day. Notice and cure practices across Wisconsin [vary widely](#). In some counties, election officials make an effort to [call every voter](#) whose ballot does not meet witness requirements and help them fix the ballot. In other counties, only a small number of ballots that failed to meet the witness requirements [were counted](#).

Witness Verification Process and Ballot Cure

Wisconsin does not engage in signature matching, but it does have a process to verify that the voter has signed the ballot envelope and has complied with the requirements of the witness form. Wisconsin absentee voters must complete their absentee ballots, [sign the ballot in front of a witness](#) who is an adult U.S. citizen, fill out an elector witness certification form, and have the witness sign that certificate to accompany the ballot. Amid the coronavirus pandemic, the Wisconsin Elections Commission [provided additional guidance](#) for securing a ballot witness while social distancing. The Commission urged voters to find a family member, mail delivery person, or grocery store employee to serve as a witness. If a certificate is missing the witness's address or signature, the ballot may not be counted.

Wisconsin statutes do not provide explicit instructions for how to verify witness certificates. The [statute indicates](#) only that, "if a municipal clerk receives an absentee ballot with an improperly completed certificate or with no certificate, the clerk may return the ballot to the elector, inside the sealed envelope when an envelope is received, together with a new envelope if necessary, whenever time permits the elector to correct the defect and return the ballot within the period

authorized under sub.” ([Wisconsin Statute Section 6.87\(9\)](#)). Wisconsin’s [statewide guidance](#) for clerks indicates that clerks should “examine the certificate envelope for sufficiency.” The guidance [further specifies](#) that clerks “should review the certificate envelopes to see if there are any deficiencies that could cause the ballot to be rejected and bundle those together for a more individualized review by the inspectors.” But the guidance does not provide any standards for judging ballot “sufficiency” and does not provide additional detail on when a ballot might be subject to “individualized review by the inspectors.”

If a municipal clerk receives an absentee ballot that fails to include all of the information required for the certificate (e.g., address, signature) or a ballot is submitted with no certificate, the clerk may return the ballot to the voter with a new envelope “whenever time permits the elector to correct the defect and return the ballot.” ([Wisconsin Statute Section 6.87\(9\)](#)).

While [Wisconsin law](#) allows for observation of the “absentee ballot voting process,” it does not specify any process for observers to watch the witness-form verification process in particular.

Rejection Rates Due to Ballot Defects

While the 2020 EAVS data is not available as of the time writing, it appears that the overall rejection rate for absentee ballots submitted by mail in Wisconsin increased slightly from 0.2% in the 2016 general election to about 0.33% in the 2020 general election. The number of rejected mailed-in absentee ballots increased from 284 in 2016 to [4,270](#) in 2020 (a 15-fold increase). The total number of mailed-in absentee ballots increased from about 139,000 to about [1.3 million](#) (a 10-fold increase). Some press reports indicate a lower rejection rate of absentee ballots in 2020 (including articles at [fivethirtyeight.com](#) and [USA Today](#)) because they include absentee ballots cast early in-person. This approach masks the higher rejection rate for absentee ballots that are cast by mail versus those cast early in-person.

As of the time of writing, the percentages of mail ballot rejections for different reasons is not publicly available. In the 2020 primary election, [60%](#) of absentee ballots rejected by Wisconsin clerks were rejected for issues related to witness certification (shown in *Table 11*).

According to an [analysis in USA Today](#) that relied on data from the Wisconsin Elections Commission, the absentee ballot rejection rates in Wisconsin (inclusive of absentee ballots cast early in person) varies depending on the month of the election. From the period 2008 to 2020, clerks rejected an average of 0.62% absentee ballots in elections that took place in *November*, but rejected between 1.4% to 2.2% of absentee ballots in elections that took place in August, April and February. According to the head of the Milwaukee Election Commission, the lower rate of ballot rejections in November elections is primarily because of how people vote. “November elections bring a surge in early voting, which is still counted as absentee but takes place in a clerk’s office with the clerk as the witness. This eliminates chances that their ballot will be rejected for an insufficient (witness) certification,” she said.

Also according to [the article](#), the rejection rate of absentee ballots in November elections has steadily dropped over time, decreasing every November except in November 2016, which was an outlier due to a change in state law. In 2016, the state legislature passed a law that required the rejection of absentee ballots that are missing the *address* of the witness. As a result, the absentee rejection rate jumped from 0.31% in November 2014 to 1.35% in November 2016. The rejection rate declined again after the election commission voted to advise clerks to fix missing address components based on “reliable information.” The guidance passed in October 2016, but too close to the November 2016 election to be widely adopted, according to a WEC spokesperson. Once clerks had time to incorporate the new guidance, she said, the November rate resumed its descent. Thus, the high rate of rejections in November 2016 is an outlier.

Table 11. Rejection Rates in Wisconsin Due to Late Ballots, Missing Signatures, or Signature Mismatches.

	<i>Total ballots cast</i>	<i>Total VBM ballots counted (excludes early in-person absentee ballots)</i>	<i>Total VBM ballots rejected</i>	<i>Rejected for lateness</i>	<i>Rejected for insufficient witness certification</i>
2016 General (#)	2,993,000	138,542	284	19	N/A
2016 General (%)		4.63%	0.2%	6.7%	N/A
2018 Midterm (#)	2,688,341	147,597	2,517	1,445	N/A
2018 Midterm (%)		5.5%	1.7%	57.4%	N/A ¹
2020 Primary (#)²	1,555,263	964,433	23,196	8,185 ³	14,042
2020 Primary (%)²		62%	2.0%	35.28%	60.55%
2020 General (#)	3,297,524 ⁴	1,300,000 ⁵	4,270 ^{6*}	1,045 ⁶	1,434 ⁶
2020 General (%)		39.4%	0.33%*	24.47%	33.58%

(2016 and 2018 EAVS data, [Wisconsin Absentee Voting Data](#))

¹ N/A indicates that no data was available for that particular datapoint.

² Source: [Wisconsin Absentee Voting Data](#)

³ Includes ballots rejected because they were postmarked after Election Day and/or received by clerks after the 4 p.m. April 13 deadline.

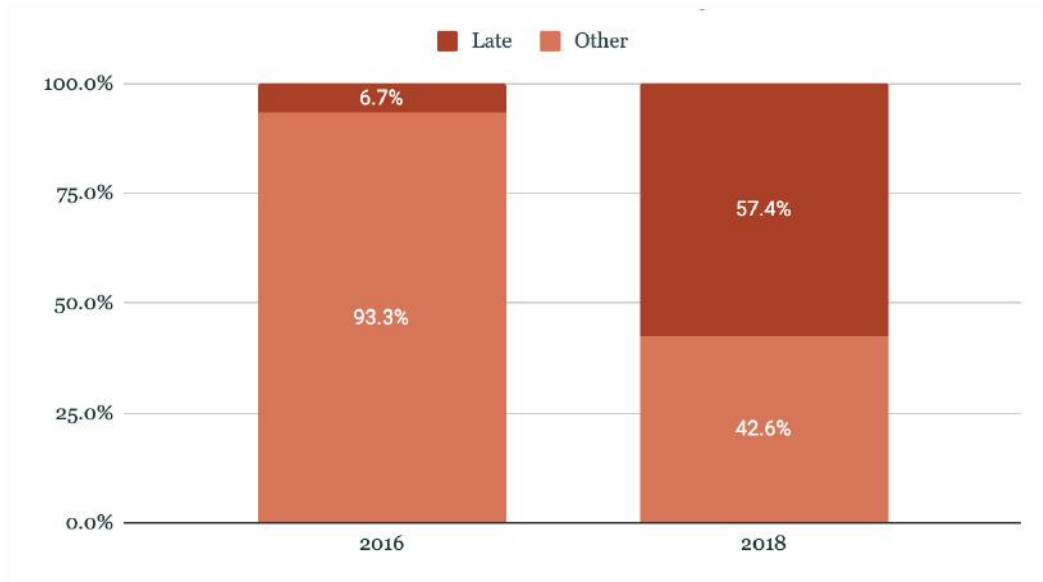
⁴ Source: [Wisconsin Voter Turnout Statistics](#)

⁵ Source: [Absentee Ballot Report - November 3, 2020 General Election](#)

⁶ Source: [Wisconsin Election Commission Election Data Report for November 3, 2020](#)

*This number includes *all* absentee ballot rejections, including early in-person ballots. Historically, almost all of the absentee ballots rejected are mailed ballots and the number of rejected early in-person absentee ballots is statistically insignificant.

Figure 8. Reason for ballot rejections in Wisconsin in 2016 and 2018 (2020 data excluded because it came from a different source).



Wisconsin's Witness Requirement Litigation

This section summarizes litigation related to Wisconsin's absentee ballot witness rules. Just as signature mismatches resulted in ballot rejections in many other states, Wisconsin's witness requirements—that all mail-in ballots be completed in front of a witness who must fill out and sign the witness forms that accompany the ballot—provided ample cause for ballot rejection. In March 2020, the Democratic National Committee initiated a lawsuit aimed at, among other things, eliminating the witness requirement amid the current coronavirus pandemic.

Pre-Election Litigation

[*DNC v. Bostelmann*](#), No. 3:20-cv-249 (W.D. Wis.), No. 20-1539, 20-1539, 20-1545, 20-1546, 20-2835 (7th Cir.)

The Democratic National Committee filed suit in federal district court, challenging numerous voting requirements related to Wisconsin elections. Among those practices, the lawsuit challenged Wisconsin's requirement that a voter must have a witness certify the veracity of the voter's identifying information. In a flurry of legal actions in the days before the primary election, a U.S. district court [ruled](#) that, in light of the pandemic, voters could cast their mail-in ballots without a witness. However, the Seventh Circuit [promptly overturned](#) that ruling, stating that the district court gave "no effect to the state's substantial interest in combating voter fraud."

Post-Election Litigation

[*Trump v. Evers*](#), No. 2020AP1971-OA (Wis. Sup. Ct.)

President Trump and Vice President Mike Pence filed a petition in the state supreme court, seeking to void Wisconsin's election certification that the Democratic ticket had won the state's electoral votes. Petitioners asked the court to reject early in-person absentee votes in Milwaukee and Dane counties, especially where absentee ballots were allegedly missing the witness's address. The Wisconsin Supreme Court [held](#) that petitioners had initiated their claim in the incorrect venue.

[*Trump v. Biden*](#), No. 2020CV007092 (Wis. Super. Ct., Milwaukee Cnty.)

The Trump campaign objected to four different categories of ballots in Dane and Milwaukee counties. One of the categories involved absentee ballots the campaign claimed were invalid because municipal officials allegedly improperly added witness information on the absentee ballot certifications. The Wisconsin Supreme Court held that the campaign was not entitled to the relief it sought. With respect to ballots challenged over witness issues, the court held that the challenge failed under the doctrine of laches. The U.S. Supreme Court [denied](#) certiorari on February 22, 2021.

[*Trump v. Wisconsin Elections Commission*](#), No. 2:20-cv-01785 (E.D. Wis.)

Plaintiff, Donald Trump, alleged that defendants, local government officials in Wisconsin, violated several election laws, including that they "eliminated state laws requiring that voters provide information on the mail-in ballot envelope," permitted election workers to alter ballots, and failed to provide adequate access for poll observers. Plaintiff claimed that the alleged conduct violated both the Elections and Electors Clauses. As a remedy, plaintiff requested that the result of the Wisconsin election be remanded to the Wisconsin state legislature. The district court held that Trump failed to prove that the WEC violated his rights under the Electors Clause. The court found that the record showed Wisconsin's presidential electors were "determined in the very manner directed by the Legislature, as required by Article II, Section 1 of the Constitution." With respect to Trump's complaint about the corrections to witness addresses, the court held that this was not a challenge to the "manner" of Wisconsin's appointment of presidential electors but rather a disagreement over election administration. The court held that Defendant WEC, in fact, conducted the election in the manner directed by the state legislature, in accordance with the Electors Clause. The Seventh Circuit [affirmed](#). The U.S. Supreme Court denied the petition for certiorari on March 8, 2021.

Conclusion

An unprecedented number of voters cast their ballots by mail in 2020, spurred on by the coronavirus pandemic. This phenomenon created a risk that a large number of absentee ballots, and a higher percentage than usual, would be rejected due to mistakes by first-time absentee ballot voters. Mistakes could include failing to procure a required witness signature and forgetting to sign their ballot envelope—or just the increased likelihood of ballots being rejected for signature mismatches as election officials scrambled to examine the dramatically increased volume of absentee ballots. In the end, as a result of many factors, including litigation, legislative action, and guidance from statewide election officials, many states were able to clarify their signature matching requirements and practices ahead of the November 2020 election and help educate voters to reduce voter errors and confusion. Several states also instituted notice and cure procedures and extended the deadline to fix ballots with deficient or missing signatures, giving voters a chance to cure ballot defects that, previously, might have resulted in their vote not counting. Despite the uncertainties stemming from legal challenges in the leadup to and aftermath of the 2020 general election, the actions that state election officials took to ensure that voters could safely and effectively cast their ballots by mail appear to have enhanced the ability of the states to successfully conduct a presidential election with record turnout despite a global pandemic.