STATE OF MAINE
CUMBERLAND, ss.

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

JANE GILBERT; MARK SAYRE; and KAITLIN WEBBER

Petitioners,

v.

SHENNA BELLOWS, in her official capacity as Maine Secretary of State

Respondent,

PROTECT GIRLS' SPORTS IN MAINE, a registered Ballot Question Committee,

Intervenor.

DECISION AND ORDER

INTRODUCTION

Intervenor Protect Girls' Sports in Maine, a Ballot Question Committee (the "Committee"), has appealed the Secretary of State Shenna Bellows' Revised Determination of the Validity of a Petition for Initiated Legislation dated May 26, 2026. In her decision, the Secretary of State (the "Secretary") adopted in full the Recommended Decision issued by the Presiding Officer, which recommended the invalidation of an additional 3,883 signatures and resulted in the Petition falling below the required minimum of signatures needed. The Secretary found that the Petition at issue—known as "An Act to Designate School Sports Participation and Facilities by Sex"—was invalid as it was supported by an insufficient number of valid signatures. Specifically, the Secretary found that the proponents of the Petition submitted 67,150 valid signatures,

which is 532 signatures below the 67,682 threshold required for placement on the November 2026 ballot.

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

BACKGROUND

On March 17, 2026, the Secretary issued her original Determination of Validity of the Petition for Initiated Legislation in which the Secretary found the Committee submitted 71,300 valid signatures, a total that exceeded the constitutional threshold by 3,351. *See* Me. Const. art. IV, pt.3, § 18(2). On March 27, 2026, Petitioners appealed the Secretary's decision pursuant to 21-A M.R.S.A. § 905 and M.R. Civ. P. 80C. The Committee was granted intervenor status. This initial action was briefed and decided pursuant to the expedited schedule set forth in 21-A M.R.S.A. § 905(2). On April 24, 2026, this court remanded the case to the Secretary for further proceedings, including incorporating the Secretary's identified concessions and taking new evidence, and ordered the Secretary to issue a new Determination of Validity within 30 days.

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

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

signatures collected;

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

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

The Recommended Decision included 101 findings of fact followed by legal analysis, and relevant to the Committee's present appeal, the Presiding Officer recommended (1) the invalidation of signatures collected by circulators who failed to consent to jurisdiction by the statutory deadline, (2) that such invalidation does not violate the Maine Constitution and is not "ultra vires," (3) that Maine law concerning notarial conflict of interest is not unconstitutional and necessitated invalidation of impacted signatures, and (3) the invalidation of signatures due to the use of ditto marks in the date field as expressly required by statute. R. 033351-57. Both parties filed objections to the recommendations pursuant to 5 M.R.S.A. § 9062(4).

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

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

LEGAL FRAMEWORK

The court's discussion must begin with recognizing the various constitutional rights and principles implicated in this case. The Maine Constitution grants Maine people the right to legislate by direct initiative. Me. Const. art IV, pt. 3, § 18. The Law Court has stressed the importance of such a right, declaring "the right of the people to initiate and seek to enact legislation [to be] an absolute right." *McGee v. Sec'y of State*, 2006 ME 50, ¶ 21, 896 A.2d 933. "[A]lthough the Legislature has the authority to enact laws providing for the implementation of the initiative right, any legislative implementation must respect the substance of the constitutional right." *Id.* ¶ 20; Me. Const. art IV, pt. 3, § 22. The right cannot be abridged either directly or indirectly by governmental action. *McGee*, 2006 ME 50, ¶ 21, 896 A.2d 933. Accordingly, laws governing the direct initiative process "must be liberally construed to facilitate, rather than handicap, the people's exercise of their sovereign power to legislate." *Allen v. Quinn*, 459 A.2d 1098, 1102-03 (Me. 1983).

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

Moreover, under the Maine Constitution, "[t]he Secretary of State is the constitutional officer entrusted with administering—and having expertise in—the laws pertaining to the direct initiative process." *Reed v. Sec'y of State*, 2020 ME 57, ¶ 18, 232 A.3d 202. The Secretary has been granted plenary power to investigate and determine the validity of petitions. *Me. Taxpayers Action Network*, 2002 ME 64, ¶ 12 n.8, 795 A.2d 75. When assessing the Secretary's determination of initiative petitions, the Court's review must be deferential and limited, keeping in mind the Secretary's "broad[] authority" in the context of evaluating referendum petitions. *Knutson v. Dep't of Sec'y of State*, 2008 ME 124, ¶ 20 n.7, 954 A.2d 1054; *Passadumkeag Mountain Friends v. Bd. of Envtl. Prot.*, 2014 ME 116, ¶ 12, 102 A.3d 1181.

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

agency decision has the burden of persuasion on appeal. *Anderson v. Me. Pub. Emp. Ret. Sys.*, 2009 ME 134, ¶ 3, 985 A.2d 501.

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

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

DISCUSSION

The Committee raises four challenges to the Secretary's Revised Determination of Validity. The Committee argues (1) the Secretary erred in invalidating petitions

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

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

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

In *We the People PAC v. Bellows*, the U.S. District Court for the District of Maine issued a Consent Order authorizing Maine to impose the residency and registration restrictions set forth in article IV, part 3, § 20 of the Maine Constitution only in circumstances in which the circulator fails to consent to Maine's jurisdiction. 519 F. Supp. 3d 13 (D. Me. 2021), *aff'd*, 40 F.4th 1 (1st Cir. 2022). Rather than contradict the Maine Constitution's prohibition against out-of-state circulators, the Consent Order narrows the scope of such prohibition to allow application of the constitutional provision solely to circulators who fail to consent. *See Hart v. Secretary of State*, 1998 ME 189, ¶

13, 715 A.2d 165 (holding the residency requirement constitutional as it "enhances the integrity of the initiative process by ensuring that citizen initiatives are brought by citizens of Maine"); *Jones v. Secretary of State*, 2020 ME 113, ¶ 34, 238 A.3d 982 (holding the residency requirement constitutional). As the Secretary describes, "the federal court simply tailored the scope of its injunction to those out-of-state circulators whose conduct can be properly regulated by the State: those who fail or refuse to consent to Maine's jurisdiction." SOS Br. 16. Thus, when the Secretary invalidates signatures collected by circulators who failed to consent to Maine's jurisdiction, the Secretary is "applying the Maine Constitution's existing ban on out-of-state circulators to the one subcategory of those circulators whom the federal court's injunction still permits her to regulate." *Id.*

Accordingly, the court declines to find the Secretary erred in invalidating signatures collected by out-of-state circulators who failed to consent to Maine's jurisdiction by failing to check the appropriate box on their circulator affidavits. It is undisputed that three of the circulators at issue—Kewechi Chukwuma, Albert Jordan, and Hakeem Ummsalaamah—have never consented to the jurisdiction of Maine nor did they appear at the post-remand hearing, and the court finds the record sufficiently supports the Secretary's determination that signatures collected by those named circulators should be invalidated. R. 033335-36.

Further, the court upholds the Secretary's determination that signatures collected by Cairo should be invalidated regardless of her corrected affidavit dated May 6, 2026 in which she after-the-fact consented to Maine's jurisdiction. R. 033335 ¶ 96 (citing R. 032665). The record demonstrates Cairo affirmatively decided to leave the jurisdiction box blank on her circulator affidavit due to unresolved questions about the implications of such consent. R. 033405-06; R. 033410-11; R. 033415-16. Applying the

required deference to the Secretary, the court finds no error in the Secretary's factual determination that Cairo's failure to check the jurisdictional box was a "substantive lack of agreement to those terms" based on her testimony during the hearing. R. 033352-53. Likewise, the court finds no error in the Secretary's finding that Cairo's submission to Maine's jurisdiction three months after the Petition was filed with the Secretary failed to cure the defect on her circulator affidavit. R. 033353. Though the Consent Order contains no time restriction, the Secretary relied on the statutory requirement that a circulator's affidavit be filed "with the Secretary of State at the time the petition is filed" and therefore consent to Maine's jurisdiction must occur at the time the Petition is filed. 21-A M.R.S.A. § 903-A(4).

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

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

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

Pursuant to the Consent Order, as discussed *supra*, the Secretary is enjoined from enforcing the original scope of residency and registration requirements found in

article III, part 3, § 20 of the Maine Constitution against any out-of-state circulator who consents to Maine's jurisdiction. *See* Me. Const. art. IV, pt. 3, § 20; 519 F. Supp. 3d 13, 53 (D. Me. 2021), *aff'd*, 40 F.4th 1, 20 (1st Cir. 2022). Further, as the injunction comes by order of federal court, it is undisputed that the Secretary is bound by the permanent injunction and must act in accordance with the Consent Order. *Alden v.* Maine, 527 U.S. 493, 499 (1981); *Lackey v. Stinnie*, 604 U.S. 192, 207 (2025). The court therefore declines to reach the merits of the Committee's constitutional challenge to the original scope of requirements set forth in § 20 as the Committee neither alleges, nor does the record demonstrate, that the Secretary relied on the original scope of requirements in reaching her Revised Determination of Validity nor violated the permanent injunction she is bound to follow.

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

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

First, pursuant to 21-A M.R.S.A. § 903-E(1), notaries and other notarial officers are prohibited from "administer[ing] an oath or affirmation to the circulator of a petition under section 902" if that notary is providing any other services to initiate or promote

"the direct initiative or people's vote referendum for which the petition is being circulated." In *Reed*, the Court upheld the Secretary's interpretation of § 903-E(1) as allowing for petition forms to be voided if the notary who notarized the circulator's oath on the petition had previously acted as a circulator. *Reed*, 2020 ME 57, ¶ 19, 232 A.3d 202. Here, the court finds the record supports the Secretary's determination that the 224 signatures must be invalidated on the basis that two circulators violated the conflict-of-interest requirements by performing notarial acts for the Committee after circulating petitions on behalf of the Committee. As "the Secretary of State is the constitutional officer entrusted with administering—and having expertise in—the laws pertaining to the direct initiative process," the court must defer to the Secretary's reasonable interpretation of statutes and findings of fact supported by competent record evidence. *Reed v. Sec'y of State*, 2020 ME 57, ¶ 18, 232 A.3d 202.

Second, the Committee's constitutional challenges to the conflict-of-interest statutory rule governing notarial acts are unavailing. While the court understands petition circulation involves core political speech, "states are accorded considerable leeway in the regulation of the initiative process in order to promote their legitimate state purpose" and in turn protect the integrity of the ballot initiative process. *Jones v. Sec'y of State*, 2020 ME 113, ¶ 20, 238 A.3d 982. Accordingly, petition circulation laws governing the mechanics of the electoral process do not always require application of the strict scrutiny standard, but rather, as is the case here, "when a state election law provision imposes only reasonable, nondiscriminatory restrictions on First Amendment rights, the State's important regulatory interests are generally sufficient to justify the restrictions." *Id.* ¶ 24; *see also Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983); *Burdick v. Takushi*, 504 U.S. 428, 433-34 (1992). The court finds the notarial conflict-of-interest restriction sufficiently justified by Maine's regulatory interest in maintaining

a fair and honest petition circulation process. *Goggin v. State Tax Assessor*, 2018 ME 111, ¶ 20, 191 A.3d 341 (burden of overcoming the presumption of constitutionality rests on the challenger).

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

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

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

Given the statutory prohibition of ditto marks beyond specific, permissible fields, the court declines to find the Secretary committed any error of law when she—upon

conceding such issue during the initial challenge—invalidated 39 signatures containing ditto marks in the date field. R. 033356-57. The court finds the Secretary correctly applied 21-A M.R.S.A. § 902 and 21-A M.R.S.A. § 354(4) to the submitted petitions, which together preclude a voter's use of ditto marks in the date field on initiative petitions. *Id.* Accordingly, the court upholds the Secretary's decision to invalidate signatures containing ditto marks in the date field.

V. Petitioners' Remaining Challenges

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

CONCLUSION

For the foregoing reasons, the entry is:

The Committee's appeal is DENIED.

The Secretary's Revised Determination of Validity is AFFIRMED.

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

Dated: June 11, 2026

Deborah P. Cashman
Justice, Maine Superior Court