



STATE OF MICHIGAN
 JOCELYN BENSON, SECRETARY OF STATE
 DEPARTMENT OF STATE
 LANSING

July 8, 2021

STAFF REPORT:
FAIR AND EQUAL MICHIGAN INITIATIVE PETITION

SPONSOR: Fair and Equal Michigan, P.O. Box 10030, Lansing, Michigan 48901.

DATE OF FILING: October 13, 2020.

NUMBER OF VALID SIGNATURES REQUIRED: 340,047 signatures.

TOTAL FILING: 86,608 sheets containing 468,830 signatures.

*Included in sample: 66,911 sheets containing 445,310 signatures (“the universe”).
 Excluded from sample: 19,697 sheets containing 23,520 signatures.*

	<u>Sheets</u>	<u>Signatures</u>
Defective circulator certificate (i.e., omitted or incorrect date, failure of out-of-state circulator to check box, incomplete address, etc.)	630	4,040
Jurisdiction errors (i.e., county of circulation does not align with signer entries, invalid jurisdiction entry by circulator or every signer on sheet)	244	501
Signer errors made by every signer on sheet (i.e., all signers entered date of birth or other incorrect date)	134	260
Miscellaneous (torn or mutilated sheets, etc.)	6	36
SUBTOTAL of wholly invalid “pen-and-ink” sheets	1,014	4,837
PLUS invalid electronic signatures collected via DocuSign	+ 18,683	+ 18,683
TOTAL number of wholly invalid petition sheets	19,697	23,520

The two-stage sampling process was selected for the canvass of this petition. Under the Board’s established procedures, a small sample is drawn at the first stage of approximately 500 signatures and the result of that sample determines whether there is a sufficient level of confidence in the result to immediately recommend certification or the denial of certification. If the result of the small

sample indicates a close call, a second random sample must be taken to provide a result with the maximum confidence level that can be obtained.

Here, the first-stage sample of 502 signatures was drawn from the universe of 445,310 signatures gathered on 66,911 sheets.

NUMBER OF SAMPLED SIGNATURES: 502 signatures.

SAMPLE RESULT: 337 valid signatures; 165 invalid signatures.

Valid signatures:	
Registered signers; signatures verified	337
Invalid signatures:	
Signatures determined invalid due to signer’s registration status	97
Signer address errors (jurisdiction name does not align with county of circulation, address omitted, street address given by signer does not align with jurisdiction where registered or mailing jurisdiction, or dual jurisdiction entry)	39
Miscellaneous errors (omitted, incomplete or nonmatching signatures)	19
Signer date errors ¹ (incorrect or omitted date)	10
Total:	<hr/> 502

A challenge was timely filed on June 3 by Citizens for Equality Fairness and Justice, alleging the petition contains insufficient signatures. The challenge alleges that the petition sponsor illegally gathered signatures electronically; five Fair and Equal Michigan petition circulators were investigated by the Attorney General (as part of its Unlock Michigan criminal investigation) for allegedly employing illegal tactics in gathering signatures; one petition circulator allegedly gave a false address as her “complete residence address;” and the petition contains an insufficient number of valid signatures.

Citizens for Equality Fairness and Justice challenged 173 signatures and BOE staff rejected 53 of these challenges; 117 challenges overlapped determinations of invalidity made by staff; and 3 challenges were accepted.

As of this writing, Fair and Equal Michigan has not attempted to rehabilitate any challenged signatures.

¹ In accordance with the opinion and order in *Fair and Equal MI v Benson*, Court of Claims Dkt. No. 20-000095-MM (June 10, 2020), signatures dated within 249 days of the date of filing (i.e., on or after February 7, 2020) were accepted as facially valid: “To that end, the Court will toll or suspend the statute’s 180-day signature expiration deadline for a period of 69 days, which is equal to the amount of time that residents of this state were ordered to ‘Stay at Home.’”

Under MCL 168.472a and the Board’s established procedures, a signature that is dated more than 180 days prior to the date the petition was filed is coded “ED” (early date). Here, only 2 signatures were coded invalid as “ED” (early date) for having included the signers’ dates of birth (6/29/76 and 5/20/1999).

FINAL RESULT OF SIGNATURE SAMPLE:

<u>Number of valid signatures</u>	<u>Formula Result</u>	<u>Sample Result</u>
398 or more	Certify	
370 – 397	Sample more signatures	
369 or fewer	Deny certification	337 signatures

ESTIMATED NUMBER OF VALID SIGNATURES CONTAINED ON PETITION: Based on the result of the random sample, it is estimated that the petition contains 298,943 valid signatures (at a confidence level of 100 percent²), 41,104 signatures fewer than the minimum number required by Article II, Section 9 of the Michigan Constitution.

The random sample result also indicates that the petition sponsor is 33 sampled signatures short³ of the minimum number required to draw a second sample.

STAFF RECOMMENDATION: Staff recommends that the Board **decline to certify** the petition.

Note that while the information provided in this staff report is current as of this writing, additional information may be submitted by the petition sponsor or challenger after the date of publication.

This staff report is being published on July 8, 2021, three business days prior to the July 13, 2021 meeting at which the Board of State Canvassers will consider the sufficiency of the Fair and Equal Michigan petition in accordance with MCL 168.476(3) (“At least 2 business days before the board of state canvassers meets to make a final determination on challenges to and sufficiency of a petition, the bureau of elections shall make public its staff report concerning disposition of challenges filed against the petition.”).

² A 100 percent confidence level means that there is a 100 percent chance that drawing a different sample would produce the same result.

³ The minimum number of valid sampled signatures required to draw a second stage sample is 370, which corresponds to an estimated number of 328,216 valid signatures in the entire filing. In other words, it is estimated that the entire filing contains 29,273 fewer signatures than required to draw a second sample (328,216 – 298,943 = 29,273).