

**IN THE THIRD JUDICIAL DISTRICT
DISTRICT COURT, SHAWNEE COUNTY, KANSAS
CIVIL DEPARTMENT**

LEAGUE OF WOMEN VOTERS OF
KANSAS, LOUD LIGHT, KANSAS
APPLESEED CENTER FOR LAW AND
JUSTICE, INC., and LOIS CURTIS CENTER,

Plaintiffs,

vs.

SCOTT SCHWAB, in his official capacity as
Kansas Secretary of State, and KRIS KOBACH,
in his official capacity as Kansas Attorney
General,

Defendants,

Case No. 2021-CV-000299

Defendants' Proposed Findings of Fact and Conclusions of Law

INTRODUCTION

This case presents a facial constitutional attack on Kansas' requirement that county election officials, subject to certain exceptions, verify the signature of any voter who casts an advance ballot by mail in order for such ballot to be counted. The Plaintiffs – League of Women Voters of Kansas (“the League”); Loud Light; Kansas Appleseed Center for Law and Justice, Inc. (“Appleseed”); and the Lois Curtis Center – contend that this signature verification requirement (“SVR”), which is grounded in K.S.A. 25-1124(h), and its implementing regulation, K.A.R. 7-36-9, violate their rights to equal protection and due process under the Kansas Constitution. Plaintiffs originally argued that the SVR also contravened their right to vote, but the Supreme Court previously affirmed the dismissal of that claim. *League of Women Voters v. Schwab*, 318 Kan. 777, 549 P.3d 363 (2024) (“*LWW II*”). The equal protection and due process

causes of action, therefore, are all that remain following the Supreme Court's remand of this case for discovery and trial.¹

Defendants Scott Schwab, in his official capacity as Secretary of State, and Kris Kobach, in his official capacity as Attorney General, insist the SVR is a lawful election administration measure that advances the State's interests in election integrity and public confidence while providing voters adequate procedural protections. They maintain that the SVR fully comports with the governing equal protection and due process standards, and that the State's experience with the SVR and accompanying regulation during the two general election cycles following the SVR's adoption underscores that there has been virtually no negative impact on Kansas voters.

The Court conducted a five-day bench trial from July 20 through July 24, 2026. The Court heard testimony from both fact and expert witnesses and received documentary evidence regarding the administration of the State's signature verification process after the SVR and its implementing regulation took effect, the procedures used by county election officials to review signatures on advance mail ballots and to provide voters an opportunity to cure signatures determined to be inconsistent with their signatures on file, the experiences of three voters whose ballots have been subject to that process, and the State's interests served by the SVR.

After considering the testimony and exhibits admitted at trial, assessing the credibility of witnesses and the weight of the evidence presented, evaluating the parties' stipulations and the arguments of counsel, and applying the applicable law, the Court concludes that Plaintiffs have not carried their burden of establishing that Kansas' SVR violates either the equal protection or

¹ Although Plaintiffs originally asserted multiple constitutional provisions in support of their equal protection cause of action, the Kansas Supreme Court, in its opinion remanding the case back to this Court, held that the equal protection claim is governed solely by Section 2 of our Constitution's Bill of Rights. The due process claim is governed by Section 18 of the Constitution's Bill of Rights. *LWW II*, 318 Kan. at 805-06.

due process guarantees of the Kansas Constitution. In rendering this conclusion, the Court makes the following Findings of Fact and Conclusions of Law.

I. Procedural History

1. The Kansas Legislature adopted the SVR as part of H.B. 2183, now codified at K.S.A. 25-1124(h), on May 3, 2021, via a gubernatorial override. The statute took effect on July 1, 2021.

2. On June 1, 2021, thirty days before the statute took effect, Plaintiffs commenced this lawsuit, asserting (among other claims no longer relevant here) a facial constitutional attack on the SVR. Plaintiffs claimed the SVR violated the Kansas Constitution's equal protection, due process, and suffrage protections.

3. This Court dismissed Plaintiffs' claims on April 11, 2022, pursuant to K.S.A. 60-212(b)(6).

4. Plaintiffs appealed that decision. Following an intermediate stop in the Court of Appeals, the Kansas Supreme Court affirmed the dismissal of Plaintiffs' suffrage claim. But it reversed the dismissal of their equal protection and due process claims and remanded those causes of action back to the district court. The Supreme Court held: "Because we are at motion to dismiss stage of the proceeding, we will not deny [Plaintiffs] their full opportunity to prove their claims as a matter of evidence in the district court. . . . [Plaintiffs] must have an opportunity to test the signature requirement against the proper legal standard: Does the signature requirement (and its implementing regulations and policies, such as those promulgated in K.A.R. 7-36-9 . . .) achieve reasonable uniformity on objective legal standards, and does it provide reasonable notice of defects and an opportunity to cure?" *LWV II*, 318 Kan. at 807.

5. On remand, the parties conducted extensive discovery, submitted cross-motions for summary judgment (which this Court denied), and ultimately presented their claims to the Court as part of a five-day bench trial in July 2026.

II. Findings of Fact

A. Kansas Advance Voting by Mail

6. Kansas law permits any registered Kansas voter to vote by advance mail ballot for any office or question on which the voter is otherwise entitled to vote. K.S.A. 25-1119(a).

7. With the exception of voters who have permanent advance voting status, a Kansas voter who wishes to vote by mail must submit an application for an advance mail ballot for each election in which the voter desires to vote via ballot. K.S.A. 25-1122.

8. Subject to an exception for voters who cannot sign due to an illness or physical disability, a voter desiring to vote by advance mail ballot must sign the application and provide identifying information prescribed by Kansas law. K.S.A. 25-1122. Kansas counties receive and accept advance ballot applications bearing digitally captured signatures. (Stip. Fact ¶ 33).

9. Kansas law provides that “[a]ny voter who has an illness or physical disability . . . and is unable to apply for or mark or transmit an advance voting ballot, or any voter who has a disability preventing the voter from signing an application or the form on the ballot envelope, may request assistance by a person who has signed a statement required by [K.S.A. 25-1124(e)] in applying for or marking an advance voting ballot, or in signing an application or the form on the ballot envelope if the voter has a disability preventing the voter from signing.” K.S.A. 25-1124(c).

10. Any Kansas registered voter with a permanent disability or illness may apply for permanent advance voting status. K.S.A. 25-1122(h). To attain such status, the voter simply must “attest” to his disability or illness. (Tr. 450). Election officials do not question the voter’s self-designation. (Tr. 830-31). Voters are taken at their word. (Tr. 831).

11. Voters with permanent advance voting status are automatically mailed an advance mail ballot without having to submit a separate application. K.S.A. 25-1122(m).

12. When mailing advance ballots to voters, the county election office also provides voters with an advance ballot envelope to use when returning the completed ballot. (Stip. Fact ¶ 37).

13. The cover of the advance ballot envelope contains instructions prescribed by the Secretary of State, as well as certain language required by K.S.A. 25-1120, 25-1121(c), and 25-1123(a), and regulatory language mandated by K.A.R. 7-36-1. (Stip. Facts ¶¶ 38-40).

14. Per K.S.A. 25-1121(c), the ballot envelope must contain the following statement after the signature block for use by a third party signing the advance ballot envelope on behalf of a voter:

My signature constitutes an affidavit that the person for whom I signed the envelope is a person who is physically unable to sign such envelope. By signing this envelope, I swear this information is true and correct, and that signing an advance ballot envelope under false pretenses shall constitute the crime of perjury.

15. Kansas election officials all testified consistently that the “physically unable to sign” language on the ballot envelope affidavit is construed broadly to encompass situations not only when a voter may be altogether unable to sign (e.g., because the voter is paralyzed), but also when a voter is simply unable to sign consistently with the signature on file for the voter in the

county election office or statewide registration database (e.g., because the voter has had a stroke or suffers from a neuromuscular disorder). (Tr. 526-29 – Fred Sherman); (Tr. 733-35 – Rich Vargo); (Tr. 764-65 – Andrew Howell); (Tr. 830-31 – Bryan Caskey).

16. After receiving an advance ballot by mail and making selections for candidates and/or questions submitted, a voter must place the ballot into the advance ballot envelope, seal the advance ballot envelope, sign the outside of the advance ballot envelope (or, if applicable, have a third party sign the envelope on the voter's behalf by executing the affidavit on the envelope), and return the ballot inside the envelope to the voter's county election office. (Stip. Fact ¶ 41).

17. A Kansas voter who casts an advance ballot by mail may use the State's online VoterView system to determine if/when the ballot has reached the county election office. The online tracker does not, however, tell the voter whether the ballot ultimately was counted. (Stip. Facts ¶¶ 42-43).

18. The evidence established that counties process returned advance ballot envelopes promptly. In Shawnee County, for example, once two reviewers determine that a signature is inconsistent, the office generally begins the notice process the same day or within 24 hours. (Tr. 758-59). Riley County likewise begins the cure process immediately after an inconsistency is identified, making a telephone call right away, mailing notice the same day, and making additional calls on the following two days. (Tr. 714-16). There was no evidence presented of any delays by county election offices in processing advance mail ballots upon receipt.

B. Kansas' Signature Verification Requirement

19. Before 2021, Kansas law did not specifically require county election officials to conduct signature verification on advance ballots returned by mail. (Stip. Fact ¶ 44).

20. This absence of a statewide signature verification mandate before 2021 did not mean that counties uniformly refrained from reviewing signatures. Bryan Caskey, who has served as Kansas' Director of Elections for more than a decade, testified that some counties began reviewing signatures on advance ballot applications and ballot envelopes in the early 2000s, while other counties did not. (Tr. 819-20). He described the pre-2021 system as the "wild, wild west of pre-signature verification." The State had no oversight over the signature review practices that individual counties chose to employ, there were no consistent statewide procedures governing those reviews, and there was no statewide cure process. (Tr. 820-21).

21. In 2021, the Kansas Legislature enacted K.S.A. 25-1124(h), requiring county election officials, subject to statutory exceptions, to verify the signature on an advance mail ballot envelope against signatures maintained in the voter's registration records. (Stip. Fact ¶ 14).

22. The Secretary of State thereafter promulgated K.A.R. 7-36-9 to establish standards and procedures governing signature verification. A temporary version of the regulation became effective May 26, 2022, and the permanent regulation became effective September 23, 2022. The 2022 general election was the first statewide general election in which both K.S.A. 25-1124(h) and K.A.R. 7-36-9 were in effect. (Stip. Facts ¶¶ 15-17).

23. The 2021 statute and implementing regulation, therefore, fundamentally changed signature verification in connection with advance mail ballots in Kansas. K.S.A. 25-1124(h) made signature verification a statewide requirement, while K.A.R. 7-36-9 established common

standards and procedures governing how counties perform that review.

C. Standards Governing Signature Review and Exercise of Judgment

24. In conducting the signature verification process on advance mail ballots, election officials are guided by K.A.R. 7-36-9. Pursuant to K.A.R. 7-36-9(b), upon receiving a voter's advance mail ballot at the county election office, election officials must compare the voter's signature on the advance mail ballot envelope with any signatures on file for such voter in the county's voter registration records to determine whether the signatures match.

25. The regulation requires that election officials compare the voter's ballot envelope signature to any and all signatures that may exist in the voter registration database. K.A.R. 7-36-9(g)(1).

26. Trial testimony established that voter records may contain signatures from many sources. Shawnee County Election Commissioner Andrew Howell testified, for example, that comparator signatures commonly originate from voter registration forms submitted on paper or electronically through the Department of Motor Vehicles. (Tr. 746-47). If additional comparison is necessary, Shawnee County may consult signatures from advance ballot applications, prior mail ballot records, and poll books. (Tr. 747-48).

27. Former Johnson County Election Commissioner Fred Sherman similarly testified that his county scans virtually every signed document received from a voter to help ensure that multiple signatures are available for comparison when necessary. The only signatures that are not scanned in Johnson County are those that may be "bad" or "improper" (e.g., signatures that have been rejected as mismatched following the review process, or applications that are not processed because they arrived after the deadline). (Tr. 421-22, 431-34, 516-17).

28. Mr. Sherman further noted that Johnson County has more signature exemplars for many voters than other counties because of the unusually large number of all-mail-ballot elections conducted in that county. During his brief five years working in the Johnson County Election Office, the county conducted approximately 20 or more special all-mail-ballot elections. Johnson County thus has considerably more elections and more opportunities to obtain signed voter documents. Indeed, Mr. Sherman testified that almost every Johnson County voter had received a mail ballot in a special election at some point during his tenure. (Tr. 513-15).

29. Meanwhile, Caskey testified that the Secretary of State's Office instructs counties to place every voter signature they can capture into the statewide voter-registration system. (Tr. 790-91, 804).

30. The regulation directs that any signature submitted by the voter that is a "match" – defined in K.A.R. 7-36-9(a)(4) as a signature that is "generally uniform and consistent with the voter's signature in the voter registration database" – must be accepted. Conversely, a signature is "inconsistent" if it "differs in multiple, significant, or obvious respects from the voter's signature in the voter registration database." K.A.R. 7-36-9(a)(2).

31. An advance mail ballot signature may not be deemed "inconsistent" based on the judgment of a single reviewer. Rather, K.A.R. 7-36-9(g)(4) requires agreement by at least two election officials who have received the Secretary of State-approved training before a signature may be deemed inconsistent.

32. Although the governing regulation defines when a signature is a "match" or "inconsistent," application of those standards necessarily requires election officials to compare the ballot envelope signature with the available exemplars and exercise judgment concerning the

nature and significance of any differences.

33. If at least two county election officials agree the signature on a ballot envelope is “inconsistent” with the signatures in a voter’s registration file, the ballot is not rejected at that point. Indeed, the determination that a signature is “inconsistent” is not itself a determination that the ballot was signed by someone other than the voter. Rather, it identifies a discrepancy requiring additional procedures before the ballot may be counted.

34. In such circumstances, election officials must undertake a series of highly detailed procedures to attempt to inform the voter of the inconsistent signature and to provide the voter with an opportunity to “cure” the inconsistent signature. See K.A.R. 7-36-9(b)-(e). If the voter successfully cures the discrepancy, the ballot is counted. (Stip. Fact ¶ 62).

35. County officials who testified at trial described procedures consistent with that regulatory requirement. In Riley County, an initial reviewer who questions a signature obtains review by a second individual; only if the two reviewers agree that the signature is inconsistent does the cure process begin, with further review available when the determination is unclear. (Tr. 728-29, 736-37). Similarly, in Shawnee County, one reviewer must first identify a signature inconsistency and a second reviewer must independently agree before the ballot enters the cure process rather than being counted at the outset. (Tr. 756, 758-59).

36. As the largest county in the state, with exponentially more ballots voted by mail than any other Kansas county, Johnson County employed even more layers of review during Mr. Sherman’s time in office. An initial reviewer first examined the mail ballot envelope signature. If that reviewer questioned the signature, a supervising judge conducted a more detailed review of the signature and other exemplars in the voter’s file. If the supervising judge likewise determined

the signature to be inconsistent with the signatures on file, three additional staff members would independently review it, with the determination as to the consistency of the signature made by majority agreement. Under that procedure, at least four individuals had to deem the signature inconsistent before the cure process would even be triggered rather than the ballot simply counted. (Tr. 426-30; 513-14; Stip. Fact ¶¶ 78-81).

37. K.S.A. 25-1124(h) and K.A.R. 7-36-9 also contain an exception for voters whose disability or illness prevents them from signing the ballot envelope or from providing a signature consistent with their signature(s) on file in the county election office. For such voters, a third party may sign the ballot envelope on the voter's behalf, thereby negating the obligation of the voter to produce a consistent signature. (Tr. 733-35 – Vargo; Tr. 764-65 – Howell; Tr. 490-91 – Sherman). In other words, an advance mail ballot envelope that has been signed by a third-party assister is not subject to the signature verification requirement. (Stip. Fact ¶ 83).

38. Although K.A.R. 7-36-9 does not prescribe a numerical formula for determining whether differences between signatures are sufficiently significant to warrant further review, the trial evidence established that election officials do not merely make unguided determinations about whether signatures look alike. Instead, they apply the regulatory standard in K.A.R. 7-36-9, together with the training approved by the Secretary of State, to identifiable characteristics of the signatures being compared.

39. Election Director Caskey testified that the standard established by K.A.R. 7-36-9 is intentionally not a strict matching standard. As he pointed out, every person's signature varies and the number of comparator signatures available for a particular voter likewise varies. Some voters may have only a few signatures available for comparison, while others may have 30.

Election officials therefore must take a holistic view of the ballot envelope signature rather than requiring an exact or mechanical correspondence between particular characteristics. That is why, he noted, the regulation specifically defines a “match” as “generally uniform and consistent” with the exemplar signature instead of a more definitive and demanding criterion. (Tr. 829-30).

40. The Court credits Caskey’s explanation of the governing regulatory standard. The regulation confirms that a perfect match is not required. A signature must be accepted if it is “generally uniform and consistent” with any signature in the voter’s registration records, while further action is warranted only if the ballot envelope signature differs in “multiple, significant, or obvious respects.” The absence of a numerical formula reflects the nature of the task rather than the absence of a standard. This standard expressly accommodates ordinary variation among a voter’s signatures rather than treating every discernible difference as grounds for questioning the ballot.

41. The county election officials’ testimony was consistent with that of Mr. Caskey. Riley County Clerk Rich Vargo explained that reviewers examine identifiable characteristics including how letters are crossed or dotted, the slant of letters, and how a signature begins and ends. Reviewers make the ultimate assessment based on those characteristics and the training they have received from the Secretary of State’s Office. Vargo further testified that Riley County reviewers begin with the presumption that the signatures are consistent. (Tr. 698-702, 729-30).

42. Former Johnson County Election Commissioner Fred Sherman likewise testified that signature review is not a “linear bingo-keep scorecard type of process.” Rather, reviewers consider the totality of the ballot envelope signature in comparison with the available signatures in the voter’s record. Among the identifiable characteristics reviewers consider are the slant of

the writing, the size of loops, pen marks, and other conscious and unconscious movements reflected in a person's signature. (Tr. 437-38). Although Sherman acknowledged that the process involves both qualitative and quantitative judgment, he emphasized that the match determination is based upon the signature as a whole rather than a mechanical tally of individual differences. (Tr. 437-38, 499-500).

43. Indeed, when Sherman was questioned further about what the language of K.A.R. 7-36-9 communicates to reviewers, he testified that the regulation contemplates meaningful, rather than trivial, dissimilarities before a signature is deemed inconsistent. He described the standard as calling for “obvious and grotesque dissimilarities” between the signatures being compared before the cure process is implicated. (Tr. 500).

44. The evidence further established that counties entrust signature review to trained and generally experienced election personnel. In Shawnee County, for example, Andrew Howell testified his office typically uses reviewers with “many years of experience.” The two employees who manage the department responsible for signature review have been doing so for approximately ten years, while another employee has around 28-30 years of experience. New reviewers work alongside experienced personnel, and management verifies that they understand and follow the required training. (Tr. 760, 767-68). In Johnson County, signature review is similarly performed by a recurring pool of roughly twelve highly experienced officials. (Tr. 496-97).

45. Defendants’ election administration expert, Lonna Atkeson, persuasively testified that guided judgment is common throughout election administration and the possibility that two election officials might occasionally reach different conclusions while applying the same

objective criteria does not mean the governing standard itself lacks objective guidance. The Court agrees with Ms. Atkeson that K.A.R. 7-36-9 provides meaningful guidance to Kansas election officials and is comparable in that respect to standards used in most other states. (Tr. 582-83).

46. The Court finds that the fact that trained election officials must exercise judgment in applying criteria in K.A.R. 7-36-9 does not render such criteria arbitrary or overly subjective. The relevant distinction is between guided judgment applied to observable characteristics and unfettered discretion unmoored from any governing standard. The regulation supplies the governing standard. The training approved by the Secretary of State, in turn, provides instruction concerning the characteristics to be examined. And the regulatory mandate that multiple trained reviewers must agree before an inconsistency determination may trigger the cure process further safeguards against arbitrary determinations.

47. Nothing in the trial evidence persuaded the Court that an objective standard must be reducible to a mathematical formula or require every decisionmaker, in every conceivable circumstance, to reach the identical conclusion. The evidence instead demonstrated that signature review necessarily involves the application of common criteria to signatures that naturally vary from person to person and, for the same person, from signature to signature.

48. Moreover, as described in greater detail below, the practical operation of the SVR is reflected in the extremely small number of ballots that have been rejected due to an uncured signature mismatch since the new regulatory requirement went into effect. In the 2022 General Election – the first general election conducted under the challenged statute and regulation, there were 131,204 advance mail ballots cast and counted statewide. Only 130 were rejected because

of a signature inconsistency. In the 2024 General Election, there were 148,138 advance mail ballots cast and counted statewide, and just 94 were ultimately rejected for that reason. (DX1; DX2; Stip. Facts ¶¶ 108-109). These figures represent less than one-tenth of one percent of all advance mail ballots in those two elections.

49. In sum, the Court finds that K.A.R. 7-36-9 establishes identifiable criteria governing the signature review process for advance mail ballots and is capable of objective application notwithstanding the exercise of human judgment inherent in applying those criteria to individual signatures.

D. Training Provided to County Election Officials

50. Kansas does not leave county election officials to determine for themselves how to conduct signature review. The governing regulation requires that, before performing signature verification, a county election official must complete training approved by the Secretary of State on procedures to determine whether a voter's signature is consistent with the signature on file in the county's voter registration records. K.A.R. 7-36-9(f).

51. The Secretary of State also provides counties with training materials addressing the signature review process and the characteristics reviewers should consider when comparing a ballot-envelope signature with signatures contained in the voter's registration records. (PX86; PX87; Stip. Fact ¶ 50).

52. Mr. Caskey testified that he personally selected the signature verification training used by the Secretary of State's Office after consulting with and reviewing training practices from several states with substantially greater experience administering mail ballot elections, including Colorado, California, Oregon, and Washington. After reviewing those states' training

materials and videos, Caskey concluded that Oregon's training best fit what Kansas was trying to accomplish with its signature review process. (Tr. 827-28). He explained that the purpose of the training was to expose county election officials to the ways in which genuine signatures may vary and to provide practical instruction from a trainer in a state with extensive experience reviewing millions of signatures. The training was designed to establish a common baseline for every person conducting signature review by demonstrating the differences that typically appear in signatures and what reviewers should be looking for. (Tr. 833-34).

53. Although the original training contained a reference to Oregon's legal standard, Caskey testified that when the video was presented to Kansas election officials at statewide conferences, he expressly advised them that the referenced standard was Oregon's and "not the Kansas standard." (Tr. 828).

54. County election officials confirmed that this training is incorporated into their actual review procedures. Howell testified that Shawnee County requires every election official who participates in signature review to complete the training before performing such work. When a new person undergoes this training, a member of the management team will sit with that individual to verify that he/she is understanding it. (Tr. 760-61, 767-68). Riley County reviewers likewise conduct their comparisons based on the training provided by the Secretary's Office. (Tr. 698-702, 729-30). The same is true of Johnson County election officials. (Tr. 469-70). While the Secretary of State issues training that serves as a common baseline for counties across the State, counties remain free to supplement that training as well. (Tr. 470-74; Tr. 719-20).

55. The Court finds that the training requirement reinforces the objective framework established by K.A.R. 7-36-9. Reviewers statewide are not simply instructed to decide whether

two signatures “look alike.” They receive common instruction concerning the characteristics relevant to the comparison and then apply that instruction within the regulatory framework. The combination of a statewide governing standard, State-approved training, experienced election personnel, and multiple reviewer requirement provides substantial protection against arbitrary or idiosyncratic decisionmaking.

E. The Cure Process

56. As noted, a determination that a ballot envelope signature is “inconsistent” with the voter’s signature on file does not result in immediate rejection of the ballot. Rather, it triggers the cure process prescribed by K.A.R. 7-36-9(b)(2)-(e). County election officials must attempt to notify the voter of the inconsistency and provide the voter with an opportunity to verify his/her identity and cure the discrepancy before the county canvass.

57. The regulation requires multiple attempts to contact the voter. If a telephone number is reasonably available, the county must attempt to contact the voter by telephone at least three times. Unless it is unnecessary because of a prior telephonic contact with the voter, the county must also send the voter written notice, by first-class mail, informing him/her of the apparent signature inconsistency with instructions on how to verify his/her identity. (Stip. Facts ¶¶ 94-95).

58. In addition to phone and first-class mail, county election officials may use any other means, including electronic mail or a personal visit to a voter’s residence, to contact the voter about the voter’s apparently inconsistent signature. (Stip. Fact ¶ 96).

59. County election officials are directed to record each contact by phone with the date, time, and phone number for each call as well as whether instructions for curing an

apparently inconsistent signature were left by voice mail, by conversation with the voter, or by conversation with another individual. (Stip. Fact ¶ 100)

60. County election officials are directed to record each contact by mail by notating the date the letter was sent, the address to which the letter was sent, and a copy of the letter that was sent. (Stip. Fact ¶ 101).

61. County election officials are directed to record each contact by other means by providing a general description of the means of voter contact. (Stip. Fact ¶ 102).

62. A voter's signature on a ballot envelope that has been deemed "inconsistent" with the voter's signature on file in the county voter registration records may be cured by providing an updated signature consistent with the signature on file at any time until the commencement of the county board of canvassers. (Stip. Fact ¶ 97). If the voter successfully cures the discrepancy, the ballot is counted.

63. The trial testimony demonstrated that counties do not treat those requirements as merely formal obligations. In Riley County, Vargo testified that once an inconsistent signature is identified, his office acts "immediately" by calling the voter right away, mailing a letter to the voter the same day, and making additional calls during the next two days as necessary. (Tr. 714-16). In Shawnee County, Howell similarly testified that the notice process ordinarily begins the same day or within 24 hours after the required reviewers agree that the signature is inconsistent. (Tr. 758-59).

64. K.A.R. 7-36-9 does not prescribe a single exclusive method by which every voter must cure an inconsistent signature. Instead, Kansas counties use a variety of practical methods to permit voters to verify their identity and provide an updated signature. Curing generally can be

accomplished in person at the county election office, or via U.S. mail, e-mail, fax, or (in rare circumstances involving smaller counties) a personal home visit by an election official. (Tr. 714-16 – Riley County; Tr. 758-59 – Shawnee County; Tr. 462-68, 521-25 – Johnson County; Stip. Facts ¶¶ 104-105).

65. Johnson County has historically relied more heavily on in-person curing given its size. Sherman testified that during his tenure the County’s “general practice” was to have a voter appear at the election office, verify the voter’s identity, and sign in person. But he emphasized this was a general or preferred practice, not necessarily the only means by which a cure could occur. (Tr. 462-63, 466-68). Indeed, he acknowledged that county records identified multiple voters who were unable to appear in person but nevertheless cured by mailing a new signature card to the election office. (Tr. 523-25); see also PX12 at 33077 (Margaret R. Rhodes); PX12 at 33229 (Caroline Leatrice O’Keefe); PX12 at 33238 (Megan Delaney Splichal); PX12 at 33252 (Caroline Grace Shewmaker).

66. Moreover, the parties stipulated that after Mr. Sherman’s departure in December 2025, the new Johnson County Election Commissioner, Connie Schmidt, announced that the county was adopting a special accommodation for disabled voters in connection with the curing process. “In particular, if – during the cure process, after being contacted by a county election official about the voter’s opportunity to cure – a voter specifically advises the election office that he/she is physically unable to come into the office to cure a signature mismatch as a result of a disability, the election office will accommodate the voter by allowing him/her to submit an updated signature card electronically (e.g., via e-mail, fax, text) and thereby cure any signature mismatch. The office will also allow the voter to mail in an updated signature card.” (Dkt. Index

336, ¶ 7); *see also* Tr. 832-33 (Caskey testimony on the change in policy in Johnson County).²

67. As Mr. Caskey, who was largely responsible for drafting the cure procedures in K.A.R. 7-36-9, explained, part of the purpose in adopting such broad and flexible cure provisions was to provide a uniform process that every county had to follow and to ensure that, any time a voter's signature is flagged as a potential mismatch, that voter has ample opportunity to cure it and have his/her ballot counted. (Tr. 822).

68. The Court finds that the cure process constitutes a substantial safeguard against the possibility that an otherwise valid ballot will ultimately go uncounted because of an initial signature comparison determination. The process affords the voter multiple forms of prompt notice, multiple avenues for contact, and a full opportunity to resolve the discrepancy before the ballot is finally rejected.

F. The Actual Operation and Outcomes of the SVR

69. The actual results under the challenged system demonstrate that final rejection of advance mail ballots because of an uncured signature inconsistency is exceedingly rare.

70. In the 2022 General Election, the first statewide general election conducted under both K.S.A. 25-1124(h) and K.A.R. 7-36-9, Kansas voters cast and counted 131,204 advance mail ballots. Only 130 ballots statewide were ultimately not counted because of an uncured signature mismatch. (DX1; Stip. Fact ¶ 108). In other words, less than 1/10 of one-percent of all mail ballots in the State were rejected due to an uncured signature mismatch during that election.

² Another procedural change made by Ms. Schmidt after taking over as Johnson County Election Commissioner, which brought that county into conformity with other counties in the State, was to require ballots to be cured in cases where one voter residing in the same household inadvertently signs the ballot envelope of another voter residing at that same address (a scenario referred to as a "household swap"). (Dkt. Index # 336, ¶ 6). No longer will Johnson County deviate from other counties by seeking to cure the discrepancy on its own. (Tr. 558-60).

71. The numbers were even smaller in the 2024 General Election. Although the number of advance mail ballots cast and counted increased to 148,138, the number ultimately rejected because of an uncured signature mismatch declined to 94. (DX2; Stip. Fact ¶ 109). In other words, less than 7/100 of one-percent of all mail ballots in the State were rejected due to an uncured signature mismatch.

72. The county-specific evidence presented at trial reflects the same extremely low numbers. Johnson County (the State's most populous county) reported 35,387 advance mail ballots cast and counted in 2022, with only 37 rejected due to an uncured signature mismatch. In 2024, the number of advance mail ballots cast and counted in Johnson County increased to 47,065, while the number ultimately rejected for a signature mismatch declined to 12. (DX1; DX2).

73. The figures were smaller still in Shawnee County. Of 7,676 advance mail ballots cast and counted in 2022, only four were rejected based on an uncured signature mismatch. In 2024, Shawnee County counted 7,056 advance mail ballots and rejected only one because of an uncured signature mismatch. (DX1; DX2).

74. Riley County likewise reported only two advance mail ballots rejected because of an uncured signature mismatch in 2022, out of 1,714 advance mail ballots cast and counted. In 2024, meanwhile, Riley County counted 1,795 advance mail ballots and reported not a single ballot rejected because of a signature inconsistency. (DX1; DX2).

75. Nor were these three counties in any way aberrational. DX1 and DX2 show that the overwhelming majority of Kansas counties reported zero ballots rejected due to an uncured signature mismatch. Indeed, in 2022, 88 of Kansas' 105 counties reported zero such rejections;

in 2024, 97 of the State's 105 counties did so.

76. Furthermore, the fact that a particular ballot was ultimately not cured does not suggest the voter lacked an opportunity to cure. Election officials testified that voters may elect not to complete the cure process for reasons unrelated to their ability to do so. Sherman explained, for example, that in his experience, voters may decide that curing is no longer worth the effort because the election results have already been announced and a single voter could not affect the outcome. (Tr. 511-12). Johnson County's provisional ballot report, which summarizes discussions with voters offered an opportunity to cure, confirms this point. (Tr. 521-22; PX12 at 163). Other voters affirmatively opt not to cure for reasons related to geography, personal schedules, and lifestyle. (Tr. 511-12). Vargo testified similarly. (Tr. 732). As Caskey noted, election officials can provide voters every reasonable *opportunity* to cure, but they cannot *compel* voters to complete the cure process. (Tr. 835).

77. The Court finds that the actual operation of Kansas' SVR has resulted in an extraordinarily low incidence of ballots being excluded because of an uncured signature inconsistency. That conclusion is not based merely on statewide aggregation. It is also reflected across counties of materially different sizes and election administration structures and in the fact that most Kansas counties reported no such rejected ballots at all in either 2022 or 2024. Nor does the small number of uncured ballots establish that those voters were denied a meaningful opportunity to cure; the evidence showed that some voters simply elect not to pursue the cure process despite having been afforded the opportunity to do so. Viewed as a whole, Plaintiffs have presented no evidence that the SVR operates as a system that routinely or systematically prevents qualified Kansas voters from having their advance mail ballots counted.

G. Plaintiffs' Evidence of Alleged Nonuniformity

78. Plaintiffs contend that, notwithstanding the statewide regulatory framework in K.A.R. 7-36-9, the SVR is incapable of generally uniform application because county election officials exercise judgment in comparing signatures, some counties' practices vary in certain administrative respects, and the number of ballots ultimately rejected because of an uncured signature inconsistency differs among counties. The Court has considered those arguments based on the evidence admitted at trial.

79. Plaintiffs' expert, Dr. Kenneth Mayer, presented no quantitative comparisons of county-level rejection rates to demonstrate any county-to-county disparities. (Tr. 352-53). He further acknowledged that none of the opinions he offered at trial were based on the actual number or percentage of Kansas advance mail ballots that were flagged, cured, counted, or ultimately rejected because of an inconsistent signature. (Tr. 355). The Court, therefore, gives no weight to any suggestion that his testimony provides quantitative or empirical proof of any systemic nonuniformity in the actual operation of Kansas' SVR.

80. Although evidence at trial showed minor (and generally insignificant) differences in how some counties administer certain details of the signature review and cure processes – e.g., the means by which voters may submit an updated signature during the cure process – those differences operate within the common statewide framework. Each county applies K.A.R. 7-36-9, each must use trained reviewers, each must have at least two trained reviewers agree before a signature may be deemed inconsistent, and each affords every voter whose signature is deemed inconsistent an opportunity to cure before the ballot is finally rejected.

81. Moreover, the fact that some counties may have different numbers of comparator signatures available for certain voters does not necessarily reflect any difference in county policy or administration of the SVR. The number of signatures available for a particular voter depends on the voter's individual history and interactions with election officials, including how long the voter has been registered, whether and how frequently the voter has applied to vote by advance mail ballot, and the amount of other signed election records the voter might have generated. As discussed above, exemplar signatures typically originate from voter registration records, advance mail ballot applications, prior mail ballot records (which exist in far greater numbers in Johnson County, for example, due to the frequent use of all-mail ballot elections by the myriad election districts in that county), poll books, and other signed documents. It is only natural that a newly registered voter will have had fewer opportunities to generate such records than a voter with a lengthy history of voting by mail.

82. Dr. Mayer himself acknowledged that differences among counties may simply reflect the practical realities of administering elections in jurisdictions of dramatically different size. For example, he agreed that it would be difficult to expect a county the size of Johnson County to send election personnel to the residence of every voter requiring assistance, even though a smaller county may be able to provide such individualized service. (Tr. 392-93). The existence of different administrative means for accomplishing the same regulatory objective does not itself establish that counties apply different substantive standards.

83. Nor does the fact that counties report different raw numbers or percentages of uncured signature mismatches establish that they are applying different standards. Although the number of ballots rejected on this basis is minuscule anyway, the final rejection figures do not

reveal how many signatures were initially questioned, how many voters successfully cured, why particular voters chose not to cure, the nature of the signatures reviewed, or the number and quality of comparator signatures available in a particular voter's file. The ultimate number of uncured ballots may also depend upon voter behavior after notice is provided.

84. The limitations of Dr. Mayer's opinions extended beyond his failure to provide any quantitative analyses. Dr. Mayer conceded that he did not interview any Kansas election officials concerning how the SVR is administered. Nor did he speak with any Kansas voters concerning the alleged burdens associated with curing a questioned signature. His understanding of the SVR administration, therefore, was derived entirely from documents supplied through Plaintiffs' counsel. (Tr. 363, 383-84). The Court finds these limitations greatly diminish the weight of his generalized opinions concerning how Kansas election officials administer the SVR and how Kansas voters experience the process.

85. Dr. Mayer also agreed that requiring a mail voter to sign the ballot is not itself a burden and is a nearly universal feature of mail voting. He acknowledged that once a voter signs and returns the ballot, a voter whose signature is accepted during the initial review experiences no additional burden attributable to the SVR. The additional burden he identifies, therefore, applies only to the extremely small subset of voters whose signatures are initially questioned and who must participate in the cure process (a subset that Plaintiffs never quantified). (Tr. 360-62).

86. The Court finds that any alleged burden associated with curing an apparently inconsistent signature is minimal. As described above, a voter whose signature is deemed to be a mismatch is not required to re-register, cast another ballot, or prove that the questioned signature is genuine through any forensic or similarly demanding process. The voter need only confirm

his/her identity by providing an updated signature. Counties permit voters to accomplish that task through a wide variety of means – none of which are unreasonable or overly taxing on the voter – and voters are given ample time to do so. On the evidence presented at trial, the Court finds that the cure process imposes no more than a trivial administrative burden upon the quite small number of voters who are even required to undertake it.

87. The Court also finds Dr. Mayer's use of the term "error rate" quite unhelpful and misleading in evaluating the operation of the SVR. Dr. Mayer characterized an initial determination that a signature is inconsistent as an "error" whenever the voter subsequently cures the discrepancy and the ballot is counted. He admitted, however, that his definition of "error" does not correspond with whether a qualified voter ultimately succeeds in casting a counted ballot. (Tr. 384-86).

88. Indeed, when presented with a hypothetical county in which only two ballots were initially flagged and both voters subsequently cured their signatures (and thus had their ballots counted), Dr. Mayer agreed that his terminology would characterize the county as having a 100% "error rate," even though 100% of the qualified voters ultimately had their ballots counted. (Tr. 384-86). The Court finds that his characterization provides little useful information concerning whether the SVR has caused qualified voters to lose their votes and tends instead to conflate an initial mere request for additional verification with an ultimate erroneous rejection.

89. Dr. Mayer likewise could not establish that the small number of ballots ultimately rejected for uncured signature mismatches represented ballots that had been legitimately signed by the registered voters. He made no effort to compare the ballot envelope signatures to the voters' comparator signatures and conceded that he was not offering an opinion as to whether

any Kansas election official had incorrectly evaluated a particular signature. (Tr. 364-65). Nor, he added, could he determine, without further investigation, whether any of the 130 mail ballots rejected in 2022 or 94 mail ballots rejected in 2024 involved attempted voting by someone other than the registered voter. (Tr. 365).

90. As for Dr. Mayer's opinions on excessive subjectivity, although he criticized the SVR because application of terms such as "multiple," "significant," and "obvious" necessarily involves some degree of judgment, he acknowledged that judgment and discretion are ordinary and unavoidable features of election administration. He agreed that local election officials and poll workers almost universally must exercise discretion, that it is impossible to draft rules covering every conceivable election administration contingency, and that the mere presence of judgment does not automatically render an election process invalid. (Tr. 382-83).

91. Dr. Mayer also recognized the legitimacy of the governmental interests served by preventive election safeguards. While he suggested that voter impersonation fraud is rare, he did not contend that such fraud never occurs. (Tr. 358-59). And he agreed that election integrity and public confidence are legitimate governmental concerns. In fact, he described the general proposition that government may take proactive measures to prevent fraud and protect election integrity as "unobjectionable and axiomatic." (Tr. 394-96).

92. Dr. Mayer further conceded that both the advance mail ballot application process and the casting of the completed mail ballot ordinarily occur outside the presence of election officials. (Tr. 370). Thus, notwithstanding his disagreement with the policy judgment embodied in Kansas' SVR, his testimony did not dispute the basic factual premise that mail voting presents election officials with fewer opportunities to observe directly whether the person returning a

ballot is the voter to whom it was issued.

93. In contrast to the absence of any relevant evidence or reliable methodology from Dr. Mayer in his opinions offered at trial, Defendants presented testimony from Dr. Aleksandr Aravkin, an applied mathematician from the University of Washington, who analyzed the actual empirical results of Kansas' SVR after its 2021 implementation. Unlike Dr. Mayer's opinions concerning the potential for error in signature verification, Dr. Aravkin examined the *known outcomes* of Kansas elections conducted under the challenged requirements. Dr. Mayer seemed to disregard those figures.

94. Dr. Aravkin noted that, based on the undisputed election data reported by the Secretary of State, more than 99.9% of advance mail ballots subject to the SVR in both the 2022 and 2024 general elections were ultimately counted. (Tr. 662-664).

95. Dr. Aravkin's prior work in signature verification litigation included statistical analyses of much larger datasets from Washington and Colorado, where he examined whether signature-related ballot rejections were associated with demographic characteristics such as race, age, or voting experience. He did not perform a comparable analysis in Kansas because the number of ballots ultimately rejected for an uncured signature mismatch was simply too small. As he explained, the Washington and Colorado datasets involved tens of thousands of rejected mail ballots, whereas Kansas had only 94 such ballots in one general election (2024) and a mere 130 in the other (2022). Those numbers are so tiny, he pointed out, that they cannot even be divided into meaningful statistical groups to draw statistically significant conclusions. (Tr. 658-59). He further underscored that even assuming every one of the mail ballots rejected due to an uncured signature mismatch in those two general elections should have been counted, there was

“very little room for improvement” between the observed results and a 100% acceptance rate. (Tr. 667-68).

96. The Court also credits Dr. Aravkin’s criticism of Dr. Mayer’s characterization of every ballot initially questioned but later cured as constituting an “error.” Dr. Aravkin pointed out that, although a researcher may mathematically define a metric in that fashion, labeling a successfully cured ballot as an “error” is misleading because the ballot was ultimately verified and counted through the very safeguard incorporated into the SVR for resolving questioned signatures. Indeed, under Dr. Mayer’s flawed terminology, reducing the number of voters who successfully cure their ballots would itself reduce the supposed “error rate.” (Tr. 668-669). That simply makes no sense.

97. Dr. Aravkin additionally established that Kansas’ actual experience with the SVR does not even remotely resemble the error rates reported in the literature that served as the foundation for much of Dr. Mayer’s analysis. Dr. Aravkin examined, among other things, Dr. Mayer’s reliance upon research (in particular, a 2024 study by Professor Street) suggesting false negative rates in judging signatures ranging from 7%-12%. If applied to the approximately 148,000 Kansas advance mail ballots, a 12% rate would correspond to roughly 17,700 questioned ballots. (Tr. 670-71). Yet the county records Dr. Mayer cited in his report showed only 87 ballots flagged for signature inconsistency in 2022 and only around 100 in 2024. (Tr. 672-73, 690-92). This no doubt explains why Plaintiffs did not have Dr. Mayer discuss that study in his direct examination.

98. To be clear, Dr. Aravkin forthrightly acknowledged that Kansas does not maintain a definitive statewide dataset identifying every mail ballot that was initially flagged for signature

inconsistency and subsequently cured. He thus could not determine the precise statewide number of initially questioned ballots. Instead, he reviewed the county-level files relied upon by Dr. Mayer to obtain a “ballpark estimate” of the number of flagged ballots reflected in those records. (Tr. 671). His point, however, was more limited: the available Kansas evidence simply bears no resemblance to the tens of thousands of questioned ballots that would be expected if the error rates identified in the literature referenced by Dr. Mayer were directly transferable to Kansas. The Court finds that distinction highly significant in assessing the weight to afford Dr. Mayer’s opinions and his references to studies conducted under different signature verification systems.

99. For all the foregoing reasons, the Court affords little to no weight to Dr. Mayer’s opinion that Kansas’ SVR is incapable of generally uniform administration.

100. At the same time, the Court affords substantial weight to Dr. Aravkin’s analysis because it was grounded in the observed operation of the Kansas SVR rather than predictions concerning how signature verification might operate in the abstract. As Dr. Aravkin explained, now that Kansas has conducted multiple statewide elections under the challenged requirements, generalized concerns derived from other systems are less informative when they do not correspond with the results actually observed in Kansas. (Tr. 692-93).

101. The extraordinarily small number of ballots ultimately rejected for an uncured signature mismatch does not establish that every initial determination was correct. It does, however, substantially undermine Plaintiffs’ contention that the SVR is inherently incapable of generally uniform administration and instead demonstrates that the safeguards built into the SVR process overwhelmingly result in advance mail ballots being counted.

H. Forensic Document Examination and Kansas' SVR Process

102. Plaintiffs presented testimony from Dr. Linton Mohammed, a forensic document examiner, who criticized the reliability of signature comparisons performed by Kansas election officials. Dr. Mohammed's expertise, however, is in forensic document examination, not election administration. He acknowledged that he has never worked in an election office or for a secretary of state, has never administered an election, has never consulted for an election office, has never trained election officials, and possesses no expertise in general election administration, let alone Kansas' election procedures. (Tr. 274-75).

103. Dr. Mohammed's testimony established an important distinction between forensic document examination and the signature review process required by Kansas law. Kansas election officials are not required to determine the authenticity of a ballot envelope signature to the standard employed in a forensic document examination. Rather, K.A.R. 7-36-9(a) simply directs election officials to assess whether the signature on a mail ballot envelope is "*generally* uniform and consistent" with the voter's signature on file in the voter registration database or, conversely, whether it differs in "multiple, significant, or obvious respects." Dr. Mohammed agreed that the Kansas standard is far "less taxing" than determining authenticity through a forensic document examination. (Tr. 266-67).

104. Dr. Mohammed did not even purport to evaluate the SVR as a whole. Indeed, he acknowledged that he did not consider the mandatory cure process at all in forming his opinions about the reliability of the SVR. (Tr. 260-61). His focus was solely on whether election officials might err in initially questioning a genuine signature, not whether that initial "inconsistency" assessment ultimately results in the rejection of a qualified voter's ballot.

105. This distinction is significant. Under Kansas' SVR, an initial determination that a signature is inconsistent does not reject the voter's ballot; it just triggers additional procedures (i.e., the cure process) that are designed to determine whether the ballot should be counted and that give the voter an opportunity to correct the potential deficiency and establish his/her identity before the ballot is finally rejected. (Tr. 290-92). A forensic document examination contains no comparable cure process.

106. Although Dr. Mohammed maintained, in response to questioning from Plaintiffs' counsel, that the signature matching regime in Kansas cannot confirm authentic signatures, he conceded on cross-examination that, if a voter's signature is flagged as a potential mismatch and the voter subsequently completes the cure process to verify his/her identity, the Kansas process *can* confirm the authenticity of the signature. (Tr. 314-15).

107. Dr. Mohammed's opinions likewise were not tested against the actual outcomes produced by the Kansas SVR since it was adopted in 2021. Although he predicted that signature review by non-forensic document examiners would yield significant erroneous determinations, he admitted that he did not know how many Kansas advance mail ballots had been rejected because of an uncured signature mismatch and had not considered the stipulated 2022 and 2024 rejection figures in forming his opinions. (Tr. 269-70). When presented with the actual figures on cross-examination, Dr. Mohammed agreed that more than 99.9% of Kansas advance mail ballots had been accepted and characterized a 99.9% acceptance rate as "pretty good." (Tr. 269-70).

108. The scientific literature upon which Dr. Mohammed relied is of little to no relevance to the SVR process used by the State of Kansas. The differences are particularly significant with respect to the Kam study that he highlighted. The lay reviewers in that study

received no training; the study did not employ Kansas' requirement that at least two reviewers must agree on a signature's inconsistency; and it contained no cure process. Plus, the reviewers were paid \$8 for every signature they identified as non-genuine, a financial conflict which itself likely contributed to the high error rate. (Tr. 297-302). When asked whether it would be scientifically appropriate to take the error rate observed in that study and extrapolate it to the Kansas SVR, Dr. Mohammed answered unequivocally, "It wouldn't. It would be speculation." (Tr. 302). The Court therefore finds that the error rates reported in those studies have no relevance to the error rates connected to Kansas' SVR.

109. Dr. Mohammed further agreed that even trained forensic document examiners cannot determine signature authenticity with perfect accuracy. (Tr. 277). The possibility that a trained Kansas election official might occasionally question a genuine signature, therefore, does not distinguish Kansas' administrative process from forensic document examination itself. In other words, uncertainty and the possibility of error exist even when signature comparison is performed by specialists using substantially more time, training, and resources.

110. Against that background, the Court finds particularly unpersuasive the absolutist standard Dr. Mohammed employed in evaluating the Kansas SVR. Dr. Mohammed testified that any signature verification system resulting in even a single voter being "disenfranchised" is "absolutely unacceptable." (Tr. 280). Yet he acknowledged that he has never found any signature verification regime acceptable, has never proposed an alternative signature verification system, and is not qualified within his field of expertise to design a replacement election system. (Tr. 278-81). Further, Dr. Mohammed's insistence on using the term "disenfranchised" to describe the small number of voters whose ballots were rejected due to an uncured signature mismatch is

suspect given his admitted failure to consider Kansas' cure process in forming his opinions and the absence of any determination by him that those voters had actually cast genuine ballots that were erroneously rejected. (Tr. 305).

111. Ironically, when asked to apply his standard consistently, Dr. Mohammed agreed that a system *without* signature verification would likewise be unacceptable if even one voter were disenfranchised because another person obtained and voted that voter's advance ballot. (Tr. 280). The Court finds this position unreasonable and affords it little weight. A standard under which an election system is unacceptable whenever even one voter may be adversely affected – whether the State employs signature verification or does not employ it – provides no meaningful basis for evaluating competing election administration alternatives. Dr. Mohammed's adherence to that unattainable standard substantially diminishes the persuasive force of his broader opinions concerning Kansas' SVR.

112. The Court is similarly unpersuaded by Dr. Mohammed's criticism of the training provided to Kansas election officials. Dr. Mohammed characterized the State-approved training as "very inadequate" and predicted that it would produce a "significant number of erroneous rejections." (Tr. 236-37). But his criticism again rested substantially upon comparing the work of Kansas election officials to the very different work performed by forensic document examiners. Indeed, Dr. Mohammed testified that no amount of training would make election officials sufficiently reliable because, in his view, signature comparison requires substantially more time, equipment, exemplars, and essentially daily practice. (Tr. 237-38). As discussed above, however, Kansas election officials are not conducting forensic document examinations, and the actual Kansas election results provide no empirical support for Dr. Mohammed's prediction of a

“significant number” of erroneous ballot rejections.

113. Although it does not appear there is a dispute among the parties on this point, the Court specifically finds that requiring a full forensic document examination as part of the SVR process would not constitute a practicable method for reviewing advance mail ballot signatures in a statewide election. Dr. Mohammed testified that a forensic signature examination ordinarily requires at least ten exemplar signatures and that even a relatively simple examination may take two hours, while an examination of a single questioned signature generally requires a minimum of four hours. (Tr. 225-27). He further noted there are only approximately 120 certified forensic document examiners nationwide (only 15 more than the total number of counties in Kansas). (Tr. 258). Given the number of advance mail ballots cast in Kansas elections, forcing election officials to conduct the equivalent of a forensic document examination would be completely unrealistic for the State’s mail voting process, a point Dr. Mohammed expressly acknowledged. (Tr. at 255-256).

114. For all these reasons, the Court affords little weight to Dr. Mohammed’s ultimate opinion that Kansas’ SVR is unreliable. His analysis failed to account for the mandatory cure procedures that are an integral part of the signature verification process. He also evaluated the State’s administrative process against standards applicable to the materially different field of forensic document examination. The studies upon which he relied did not replicate critical features of the Kansas system, and Dr. Mohammed conceded that the error rates reported in those studies could not scientifically be extrapolated to Kansas. Nor did his analysis account for the actual results produced by the Kansas SVR over the last four years. In short, the Court finds that Dr. Mohammed’s testimony does not establish that Kansas’ SVR is inherently unreliable,

incapable of generally uniform application, or likely to result in the erroneous rejection of valid ballots.

I. Compelling State Interests Served by the SVR

115. Election administration requires the simultaneous pursuit of multiple important objectives. Dr. Atkeson identified three principal state interests: access, integrity, and finality. (Tr. 571). Election integrity, she explained, is particularly important because it demonstrates to the public that elections are conducted through a fair, orderly, and accurate process. (Tr. 571-72). Consistent with those objectives, election administrators must balance facilitating voter access with maintaining safeguards designed to protect the integrity of the electoral process.

116. Signature verification is critical to those objectives in the context of mail voting. Advance mail voting necessarily occurs outside the presence of election officials. Unlike voters appearing at a polling place, voters casting advance mail ballots ordinarily apply for, receive, cast, sign, and return their ballots without an election official ever observing the completion of any of those steps. The State thus has substantially fewer opportunities to verify the identity of a mail voter through the means available during in-person voting. As Mr. Caskey noted, Kansas' SVR addresses that concern by helping election officials determine whether the individual who signed the ballot envelope and completed the ballot is the same individual reflected in the voter-registration record. (Tr. 807).

117. The trial testimony further established that election integrity safeguards need not be purely reactive. Dr. Atkeson testified that election administrators do not, and should not, wait until their jurisdiction has experienced harm before implementing reasonable safeguards. Rather, they must take preventative measures by evaluating potential risks and learning from difficulties

encountered in other jurisdictions to determine whether similar concerns may exist in their own election systems. (Tr. 600-02). Plaintiffs' expert, Dr. Mayer, agreed with that fundamental premise, characterizing the government's authority to act proactively to prevent fraud and protect election integrity as "unobjectionable and axiomatic." (Tr. 394-96).

118. Nor does the relatively small number of criminal prosecutions for election fraud establish that preventive safeguards are unnecessary. Dr. Atkeson explained that election fraud is very difficult to detect and that the number of criminal prosecutions is not a reliable measure of the amount of fraud that actually occurs. Among other reasons, not every detected incident is prosecuted, and Kansas does not require county election officials or prosecutors to report every referral or prosecution to the Secretary of State. (Tr. 602-05). Moreover, once a mail ballot has been separated from its signed envelope and counted, the ballot can no longer be identified and removed if election officials subsequently learn that it was fraudulently cast. (Tr. 603-04).

119. The importance of these prophylactic measures is heightened by the fact that elections can turn on a small number of votes. Dr. Atkeson referenced an array of elections that have been decided by a single vote, including in Kansas, and noted that election officials cannot know in advance which contests ultimately will be decided by narrow margins. (Tr. 605-06). These close elections naturally result in heightened scrutiny of election procedures and their integrity. (Tr. 605-06). The Court agrees that the significance of an election safeguard, therefore, cannot reasonably be measured solely by asking how frequently it has helped identify specific misconduct in a particular election.

120. Having said that, the trial evidence did demonstrate that signature verification can identify circumstances suggesting that a mail ballot may have been signed by someone other than

the voter to whom it was issued. Mr. Sherman, for example, testified that the Johnson County Election Office had made criminal referrals for possible election offenses in circumstances where a signature mismatch, coupled with information obtained during the cure process, indicated that someone other than the voter had likely cast the ballot (e.g., the purported voter reported that he or she was away at school out of state and had neither signed nor voted the ballot). (Tr. 540).

121. Mr. Howell testified that Shawnee County had likewise referred cases to the local Sheriff's Office on several occasions after encountering documents that appeared questionable, including one matter involving a mail ballot. (Tr. 775-76).

122. Dr. Atkeson's research reflected similar experiences elsewhere. She testified that signature verification had identified numerous instances in Utah in which parents signed and returned ballots issued to children who were away on religious missions. (Tr. 607-08). She also described an incident in Mesa County, Colorado, in which a questioned signature entered the cure process and the purported voter advised election officials that he had neither received nor voted the ballot, prompting an investigation that uncovered additional fraudulent ballots. (Tr. 608-09).

123. Protecting against improperly cast ballots is not the only election administration interest served by signature verification. The evidence established that signature verification also promotes public confidence in the security and integrity of elections. Dr. Atkeson analyzed Kansas-specific data from the Survey of the Performance of American Elections ("SPAЕ") concerning voters' views of signature verification. The survey asked Kansas residents whether having election officials conduct signature verification on mail ballots increased or decreased their confidence in elections. (Tr. 596-98).

124. The results were notable. In 2022, approximately 66% of Kansas respondents – nearly two-thirds – reported that signature verification increased their confidence either “a lot” or at least “a little.” In 2024, the corresponding figure was roughly 62%. By contrast, only 5% of Kansas respondents in 2022, and 4% in 2024, reported that signature verification decreased their confidence. (Tr. 597-99). Dr. Atkeson explained that these results are important to election administrators because many voters do not otherwise know about the safeguards employed to ensure that elections are free, fair, and secure. (Tr. 597-98).

125. Public confidence concerns exist independently of whether every perceived instance of election fraud can ultimately be substantiated. Indeed, Dr. Atkeson further testified about survey research in which voters reported personal experiences or observations that they perceived as election fraud, including ballots allegedly cast in the names of absent or deceased voters. (Tr. 599-600). The Court does not rely upon those survey responses as proof that the reported incidents actually occurred. But they are relevant to highlight the existence of public concerns regarding the security of mail voting and the need to maintain public confidence in the integrity of the electoral process.

126. In sum, the Court finds that Kansas’ SVR serves multiple substantial election administration interests. It provides a mechanism for confirming the identity of voters casting ballots outside the presence of election officials. It operates as a safeguard against ballots being cast by individuals other than the voters to whom they were issued. It assists in detecting fraud or other misconduct when it occurs. And it promotes public confidence that advance mail ballots are subject to meaningful security protections. Those interests coexist with the State’s interest in voter access, which the SVR addresses through its forgiving definition of a signature match,

mandatory notice and cure procedures, accommodations for voters whose illness or disability may prevent them from signing consistently, use of multiple exemplars when available, and requirement that multiple trained election officials agree on a mismatch determination before the ballot even triggers the curing process.

III. Conclusions of Law

Based on the foregoing findings of fact, which the Court makes pursuant to K.S.A. 60-252(a), the Court enters the following conclusions of law.

Before turning to the merits, however, the Court first must address Plaintiffs' standing to maintain this lawsuit given that standing is a jurisdictional prerequisite. For the reasons set forth below, the Court concludes that Plaintiffs have failed to establish standing based on the evidence presented at trial. The Court will nevertheless address their constitutional claims on the merits as an alternative basis for granting judgment to Defendants.

A. Plaintiffs Lack Standing to Maintain this Suit

"[S]tanding is a component of subject matter jurisdiction," *State v. Ernesti*, 291 Kan. 54, 60, 293 P.3d 40 (2010), and may be raised at any time by a party or the Court. *State v. Patton*, 287 Kan. 200, 205, 195 P.3d 753 (2008). Plaintiffs bear the burden of demonstrating they have standing to raise their claims before they can proceed. *League of Women Voters v. Schwab*, 317 Kan. 805, 813, 539 P.3d 1022 (2023) (*LWV I*). "Both the general issue of jurisdiction and the more specific issue of standing are issues of law." *Ernesti*, 291 Kan. at 60 (citing *Mid-Continent Specialists, Inc. v. Cap. Homes*, 279 Kan. 178, 185, 106 P.3d 483 (2005)).

The fact that Plaintiffs survived a standing challenge at the motion to dismiss stage does not establish that they proved standing at trial. Standing must be examined at every stage of the

litigation. *POM of Kan., LLC v. Kobach*, 319 Kan. 764, 775, 561 P.3d 506 (2024). “[T]he nature of the burden” on Plaintiffs to prove they have standing “depends on the stage of the proceedings because the elements of standing are not merely pleading requirements.” *Gannon v. State*, 298 Kan. 1107, 1123, 319 P.3d 1196 (2014). “Each element must be proved in the same way as any other matter and with the degree of evidence required at the successive stages of the litigation.” *Id.* (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992)). While this Court felt bound by the mandate rule with respect to standing at the motion to dismiss stage (despite the Supreme Court having never analyzed Plaintiffs’ standing in its decision), that mandate was limited to its analysis of the pleadings, which is the only thing the Supreme Court reviewed in its opinion in *LWV II*. Plaintiffs were thus still required to present evidence at *trial* proving that they possess standing. And the Court concludes that they failed to do so.

To establish standing under Kansas’ traditional two-part test, a party must demonstrate that (i) it has “suffered a cognizable injury” and (ii) there is “a causal connection between the injury and the challenged conduct.” *LWV I*, 317 Kan. at 813 (quoting *State v. Bodine*, 313 Kan. 378, 385, 486 P.3d 551 (2021)). A cognizable injury, i.e., an injury-in-fact, is present when a plaintiff shows that it has already sustained, or will suffer, “some actual or threatened injury as a result of the challenged conduct.” *Id.* (quotation and internal alterations omitted). Abstract or inchoate injuries will not suffice. “The injury must pose ‘adverse legal interests that are immediate, real, and amenable to conclusive relief.’” *Id.* (quoting *Kan. Bldg. Indus. Workers Comp. Fund v. State*, 302 Kan. 656, 678, 359 P.3d 33 (2015)); *Baker v. Hayden*, 313 Kan. 667, 681, 490 P.3d 1164 (2021) (“speculative allegations about possible future injury” are insufficient to confer plaintiff with standing).

The Plaintiffs challenging the SVR here are four organizations. (There are no individual plaintiffs pursuing this constitutional attack.) In the case of an organization, legal standing may arise in two different contexts: the organization may have standing as a representative of its members, often referred to as “associational standing.” See *Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333, 343 (1977). Alternatively, the organization may have standing in its own right, typically known as “organizational standing.” See *Warth v. Seldin*, 422 U.S. 490, 511 (1975). Plaintiffs failed to produce evidence at trial to establish standing under either theory.

1. Plaintiffs Did Not Establish Associational standing

The associational standing rule is an exception to the general rule that a plaintiff may not ordinarily assert the rights of others. For an association to have standing to sue on behalf of its members, a three-prong test – initially invoked by the U.S. Supreme Court in *Hunt* and thereafter embraced by the Kansas Supreme Court – must be satisfied: (i) the association’s members must have standing to sue individually; (ii) the interests that the association seeks to protect must be germane to its purpose; and (iii) neither the claim asserted nor the relief requested requires the participation of individual members. *Kan. Nat’l Educ. Ass’n v. State*, 305 Kan. 739, 747, 387 P.3d 795 (2017) (quoting *Sierra Club v. Moser*, 298 Kan. 22, 33, 310 P.3d 360 (2013)). “[A] mere ‘interest in a problem,’ no matter how longstanding the interest and no matter how qualified the organization is in evaluating the problem, is not sufficient by itself to render the organization ‘adversely affected’ or ‘aggrieved[.]’” *Sierra Club*, 298 Kan. at 35 (quoting *Sierra Club v. Morton*, 405 U.S. 727, 739 (1972)).

- a. *Loud Light, Lois Curtis Center, and Appleseed have neither members nor indicia of membership.*

The first prong of the associational standing test asks whether Plaintiffs' "members" have standing to sue in their own right. *Friends of Bethany Place, Inc. v. City of Topeka*, 297 Kan. 1112, 1126, 307 P.3d 1255 (2013). This requirement puts Plaintiffs Loud Light, Appleseed, and Lois Curtis Center in a bind for purposes of associational standing because none are membership organizations. Lacking members, they may assert associational standing on behalf of others only if they prove that the individuals they seek to represent are *effectively* "members." They failed to do so at trial.

The seminal case regarding associational standing by non-membership organizations is *Hunt*. *Hunt* involved a Washington state commission that was controlled by Washington state apple growers and dealers and whose primary purpose was to promote and protect the State's apple industry. 432 U.S. at 336-37. In a challenge to a North Carolina statute that affected those interests, the commission met the traditional three-part associational standing requirements, except that as a non-membership organization, it lacked members on whose behalf to assert a claim. *Id.* at 342. The Supreme Court held that the commission, despite lacking members in the "traditional trade association sense," could assert associational standing on behalf of non-members because the organization demonstrated that the non-members possessed the "indicia of membership" with the organization. *Id.* at 344. The Court reasoned that, because the growers and dealers "alone elect the members," "alone may serve on the Commission," and "alone finance its activities, including the costs of th[e] lawsuit, through assessments levied on them," the commission effectively "represents the State's growers and dealers and provides the means by which they express their collective views and protect their collective interests." *Id.* at 344-45.

To establish associational standing under this precedent, Loud Light, Appleseed, and Lois Curtis Center thus needed to produce evidence at trial demonstrating that the “constituents” they claim to represent are the functional equivalent of members of an organization. But Plaintiffs produced no evidence that they have any type of relationship with the “constituents” they purport to represent that would give rise to associational standing.

Representatives from Loud Light, Appleseed, and Lois Curtis Center were all questioned at trial about how their respective governing boards were selected. They all confirmed that the “constituents” they sought to represent have no role whatsoever in selecting the organizations’ governing boards. Instead, each organization’s board of directors selects its own members. (Tr. 136-37 – Loud Light; Tr. 94 – Appleseed; Tr. 39-40 – Lois Curtis Center). Likewise, when asked about financing, each organization confirmed that its “constituents” do not pay dues, or anything remotely resembling dues, to the organization. Instead, each organization is funded by grants and donations. (Tr. 124 – Loud Light; Tr. 96-97 – Appleseed; Tr. 40 – Lois Curtis Center).

In fact, the trial testimony revealed that none of these three organizations come close to satisfying the indicia-of-membership test. Lois Curtis Center, for example, claims to represent *every person with a disability*. (Tr. 15-16). Appleseed claims as its constituents all “individuals who receive SNAP benefits, who benefit from frame-reduced (sic) meals, people who, like, reach out to us, and then also just people that we are advancing laws for. People who interact with the youth and adult justice system and the foster care system.” (Tr. 80-81). In other words, Appleseed views essentially any Kansan receiving SNAP benefits as one of its constituents. (Tr. 96-97). These sweeping, self-defined constituencies bear none of the hallmarks of membership identified in *Hunt* and instead encompass broad segments of the public who have no meaningful

role in the organizations that purport to represent them. Declaring virtually the entire State population as “constituents” of the organization does not transform those individuals into the functional equivalent of members when they exercise no control over, provide no financial support to, and have no formal relationship with the organization claiming to represent them.

Loud Light’s constituent theory crystallizes just how far afield these organizations are from the indicia-of-membership requirement. Its president, Davis Hammett, testified that Loud Light’s “constituents” encompass any “underrepresented population” with a “specific[] focus . . . on youth Kansans, age 18 to 35.” (Tr. 100). In other words, Loud Light is effectively claiming that it should be permitted to assert associational standing on behalf of *every Kansan it deems to be “underrepresented,” particularly those aged 18 to 35.*

To the extent Plaintiffs claim they can assert associational standing simply based on their desire to educate certain parts of the community or tailor their message to those strangers, such activities have no bearing on associational standing. Targeting a particular audience is not the same as representing the interests of that audience for purposes of associational standing. Were it otherwise, the entire indicia-of-membership requirement would be rendered meaningless. *Am. Legal Found. v. F.C.C.*, 808 F.2d 84, 89-91 (D.C. Cir. 1987) (a “completely open-ended” “constituency” that does not select its organization’s leadership, guide its activities, or finance those activities does not support associational standing); see also *Disability Advocates, Inc. v. N.Y. Coal. for Quality Assisted Living, Inc.*, 675 F.3d 149, 157-59 (2d Cir. 2012) (rejecting non-membership organization’s associational standing theory because there was no indication that its constituents had the ability to elect its directors, make budget decisions, or influence its activities in a way that would reflect an indicia of membership); *Viasat, Inc. v. F.C.C.*, 47 F.4th 769, 781-

82 (D.C. Cir. 2022) (organization did not have “indicia of a traditional membership association” where it provided no insight into how it related to its members and no indication that its members finance the organization, guide its activities, or select its leadership).

Plaintiffs’ constituent theory for non-membership organizations would eviscerate any meaningful limitations on the associational standing doctrine. Associational standing for non-membership organizations is based on an entity’s representation of individuals who are members of the association in all but name. Yet Plaintiffs’ theory would allow organizations to represent any group of people they choose so long as that group is the organization’s target audience, even if those individuals otherwise have no affiliation with the organization. Such a capacious standing theory is untenable.

b. No Organizational Plaintiff can show that any “member” would have standing to sue in his/her own right

Nor can any Organizational Plaintiff satisfy the *Hunt* associational standing requirement that at least one member (or member equivalent) have legal standing in his/her own right. See *Summers v. Earth Island Inst.*, 555 U.S. 488, 498-99 (2009) (an organization must identify at least one member by name who would have standing to sue); accord *FW/PBS, Inc. v. Dallas*, 493 U.S. 215, 235 (1990); *Satanic Temple, Inc. v. Rokita*, 163 F.4th 1061, 1069 (7th Cir. 2026); *Speech First, Inc. v. Shrum*, 92 F.4th 947, 952 (10th Cir. 2024). Plaintiffs’ overarching theory of injury rests on the possibility that some voter affiliated with one of the organizations might someday have a signature rejected in connection with an advance mail ballot. Yet Plaintiffs identified *no* member or member equivalent who was harmed by the challenged law. Instead, they relied purely on speculation about some future possible injury that may never occur, along with broad and vague assertions of “fear[s],” “concerns,” “questions,” or hypothetical impacts

related to unidentified individuals. (Tr. 107-08, 113-14 – Loud Light; Tr. 83-84 – Appleseed; Tr. 21-24 – Lois Curtis Center). The law is clear, however, that hypotheticals and conjectures are not sufficient to confer associational standing. See *Baker*, 313 Kan. at 681 (“speculative allegations about possible future injury” are insufficient for standing).

Furthermore, claiming that voters *might* erroneously be subject to a mismatched signature is entirely speculative in nature and cannot establish an injury-in-fact for standing. Indeed, the same premise Plaintiffs advance here was rejected as a basis for standing in *Memphis A. Phillip Randolph Institute v. Hargett*, 978 F.3d 378 (6th Cir. 2020) (“MPRI”), a case nearly on all-fours with the instant action. Evaluating a highly similar challenge to Tennessee’s signature matching requirements for absentee ballots, the court there noted that “plaintiffs’ allegations boil down to fear of the ever present possibility that an election worker will make a mistake.” *Id.* at 389. But an “allegation of *possible* future injury,” is insufficient to constitute a “certainly impending” threatened injury. *Id.* at 386 (quoting *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 409 (2013)); accord *LWV II*, 317 Kan. at 813 (injury-in-fact must be “immediate” and “real”). Moreover, when “allegations of future injury are based on past human errors, the plaintiffs face a high bar to demonstrate standing.” *MPRI*, 978 F.3d at 386.

The only person affiliated with any of these organizations who experienced a signature mismatch was Haley Kottler, an executive employee at Appleseed. (Tr. 161-62). As an initial matter, Ms. Kottler’s status as an employee clearly does not give her the indicia of membership necessary to render her the functional equivalent of a member. The D.C. Circuit addressed and repudiated that very theory just months ago. See *Pub. Emps. for Env’t Resp. v. Zeldin*, 174 F.4th 183 (D.C. Cir. 2026). As that court aptly explained: “Employees serve as the means by which an

organization acts, not the constituency it represents. Treating them as ‘members’ would collapse the distinction between representative (the organization and its agents) and represented (the members) that *Hunt* presupposes.” *Id.* at 193.

Moreover, Ms. Kottler’s ballot was not rejected. After election officials in Sedgwick County identified her ballot envelope signature mismatch, she was notified of the discrepancy, successfully cured her signature, and her ballot was counted. (Tr. 163-64, 176). Thus, the only individual even affiliated with any of the Plaintiffs who has actually experienced the challenged signature verification process suffered no loss of her vote. To the contrary, Ms. Kottler’s own experience demonstrates that the cure procedure operated precisely as intended by providing a voter whose signature was initially questioned an opportunity to verify her identity and have her ballot counted.³

As for the League of Women Voters, although it is a membership organization, it, too, could not identify a single member whose ballot has been improperly rejected due to the SVR or who has had any difficulty with the cure process. Indeed, the one member the League identified as being (potentially) impacted by the SVR – Lisa Veda, who apparently suffers from some sort of neuromuscular disorder – has never had *any* issues with the SVR to date. (Tr. 63-66). Ms. Veda did not personally take the stand. Instead, Jacqueline Lightcap, the League’s representative, testified that she “wonder[ed] how that [disorder] might affect [Ms. Veda’s] ability to make that signature match requirement work in the future.” (Tr. 63). Ms. Lightcap acknowledged, however,

³ The Court adds that, although Ms. Kottler testified that having to cure her signature mismatch was a “stressful, anxiety-producing experience,” (Tr. 164), she could not recall when Sedgwick County contacted her about the opportunity to cure, what the curing process was, or how she cured her ballot. (Tr. 175-77). She also repeatedly evaded basic hypothetical questions on cross-examination about mail voting. (Tr. 169-73). The Court did not find her testimony particularly credible.

that Ms. Veda's signature has not yet been impacted by whatever medical condition she (Ms. Veda) may have and that any future impact is purely speculative. (Tr. 65-66). Furthermore, Ms. Lightcap is not a medical professional and is obviously not qualified to provide expert testimony on possible effects of a neuromuscular disorder on another individual's handwriting. In short, the League has failed to identify any member with an actual or threatened injury from the SVR and instead rests its claim of associational standing on pure speculation that Ms. Veda, who has experienced no difficulty with the SVR to date, might encounter such difficulty at some unidentified point in the future. That will not suffice.

2. Plaintiffs Did Not Establish Organizational Standing

Plaintiffs fare no better in attempting to establish organizational standing. To demonstrate organizational standing, an entity must show that (i) it suffered its own cognizable injury and (ii) there is a causal connection between such injury and the challenged conduct. *Gannon v. State*, 298 Kan. 1107, 1127, 319 P.3d 1196 (2014). In other words, the organization must meet the same standards for standing that apply to individuals. *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 393-94 (2024). As the U.S. Supreme Court recently underscored, "an organization may not establish standing simply based on the intensity of the litigant's interest or because of strong opposition to the government's conduct, no matter how longstanding the interest and no matter how qualified the organization." *Id.* at 394 (internal quotations omitted). The organization "must show far more than simply a setback to [its] abstract social interests." *Id.* (quotation omitted).

There is no dispute that the SVR neither regulates the Organizational Plaintiffs nor demands any action on their part. These Plaintiffs thus have the "substantially more difficult" task of establishing causation, i.e., "linking their asserted injuries to the government's regulation

(or lack of regulation) of someone else.” *All. for Hippocratic Med.*, 602 U.S. at 382. At trial, Plaintiffs grounded their organizational standing argument on a diversion of resources theory, claiming they will have to spend time educating voters about the SVR and answering questions about it. (Tr. 113-16 – Loud Light; Tr. 82-84, 90-91 – Appleseed; Tr. 57-61 – LWW; Tr. 30-33 – Lois Curtis Center). But Plaintiffs fall short of the mark in making their legal case.

Historically, many plaintiffs invoking a diversion of resources theory for organizational standing have relied on *Havens Realty Corporation v. Coleman*, 455 U.S. 363, 378-79 (1982). The U.S. Supreme Court, however, recently rejected the “expansive” reading of *Havens Realty* that many lower courts had embraced. The Court held that an entity cannot establish organizational standing merely by incurring costs to oppose a government regulation or policy or expending time and resources “to the detriment of other spending priorities.” *All. for Hippocratic Med.*, 602 U.S. at 394. In other words, the Court noted, it is “incorrect” that *Havens Realty* stands for the proposition that “standing exists when an organization diverts its resources in response to a defendant’s actions.” *Id.* at 395. Were the rule otherwise, the Court explained, “all the organizations in America would have standing to challenge almost every federal policy they dislike, provided they spend a single dollar opposing those policies.” *Id.* The Court also cast doubt on the precedential value of *Havens Realty*. *Id.* at 396 (“*Havens* was an unusual case, and this Court has been careful not to extend the *Havens* holding beyond its context.”). In the wake of *Alliance for Hippocratic Medicine*, federal appellate courts have similarly lined up to reject the notion that organizations may establish an injury-in-fact for standing by showing a diversion of resources. See, e.g., *Ariz. All. for Retired Ams. v. Mayes*, _ F.4th _, 2026 WL 2277101, at *7-8 (9th Cir. Aug. 7, 2026) (en banc); *Holmes v. Bax*, _ F.4th _, 2026 WL 2421803, at *4-5 (8th Cir.

Aug. 19, 2026); *D.C. ex rel. Chaplick v. Fairfax Cnty. Sch. Bd.*, 171 F.4th 255, 266-67 (4th Cir. 2026); *Conn. Fair Hous. Ctr. v. CoreLogic Rental Prop. Sols.*, 167 F.4th 605, 616-19 (2d Cir. 2026); *Deep S. Ctr. for Env't Justice v. U.S. EPA*, 138 F.4th 310, 317-20 (5th Cir. 2025).

To date, the Kansas Supreme Court has *never* recognized diversion of resources as a basis for organizational standing. While the Court of Appeals briefly addressed the issue on appeal, *League of Women Voters v. Schwab*, 63 Kan.App.2d 187, 203-04, 525 P.3d 803 (2023), that “decision has no force or effect” following the Kansas Supreme Court’s grant of the petition for review from that opinion. See Sup. Ct. R. 8.03(k)(2). Whatever might be said about the Court of Appeals’ standing analysis prior to *Alliance for Hippocratic Medicine*, the panel’s reasoning – which relied exclusively on *Havens Realty* – has no precedential force under Rule 8.03(k)(2).

Plaintiffs’ education and outreach activities here are not materially different from what the associations did in *Alliance for Hippocratic Medicine* in voluntarily incurring additional costs and diverting resources to engage in public advocacy and education about FDA policies regarding abortion medication. The Supreme Court deemed those activities an inadequate basis for organizational standing, and the same holds true for Plaintiffs here.

Plaintiffs argue that the SVR requires them to spend time talking to voters and engaging in election-education activities, but these are activities that Plaintiffs were performing before the SVR took effect. In other words, all Plaintiffs admitted that they were *already* using resources to perform the very voter engagement and education activities to which they now claim they must divert additional resources. (Tr. 72-73 – LWV; Tr. 92-93 – Appleseed; Tr. 34-35 – Lois Curtis Center; Tr. 105-08, 112-13, 120-22 – Loud Light). Loud Light even encouraged the Legislature to enact a curing provision. (Tr. 120-21). Because voter outreach and education have been a

component of the Organizational Plaintiffs' respective missions for many years, the fact that they might infuse additional resources into such activities following the enactment of the SVR does not mean they have suffered an injury in fact. See *NAACP v. City of Kyle*, 626 F.3d 233, 238-39 (5th Cir. 2010) (diversion of resources to activities cannot support organizational standing if such activities do not differ from plaintiff's routine activities or projects); *Clark v. Edwards*, 468 F.Supp.3d 725, 748 (M.D. La. 2020) ("Injury does not arise because of their desire or preference for a different scheme of absentee by mail voting, nor because they adjust their organization's activities in response to . . . changes to the law. The law is not static. It cannot follow that every change in voting laws that causes voting advocacy groups to 'check and adjust' is an injury.").

An "organization does not automatically suffer a cognizable injury in fact by diverting resources in response to a defendant's conduct." *La. Fair Hous. Action Ctr., Inc. v. Azalea Garden Props., LLC*, 82 F.4th 345, 353 (5th Cir. 2023) (citation omitted). Rather, the legal injury "comes when that diversion of resources concretely and perceptibly *impairs the organization's ability to carry out its purpose*." *Id.* (citations and internal alterations omitted) (emphasis added). In other words, the critical focus for standing purposes in the context of a diversion of resources theory is "not the drain on the organization's resources," but instead the "organization's ability to carry out its mission." *Id.*

Plaintiffs cannot create standing simply by labeling advocacy expenditures a "diversion of resources" or invoking their "core mission." Standing turns on objective facts, not talismanic phrases. The relevant inquiry is whether the law has actually impaired Plaintiffs' ability to carry out their organizational purposes, not whether they have elected to devote additional resources to advocating against or adapting to a new law. See *Ariz. All. for Retired Ams.*, 2026 WL 2277101

at *8 (“The Organizations also contend that they must divert resources to educate voters and the public about [a law’s] supposed effects. But without . . . harm to the Organizations’ voter-registration activities, their mere diversion of resources to educate and train voters on the potential effects of the [law] cannot independently establish an injury-in-fact.”).

Nor does the SVR compel Plaintiffs to expend any resources at all. Their alleged injury stems entirely from their own discretionary decision to devote additional time and money to voter education and advocacy. But self-inflicted expenditures undertaken in response to legislation do not establish standing. Otherwise, every advocacy organization could manufacture standing simply by deciding to spend more money opposing, explaining, or responding to any statute with which it disagreed.

RNC v. Burgess, 2024 WL 3445254 (D. Nev. July 17, 2024), illustrates this point. After Nevada extended the deadline by which mail ballots must be received, the RNC sued and asserted as its basis for standing a diversion-of-resources theory that it would now have to spend more “money on mail ballot chase programs and post-election activities.” *Id.* at *4. The court rejected this contention, holding that “[a]ny diversion of resources to an Election Day ‘mail ballot chase’ program appears to be nothing more than ‘business as usual’ for Organizational Plaintiffs.” *Id.* The court explained that “[e]ngaging in the same mail ballot collection push with slightly different timing is a continuation of existing advocacy, not an affirmative diversion of resources.” *Id.* (citations omitted).

Plaintiffs may not circumvent this roadblock by defining their organizational missions at an impermissibly narrow level of specificity. The proper focus is on whether the law impairs Plaintiffs’ preexisting organizational mission, not whether it frustrates a particular educational

message or advocacy effort tied to the prior statutory scheme. Plaintiffs' longstanding missions are voter education, voter engagement, and assisting Kansans in participating in elections. The SVR does not interfere with those activities.

Plaintiffs' approach would permit virtually any advocacy organization to establish standing by defining its mission in terms of the very legal regime it seeks to preserve. An organization whose general mission is voter education, for example, cannot transform every statutory amendment into a cognizable injury simply by characterizing its mission as educating voters about the superseded law. Here, the Organizational Plaintiffs' educational activities and mission remain exactly what they were before the SVR was enacted: educating voters and facilitating participation in elections. The SVR neither prevents them from performing those activities nor makes those activities more difficult. At most, Plaintiffs have elected to adjust the content of their voter education efforts to account for a change in Kansas law. That is not an impairment to their organizational mission or a cognizable injury in fact; it is simply advocacy in response to a new legal landscape. Accord *League of United Latin American Citizens of Iowa v. Pate*, 20 N.W.3d 822, 835–39 (Iowa 2025) (organizational plaintiff alleged standing based on need to “translate voter registration materials without assistance from government officials,” which would entail diversion of resources “from other activities related to voter registration and outreach”; court rejected standing because such spending was “purely discretionary”).

For all these reasons, the Court concludes that Plaintiffs have failed to establish either associational or organizational standing to maintain this action. This jurisdictional defect independently warrants judgment for Defendants. Even assuming standing, however, Plaintiffs

still cannot prevail because their facial constitutional challenge fails under the governing legal standards discussed below.

B. Plaintiffs’ Facial Challenge Imposes Heavy Burden of Proof

Plaintiffs’ equal protection and due process claims present a facial constitutional attack on Kansas’ SVR. A facial challenge seeks to invalidate the law itself, rather than merely its application in a particular circumstance, and thus carries an exceptionally demanding burden. “A facial challenge to the constitutionality of legislation is ‘the most difficult challenge to mount successfully, since the challenger must establish that *no set of circumstances exists under which the Act would be valid.*’” *State v. Jones*, 313 Kan. 917, 931, 492 P.3d 433 (2021) (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987)) (emphasis added). “The fact that the [challenged legislation] might operate unconstitutionally under some conceivable set of circumstances is insufficient to render it wholly invalid, since [the Court has] not recognized an ‘overbreadth’ doctrine outside the limited context of the First Amendment.” *Id.* (quoting *Salerno*, 481 U.S. at 745) (cleaned up). Facial challenges are highly disfavored because they often rest on speculation, run contrary to principles of judicial restraint, and “threaten to short-circuit the democratic process by preventing laws embodying the will of the people from being implemented.” *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 450-51 (2008); accord *State v. Bollinger*, 302 Kan. 309, 318-19, 352 P.3d 1003 (2015).

Plaintiffs have suggested that because *LWV II* directed the development of an evidentiary record, the traditional facial challenge standard no longer applies. Nothing in *LWV II* displaced this longstanding legal standard. Indeed, *LWV II* did not purport to eliminate, modify, or even address the standard. In fact, our Supreme Court continues to invoke this no-set-of-circumstances

test in the context of facial attacks. See *State v. McCray*, 321 Kan. 316, 320, 579 P.3d 126 (2025).

In any event, the Court finds Plaintiffs' theory unavailing. A facial challenge may turn on evidence concerning a law's operation without ceasing to be a facial challenge. The evidence may demonstrate, for example, that a statutory scheme is inherently incapable of constitutional administration. But the availability and relevance of such evidence does not alter what Plaintiffs ultimately must prove to obtain facial invalidation. In this case, the question is whether the SVR is constitutionally deficient in all its applications, not whether Plaintiffs can identify particular instances in which an election official allegedly misapplied it or isolated situations in which a particular voter might have found compliance difficult.

Plaintiffs' argument is also part of a general theme they have employed on remand. They seize upon issues that our Supreme Court did not expressly discuss in *LWV II* and then treat that silence as though it displaced settled law. Not only is that an unsound approach to constitutional interpretation, but it is also the sort of inference that courts refuse to draw. See *Cooper Indus., Inc. v. Aviall Servs., Inc.*, 543 U.S. 157, 170 (2004) ("Questions which merely lurk in the record, neither brought to the attention of the court nor ruled upon, are not to be considered as having been so decided as to constitute precedents.") (quoting *Webster v. Fall*, 266 U.S. 507, 511 (1925)). Had the Kansas Supreme Court intended to repudiate entrenched constitutional doctrine, it would have said so. Its silence cannot reasonably be construed as an implicit overruling of settled law.

The distinction has practical importance here. Plaintiffs devoted considerable attention during this litigation to individual ballots they contend were erroneously questioned or rejected

and to particular instances in which county officials allegedly departed from proper procedures. Even assuming an election official occasionally erred in applying the SVR, however, an isolated misapplication of an otherwise constitutional statute or regulation does not establish that the law itself is facially invalid. See *Jones*, 313 Kan. at 931.

The evidence presented at trial reinforces the importance of that distinction. As set forth in the Court's Findings of Fact, Kansas has now conducted multiple statewide elections under the challenged statute and regulation, with only an extraordinarily small number of advance mail ballots ultimately rejected because of an uncured signature inconsistency. The overwhelming majority of Kansas counties reported no such rejected ballots at all in either the 2022 or 2024 General Elections. Those actual results provide little support for the proposition that the SVR suffers from any systemic constitutional defect.

C. Plaintiffs Have Failed to Establish an Equal Protection Violation

Plaintiffs' equal protection cause of action rests on the premise that Kansas' SVR cannot be administered with sufficient uniformity and objectivity to satisfy the Kansas Constitution. The trial record does not support that contention. The evidence demonstrates instead that Kansas employs a common statewide framework, objective regulatory criteria, multiple safeguards against erroneous determinations, and a cure process that together render the SVR capable of operating with the reasonable uniformity required by *LWV II*.

1. *LWV II* Did Not Replace Traditional Equal Protection Principles

In articulating the legal standard governing Plaintiffs' facial attack on the SVR, the Kansas Supreme Court held:

Equal protection requires similarly situated individuals should be treated alike. It does not require that all persons receive identical treatment, but only that persons similarly situated with respect to the legitimate purpose of the law receive like treatment. To comply with equal protection in the context of providing “proper proofs” of the right to be a qualified elector, any proper proofs devised by the Legislature must be capable of being applied with reasonable uniformity upon objective standards so that no voter is subject to arbitrary and disparate treatment. *LWV II*, 318 Kan. at 805 (emphasis added) (internal quotations and citations omitted).

Plaintiffs largely ignore the first two sentences of this passage and instead focus on the Court’s subsequent direction to determine whether the SVR and its implementing regulations “achieve reasonable uniformity on objective standards.” *Id.* at 807. From that language, Plaintiffs contend that *LWV II* established a freestanding, results-based equal protection test under which any demonstrated nonuniformity in the SVR’s administration is constitutionally suspect, without regard to discriminatory purpose or the State’s legitimate interests. That argument cannot be reconciled with longstanding equal protection jurisprudence or with *LWV II* itself.

Our Supreme Court has made clear that the equal protection guarantees in the Kansas Constitution are coextensive with the Fourteenth Amendment to the U.S. Constitution. *Rivera v. Schwab*, 315 Kan. 877, 894, 512 P.3d 168 (2022) (“[T]he equal protection guarantees found in Section 2 are coextensive with the equal protection guarantees afforded under the Fourteenth Amendment to the United States Constitution. Therefore, Kansas courts shall be guided by United States Supreme Court precedent interpreting and applying the equal protection guarantees of the Fourteenth Amendment of the federal Constitution when we are called upon to interpret and apply the coextensive equal protection guarantees of Section 2 of the Kansas Constitution Bill of Rights.”) (citations omitted). Nothing in *LWV II* evinces any intent to overrule, modify, or question that holding.

Under those traditional equal protection principles, discriminatory purpose is required to establish an equal protection violation. *Washington v. Davis*, 426 U.S. 229, 238-40 (1976); *In re Weisgerber*, 285 Kan. 98, 104, 169 P.3d 321 (2007). The mere fact that a law might have a disparate impact on certain individuals, or even upon a protected class, does not suffice. *Pers. Adm'r of Mass. v. Feeney*, 442 U.S. 256, 272 (1979); accord *Montoy v. State*, 278 Kan. 769, 120 P.3d 306, 308 (2005) (“In order to establish an equal protection violation on this basis, one must show not only that there is a disparate impact, but also that the impact can be traced to a discriminatory purpose.”); *Crawford v. Kan. Dep’t of Rev.*, 46 Kan. App. 2d 464, 468, 263 P.3d 828 (2011) (“Evidence that similarly situated persons were treated differently is not, in and of itself, sufficient to establish an equal protection violation; an element of intentional or purposeful discrimination must also be present.”) (citing *Snowden v. Hughes*, 321 U.S. 1, 8 (1944), and *Pork Motel Corp. v. Kansas Department of Health & Environment*, 234 Kan. 374, 387, 673 P.2d 1126 (1983)). “The calculus of effects, the manner in which a particular law reverberates in a society, is a legislative and not a judicial responsibility.” *Feeney*, 442 U.S. at 272.

This Court does not read *LWV II* as crafting an alternative state law test that dispenses with these principles. Indeed, the Supreme Court’s invocation of a standard under which “proper proofs” such as an SVR must be administered with “reasonable uniformity” and “objective standards” so that similarly situated voters are not subjected to “arbitrary and disparate treatment” echoes familiar federal equal protection principles. Courts frequently use language like “uniformity,” “objectivity,” and “arbitrariness” to describe how purposeful discrimination manifests in the administration of laws, particularly in the election context. See *LWV II*, 318 Kan. at 805-06. Those concepts do not supplant traditional equal protection doctrine; they simply

help determine whether purposeful discrimination exists. In other words, properly understood, the Supreme Court's formulation is a gloss on, not a departure from, those settled standards.

Plaintiffs' contrary interpretation confuses the constitutional inquiry identified by *LWV II* with the constitutional test governing whether an equal protection violation has occurred. *LWV II* identified the potential defect to be examined on remand: whether Kansas' SVR is capable of reasonably uniform application upon objective standards so that voters are not subjected to arbitrary and disparate treatment. But the Supreme Court did not hold that every instance of nonuniformity establishes a constitutional violation regardless of its nature, cause, effect, or justification. Nor did it overrule *Rivera* or decades of federal and Kansas precedent requiring equal protection claims to be evaluated under settled equal protection principles.

Plaintiffs' interpretation would instead create what amounts to a strict liability regime for election administration. Under their theory, if two election officials occasionally reach different conclusions (even on a matter necessitating judgment), or if two counties use slightly different administrative procedures, the constitutional violation is complete. There would be no further inquiry into whether similarly situated voters were materially treated differently, whether any difference was intentional or arbitrary, or whether legitimate governmental interests justified the challenged practice. Equal protection has never operated that way. It has always been comparative, asking both whether similarly situated persons have been treated differently and whether any constitutionally cognizable difference in treatment is adequately justified.

Nor can such a fundamental transformation of equal protection doctrine reasonably be inferred from silence. *LWV II* nowhere announced that either *Rivera* or the traditional equal protection framework used to interpret the federal Constitution is no longer applicable in Kansas

when construing our parallel state constitutional provisions.⁴ As discussed above, courts do not ordinarily treat settled principles as implicitly overruled merely because a later opinion had no occasion to restate them. Indeed, the Supreme Court in *LWV II* likewise did not discuss the longstanding presumption of constitutionality or identify some new allocation of the burden of proof. Yet no one could reasonably infer that those settled principles disappeared on remand. The same is true of traditional equal protection doctrine.

Under traditional equal protection principles, rational basis review applies. The Kansas Supreme Court has already held that the right to vote under the Kansas Constitution is an enumerated political right governed by Article 5 and the test set forth in *State v. Butts*, 31 Kan. 537, 2 P. 618 (1884), rather than a fundamental right subject to heightened scrutiny under Section 2 of the Bill of Rights. *LWV II*, 318 Kan. at 798-805. In that vein, it is beyond dispute that the SVR does not classify voters on the basis of race or other suspect classification. Although Plaintiffs suggest the SVR may have a disparate impact on disabled voters, the record contains no competent evidence establishing such an effect. In any event, disability is not a suspect classification for equal protection purposes. *Bd. of Trustees v. Garrett*, 531 U.S. 356, 367 (2001) (“States are not required by the Fourteenth Amendment to make special accommodations for the disabled, so long as their actions towards such individuals are rational.”). Moreover, the record contains no persuasive evidence that the SVR and its implementing regulation were adopted, or are administered, with a discriminatory purpose against any group of voters. The SVR applies equally to all voters who choose to cast an advance ballot by mail and subjects them

⁴ Plaintiffs’ theory is particularly unpersuasive given that the mode of voting and corresponding election integrity safeguard at issue here are so clearly delegated to the Legislature’s broad discretion in provisions adopted either simultaneously with (in the case of Art. V, § 4), or more than 100 years after (in the case of Art. IV, § 1), the Kansas Constitution’s Bill of Rights.

to the same statutory and regulatory requirements. Accordingly, the law satisfies equal protection so long as it bears a rational relationship to a legitimate governmental objective.

That standard is highly deferential. The relationship between the classification and the legislative objective “need not be narrowly tailored to the objective. A rational connection between the two will suffice.” *Hoesli v. Triplett, Inc.*, 303 Kan. 358, 370, 361 P.3d 504 (2015). “Relevance is the only relationship required between the classification and the objective.” *Id.* (quotation and alteration omitted). The “standard is met so long as the statute produces effects that advance, rather than retard or have no bearing on, the attainment of the objective.” *Id.* (quotations omitted). The State is not constitutionally obligated to employ the least burdensome, most effective, or otherwise best conceivable means of accomplishing its objectives. See *Schweiker v. Wilson*, 450 U.S. 221, 230 (1981) (“The equal protection obligation . . . is not an obligation to provide the best governance possible.”).

This principle is particularly important here because Plaintiffs repeatedly speculate about additional safeguards, training requirements, or regulatory details that Kansas theoretically could have adopted. But neither equal protection nor *LWV II* requires the State to adopt the best, most protective, or most rigorous signature verification system imaginable. Government officials routinely consider and reject alternative policy choices. The only legal question is whether the system that Kansas actually adopted satisfies constitutional requirements, not whether Plaintiffs or their experts can conceive of additional safeguards that might have been adopted.

Even if traditional rational-basis review did not govern, however, Plaintiffs would fare no better under the *Anderson-Burdick* framework sometimes applied to challenges involving the mechanics of the electoral process. Under that test, courts “weigh ‘the character and magnitude

of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate’ against ‘the precise interests put forward by the state as justifications for the burden imposed by its rule,’ taking into consideration ‘the extent to which those interests make it necessary to burden the plaintiff’s rights.’” *Burdick v. Takushi*, 504 U.S. 428, 434 (1992) (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1982)). “[W]hen those rights are subjected to severe restrictions, the regulation is subject to strict scrutiny and must be narrowly drawn to advance a state interest of compelling importance.” *Burdick*, 504 U.S. at 434. But when those rights are subjected merely to reasonable, nondiscriminatory restrictions, the challenged law is exposed to far less searching review that is closer to rational basis and “the State’s important regulatory interests are generally sufficient to justify the restrictions.” *Burdick*, 504 U.S. at 434.

The SVR imposes, at most, a minimal burden. A voter who casts an advance mail ballot is required only to sign the ballot envelope. If election officials determine that the signature on the envelope is inconsistent with the voter’s signatures on file, the ballot is not rejected. Instead, the voter is given an opportunity to cure the discrepancy before the canvass. The evidence at trial established that only an extraordinarily small number of ballots ultimately go uncounted because of an uncured signature inconsistency. Against that minor burden stands the State’s substantial interests in preventing and deterring fraud, promoting orderly election administration, protecting the weight of lawful votes, and maintaining public confidence in election results. See *Richardson v. Tex. Sec’y of State*, 978 F.3d 220 (5th Cir. 2020) (holding that Texas’ signature verification requirement imposed a reasonable, nondiscriminatory restriction and was justified by the State’s interest in preventing mail-ballot fraud).

Regardless, then, of whether the Court applies traditional equal protection analysis or *Anderson-Burdick* balancing, the governing doctrine simply does not support Plaintiffs' theory that every difference in the administration or outcome of the SVR, no matter how insignificant, establishes a constitutional violation.

2. The SVR is Capable of Application Upon Objective Standards

The Kansas Supreme Court directed this Court to determine whether the SVR is capable of reasonably uniform application upon objective standards so that voters are not subjected to arbitrary and disparate treatment. The Court turns to that inquiry next.

Plaintiffs first contend that the SVR fails equal protection because it invites too much discretion to satisfy *LWV II*. The Court disagrees. Kansas employs a uniform statewide standard for determining whether signatures on advance mail ballot envelopes are consistent with the voters' signatures on file. That regulatory standard is intentionally lenient, is built upon objective criteria, and contains multiple safeguards designed to prevent uncertain or questionable comparisons from resulting in the rejection of a lawful ballot.

The significance of these statewide standards is underscored by the system they replaced. Before 2021, some Kansas counties reviewed signatures on advance mail ballots while others did not, and the State imposed no common procedures governing the review that individual counties chose to undertake. Caskey aptly described the pre-2021 system as the "wild, wild west of pre-signature verification," with no statewide oversight, no consistent procedures, and no uniform cure process. But K.S.A. 25-1124(h) and K.A.R. 7-36-9 fundamentally changed that landscape. Kansas now requires signature review statewide and supplies common regulatory criteria governing that review, State-approved training, multiple reviewer safeguards, and a mandatory

cure process. Far from introducing the sort of unbounded discretion that Plaintiffs claim to fear, the challenged SVR imposed uniformity and objective constraints upon a process that previously lacked statewide standards.

The leniency of the adopted regulatory standard is also important. As long as a signature is “generally uniform and consistent with the voter’s signature,” it must be treated as a match. K.A.R. 7-36-9(a)(4). A signature may be deemed “inconsistent” only if it “differs in multiple, significant, or obvious respects from the voter’s signature” on file. K.A.R. 7-36-9(a)(2). Moreover, every signature available to the county election office since the voter’s registration must be considered in the evaluation, whether submitted by the voter or transmitted by another State agency. K.A.R. 7-36-9(g)(1). If the ballot envelope signature is consistent with any signature in the voter’s file, the ballot is counted. K.A.R. 7-36-9(g)(3).

The regulation further provides that no single election official may determine that a signature is inconsistent. Before the cure process can even be triggered, at least two election officials who have received the required signature-verification training must agree that the signature is inconsistent. K.A.R. 7-36-9(g)(4). Only then is the voter contacted and afforded an opportunity to cure the perceived inconsistency before the county canvass. K.A.R. 7-36-9(b), (d). Thus, even an initial judgment that a signature appears inconsistent does not cause a ballot to be rejected. It merely triggers additional review and, if necessary, a cure opportunity. This structure imposes substantive constraints upon the decision-making process and substantially reduces the possibility that a ballot will be questioned based upon the idiosyncratic judgment of a single reviewer.

The evidence at trial confirmed that this intentionally permissive structure is how Kansas election officials understand and administer the SVR. Election Director Caskey testified that the regulation intentionally does not use a strict matching standard because every person's signature varies. Election officials instead take a holistic view of the ballot envelope signature, which is why the regulation defines a "match" as a signature that is "generally uniform and consistent" with the voter's exemplar signatures rather than requiring exact correspondence. Riley County Clerk Vargo similarly testified that reviewers apply identifiable characteristics taught through the State-approved training and begin their review with a presumption that the signatures are consistent. Former Johnson County Election Commissioner Sherman likewise explained that the process is not a mechanical "bingo-keep scorecard" exercise but instead evaluates the signature as a whole and contemplates meaningful rather than trivial differences before the cure process is triggered.

Plaintiffs nevertheless parse the phrase "multiple, significant, or obvious" in isolation while giving insufficient attention to the deliberately broad definition of a "match." The regulation cannot properly be read that way. Its provisions must be construed together. See *Woessner v. Labor Max Staffing*, 312 Kan. 36, 49, 471 P.3d 1 (2020). Read as a whole, K.A.R. 7-36-9 directs election officials to make an overall judgment about whether the ballot envelope signature is generally uniform and consistent with the voter's signatures on file. It does not establish, and was not intended to establish, a mechanical checklist under which every minor variation is separately scored.

Plaintiffs' excessive subjectivity theory ultimately assumes that only a review process guaranteeing accuracy approaching mathematical precision can survive constitutional scrutiny.

That is not the law. Plaintiffs repeatedly equate the involvement of human judgment with the absence of objective criteria. But an objective criterion is one that directs officials to evaluate identifiable facts, cabins discretion, and supplies a reviewable basis for determining compliance. It is not synonymous with 100% mathematical precision. The law routinely employs objective standards that require judgment in their application. “Reasonable suspicion,” “probable cause,” “materiality,” and “reasonable care” all require decisionmakers to assess context and observable facts before reaching a judgment. Those standards remain objective not because they eliminate discretion, but because they guide it rather than leaving the decision to personal whim.

The same principle applies here. K.A.R. 7-36-9 directs election officials to compare observable handwriting characteristics in determining whether a ballot envelope signature is generally uniform with the voter’s signatures on file and permits an inconsistency finding only when the differences are “multiple, significant, or obvious.” The statewide training provides further guidance concerning the characteristics reviewers should consider and the natural variations that may occur in a person’s handwriting. Together, the regulation and training channel the exercise of judgment toward a common substantive standard rather than conferring unbounded discretion upon county officials.

Nor does the fact that two county election officials might occasionally reach different conclusions about a particular signature render the governing standard unconstitutional. Human beings are not automatons. Some judgment is inherent in nearly every system administered by people. The Ninth Circuit recognized as much in *Lemons v. Bradbury*, 538 F.3d 1098, 1107 (9th Cir. 2008), when it rejected the proposition that modest variations among counties in signature-related decisions established an equal protection violation. Likewise, the Sixth Circuit has

observed that “[a]rguable differences in how elections boards apply uniform statewide standards to the innumerable permutations of ballot irregularities, although perhaps unfortunate, are to be expected.” *N.E. Ohio Coalition for the Homeless v. Husted*, 837 F.3d 612, 636 (6th Cir. 2016). Objective standards are designed to constrain subjectivity. They do not require that every person applying them invariably reach the same conclusion. Indeed, the concern identified in *LWV II* was arbitrary and unbounded discretion, not judgment exercised pursuant to structured criteria.

Plaintiffs’ preferred alternative would create its own serious problems. All parties agree that signatures naturally vary depending upon such matters as the writing instrument, writing surface, speed, posture, age, health, and physical condition of the signer. A workable standard must allow reviewers to distinguish ordinary variation from discrepancies sufficiently significant to warrant further inquiry. A rigid mechanical checklist could prevent election officials from accounting for those natural variations and thereby cause more, rather than fewer, lawful ballots to be questioned. That is why Kansas pairs guided judgment with safeguards designed to protect the voter, including consideration of all available exemplars, concurrence by multiple reviewers, and a cure process before a ballot is ultimately rejected.

Plaintiffs’ reliance on *Minnesota Voters Alliance v. Mansky*, 585 U.S. 1 (2018), does not alter this conclusion. *Mansky* involved a First Amendment challenge to a prohibition on “political” apparel inside polling places. Although the Court required “objective, workable standards” to guide officials charged with enforcing that restriction on expressive activity, it expressly recognized that “perfect clarity and precise guidance” are unnecessary. *Id.* at 21 (quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 794 (1989)). The concerns animating *Mansky* are simply not present here. This case involves neither protected expression (where the

overbreadth doctrine might come into play) nor a criminal prohibition (where liberty interests might be at stake). Plus, Plaintiffs are asserting a facial challenge, and not to just any regulation, but one governing the mechanics of an election and enacted pursuant to the State's authority to require "proper proofs," an area where the State's discretion is at its zenith.

More generally, legislatures and administrative agencies are not required to supply specialized definitions for ordinary words capable of being understood through their common meaning. See *Ward*, 491 U.S. at 794; *Grayned v. City of Rockford*, 408 U.S. 104, 110 (1972) ("Condemned to the use of words, we can never expect mathematical certainty from our language."). Terms such as "multiple," "significant," and "obvious" are not esoteric terms requiring technical definitions before they can guide official conduct. The possibility that imaginative counsel can construct difficult hypothetical applications does not render those terms unconstitutional. See *Grayned*, 408 U.S. at 110 n.15.

Plaintiffs' argument also gives insufficient weight to the presumption of constitutionality that applies to the challenged statute and regulation. A statute "comes before the court cloaked in a presumption of constitutionality," and the party challenging it bears the burden of proving a clear constitutional violation. *Leiker v. Gafford*, 245 Kan. 325, 363-64, 778 P.2d 823 (1989). The Supreme Court reinforced this point in *Matter of A.B.*, 313 Kan. 135, 484 P.3d 226 (2021), where it explained: "This court presumes that statutes are constitutional and resolves all doubts in favor of passing constitutional muster. If there is any reasonable way to construe a statute as constitutionally valid, this court has both the authority and duty to engage in such a construction." *Id.* at 138 (quoting *State v. Bollinger*, 302 Kan. 309, 318, 352 P.3d 1003 (2015)). The same holds true of regulations. See *Mitchell v. Petsmart, Inc.*, 291 Kan. 153, 168, 239 P.3d

51 (2010) (“Regulations an administrative agency is authorized to adopt are presumed valid, and the party challenging a regulation bears the burden to establish its invalidity.”). Overcoming this presumption is a “weighty” task, *Downtown Bar & Grill, LLC v. State*, 294 Kan. 188, 192, 273 P.3d 709 (2012), and Plaintiffs have failed to do so here.

The regulatory standard used in Kansas is almost identical to that used in multiple other states, and it has been uniformly upheld in those jurisdictions. *See, e.g., Vet Voice v. Hobbs*, 564 P.3d 978, 982, 991-92 (Wash. 2025) (referencing Wash. Admin. Code § 434-261-053(2)(b)); *Election Integrity Project Cal., Inc. v. Weber*, 113 F.4th 1072, 1080, 1089-99 (9th Cir. 2024) (referencing Cal. Election Code § 3019(c)(2)); *see also* Nev. Rev. Stat. § 293.269927 (same regulatory standard used in Nevada and never successfully challenged).

In fact, Kansas’ standard is clearer and more administrable than those other jurisdictions. Kansas defines an “inconsistent” signature as one that “differs in multiple, significant, or obvious respects” from the voter’s signature on file. K.A.R. 7-36-9(a)(2) (emphasis added). By using the disjunctive “or,” Kansas recognizes that a signature may be plainly unreliable even if it does not differ in *every* conceivable way. Contrast this to a conjunctive standard that mandates differences which are simultaneously “multiple, significant, and obvious.” Such a requirement could invite potential confusion and incongruous results. For example, a voter whose ordinary signature is elaborate and distinctive – akin to, say, John Hancock – might return an advance ballot envelope bearing nothing more than a single straight line. That signature would unquestionably differ from the voter’s exemplar signature in significant and obvious respects. But whether it differs in “multiple” respects is far less clear. A rigid conjunctive test would thus risk compelling election officials to accept a patently inconsistent signature simply because it fails to satisfy some abstract

numerical requirement. The Kansas standard avoids that problem by providing election officials with a clear, commonsense rule that flags signatures which are meaningfully unreliable, rather than forcing such officials to parse semantical distinctions.

Finally, Plaintiffs' forensic document examination evidence does not establish that the Kansas SVR standards are constitutionally inadequate. As Dr. Mohammed acknowledged at trial, Kansas election officials are not attempting to conduct forensic document examinations, and the regulatory task imposed upon them is considerably less taxing than determining authenticity to a forensic standard. *LWW II* does not require a forensic examination before an election official may question a ballot envelope signature. The Kansas Constitution instead requires only objective standards capable of reasonably uniform application. The State provides precisely that.

3. The SVR is Applied with Reasonable Uniformity

The evidence of how the SVR operates in Kansas confirms what its structure suggests. Plaintiffs did not establish at trial that Kansas counties apply materially different standards in determining whether advance mail ballot signatures are consistent. Nor did they establish that differences in county administrative practices have resulted in materially disparate treatment of Kansas voters. To the contrary, the actual experience under K.A.R. 7-36-9 demonstrates a system operating with remarkable consistency. Across the 2022 and 2024 General Elections, more than 99.9% of advance mail ballots subject to the SVR were ultimately counted. Only 130 ballots were rejected because of an uncured signature inconsistency in 2022 and only 94 in 2024. The overwhelming majority of Kansas counties reported no such rejections at all. Indeed, 88 of 105 counties reported zero signature-mismatch rejections in 2022, and 97 of 105 reported zero in 2024.

The significance of those actual results is heightened by the posture in which this case began. Plaintiffs filed this lawsuit thirty days before K.S.A. 25-1124(h) even took effect, and well before K.A.R. 7-36-9 supplied the statewide standards and cure procedures that Plaintiffs now challenge. At that point, in June 2021, Plaintiffs obviously had no experience under the new system on which to base their predictions. Nevertheless, they alleged that the SVR would cause “countless” eligible Kansas voters to be disenfranchised. See Am. Pet. ¶ 197. The benefit of four years of actual experience is that the Court need not decide this case based on such predictions. The evidence now available bears no resemblance to the dire consequences Plaintiffs forecast. In the two general elections for which statewide evidence was presented, fewer than 1/10 of 1% of advance mail ballots were ultimately rejected because of an uncured signature inconsistency.

These actual results are difficult, if not impossible, to reconcile with Plaintiffs’ contention that the SVR is administered in an arbitrary or materially disparate manner. The rejection figures do not show, of course, that every county official will reach the same conclusion concerning every signature. Nor must they. But they provide powerful evidence against Plaintiffs’ theory that differences in county administration or reviewer judgment have produced systemic disparate treatment. Indeed, Dr. Aravkin testified that the number of ultimately rejected ballots was so small that it could not even support meaningful statistical comparisons of the kind he had performed using much larger datasets from Washington and Colorado. In fact, the rejection rate was so tiny, he observed, that there was “very little room for improvement” between Kansas’ observed results and a 100% acceptance rate.

Against that evidence, Plaintiffs identify various differences in how individual counties administer particular aspects of the SVR and cure process. Those differences do not demonstrate

that Kansas voters are subjected to different standards for determining whether their signatures are consistent. The evidence at trial underscored that Kansas counties vary widely in population, staffing, workload, and election experience. Johnson County processed 47,065 counted advance mail ballots in the 2024 General Election, while Riley County processed only 1,795, and Greeley County just 28. Such differences in scale necessarily affect how election offices may reasonably organize their operations, a point even Plaintiffs' expert, Dr. Mayer, conceded.

Equal protection does not require those counties to administer every aspect of an election identically. As the Ninth Circuit explained in *Weber*, 113 F.4th at 1091, *Bush v. Gore* imposes only the “‘minimal’ standard of non-arbitrary state action,” not “absolute uniformity of election rules” or “total precision in their formulation.” Indeed, “[s]tate-by-state and intra-state variation in the administration of elections is a feature, not a bug, of our federal system.” *Id.* Likewise, even “uniform standards can produce different results,” *Lemons*, 538 at 1107, and “isolated discrepancies are insufficient to demonstrate the absence of a uniform standard.” *Weber*, 113 F.4th at 1094 (quoting *Lemons*, 538 F.3d at 1106-07).

Plaintiffs' specific examples of purported nonuniformity do not demonstrate otherwise. Plaintiffs first emphasize differences in the number of election officials involved in reviewing a questioned signature. But K.A.R. 7-36-9(g)(4) establishes a uniform statewide minimum: at least two election officials trained by the Secretary of State must agree that a ballot envelope signature is inconsistent with the voter's signatures on file before the cure process may be initiated. Some counties provide additional review beyond that minimum. Riley County, for example, may involve a third reviewer, while Johnson County's process effectively required agreement by additional personnel before a signature inconsistency resulted in cure. A county does not subject

its voters to a materially different or less protective substantive standard merely because it provides additional review before questioning their signatures. Nor does the presence of an extra reviewer or two suggest that the SVR is incapable of being applied with reasonable uniformity in this facial challenge.

Plaintiffs similarly attach constitutional significance to differences in the number of exemplar signatures available for different voters and counties. But the evidence did not establish that such differences result from counties applying different standards. The number of available exemplars necessarily varies from voter to voter. A recently registered voter may have only a registration signature on file, while a long-time voter who has repeatedly applied for advance ballots, updated registration information, or otherwise submitted signed election documents may have numerous exemplars. Johnson County also possesses more historical signatures for many voters because of its frequent use of all-mail special elections. Such differences are an inevitable consequence of individual voters' histories and circumstances, not evidence that counties employ different substantive standards for determining whether signatures are consistent.

Nor did Plaintiffs establish material county-to-county differences in the types of signatures used for comparison. Election officials are required under K.A.R. 7-36-9(g)(1) to compare the ballot envelope signature with the voter's signatures on file, and the trial evidence established that counties maintain signatures obtained through numerous interactions with voters. In Shawnee County, Howell identified voter registration documents, advance ballot applications, prior ballot envelopes, poll pad signatures, and other voter correspondence as potential sources. Sherman likewise testified that Johnson County scans virtually every signed document received from a voter, except documents regarded as invalid or otherwise inappropriate for use as

exemplars. And Caskey testified that the Secretary of State has instructed counties to capture every voter signature received into the statewide system. Plaintiffs identified no evidence that any material variation in the retention of signatures has resulted in systemic disparate treatment of voters.

Plaintiffs also point to differences in the methods some counties use to facilitate the cure process. Those differences likewise do not establish constitutionally significant nonuniformity. Kansas law provides every voter whose signature is questioned the same fundamental protection: notice of the inconsistency and an opportunity to cure before the county canvass. K.A.R. 7-36-9(b)-(e). The parties stipulated, and the trial testimony confirmed, that counties may use various practical means to provide that opportunity, including mail, electronic communication, and in rare circumstances, home visits. Reasonable uniformity, however, does not require counties of vastly different size and resources to employ identical administrative methods. Indeed, Dr. Mayer acknowledged that individualized assistance feasible in a smaller county, such as sending election personnel to a voter's residence, might be impracticable in Johnson County. What matters is that voters receive the same substantive protection – notice and a meaningful opportunity to cure – not that every county accomplish that objective through precisely the same means.

Significantly, Plaintiffs' own election administration expert did not establish that these administrative variations produced materially differential treatment. None of Dr. Mayer's opinions at trial were based upon the actual number or percentage of Kansas advance mail ballots flagged, cured, counted, or rejected. He did not interview Kansas election officials or voters concerning the operation of the SVR. And he could not identify a single ultimately

rejected ballot that he could say represented an erroneous signature determination by Kansas election officials. Plaintiffs therefore presented no expert analysis demonstrating that the minor county-level variations they highlight have produced materially disparate outcomes.

The contrast with *Bush v. Gore* is substantial. There, the constitutional defect arose from the *complete absence* of a common substantive standard governing the recount, which permitted materially different rules to determine whether particular ballots constituted legal votes. At least one county changed the guiding principles *during* the count, three members of the county canvassing board in another county all used different evaluative rules, 531 U.S. at 106, and “ad hoc teams of judges from various” counties with “no previous training in handling and interpreting ballots” were pulled together to conduct the recount. *Id.* at 109. Nor was there an opportunity for voters to object to, or cure, purported defects. *Id.* Confronted with this erratic state of events, the Supreme Court held that the “recount mechanisms implemented in response to the decisions of the Florida Supreme Court do not satisfy the minimum requirement for nonarbitrary treatment of voters necessary to secure the fundamental right.” *Id.* at 105.

The evidence at trial establishes no comparable defect in Kansas. The statewide standards here are entirely capable of, and in practice have been, applied with reasonable uniformity. Plaintiffs have failed to establish that any minor administrative variations among counties subject similarly situated voters to arbitrary or materially disparate treatment.

4. The SVR Serves Substantial and Legitimate State Interests

Kansas has substantial and legitimate interests in protecting the integrity of its elections, preventing and deterring fraud, ensuring that advance mail ballots are cast by the voters to whom they were issued, promoting orderly election administration and finality, and maintaining public

confidence in election results. Indeed, *LWV II* itself recognized the legitimacy of the State's interest in preventing invalidly cast ballots from being counted. 318 Kan. at 802-03. Dr. Atkeson likewise explained that sound election administration requires the simultaneous pursuit of three principal objectives: access, integrity, and finality. Election integrity is especially important because it assures the public that elections are conducted through a fair, orderly, and accurate process. Plaintiffs' own expert, Dr. Mayer, agreed that election integrity and public confidence are legitimate governmental concerns and characterized the proposition that government may act proactively to prevent fraud and protect election integrity as "unobjectionable and axiomatic."

Those interests have particular force in the context of advance voting by mail. Unlike voting at a polling place, the application for, completion of, and return of a mail ballot ordinarily occur outside the presence of election officials. Election officials thus have fewer opportunities to verify that the person casting the ballot is the same registered voter to whom it was issued. As Election Director Caskey noted, the SVR addresses that concern by providing election officials a means of determining whether the person who signed the ballot envelope is the same individual reflected in the voter registration record.

Plaintiffs cannot defeat that interest by arguing that documented instances of mail ballot fraud are comparatively rare. Dr. Atkeson explained that responsible election administration is necessarily proactive. Election officials cannot, and should not, wait until their own jurisdiction has experienced harm before implementing reasonable safeguards. Instead, they must evaluate potential risks and learn from difficulties encountered in other jurisdictions in determining whether similar safeguards are appropriate in their own election systems. States need not wait for election fraud to become widespread before adopting reasonable measures designed to prevent it.

As the Supreme Court has repeatedly recognized, legislatures may act prophylactically to protect the integrity of elections without first establishing that the threatened harm has already occurred on a substantial scale. See *Munro v. Socialist Workers Party*, 479 U.S. 189, 195-96 (1986) (“To require States to prove actual voter confusion, ballot overcrowding, or the presence of frivolous candidacies as a predicate to the imposition of reasonable ballot access restrictions would invariably lead to endless court battles over the sufficiency of the ‘evidence’ marshaled by a State to prove the predicate.”); *Brnovich v. Democratic Nat’l Comm.*, 594 U.S. 647, 685-86 (2021) (“Fraud is a real risk that accompanies mail-in voting,” and a State “may take action to prevent election fraud without waiting for it to occur and be detected within its own borders.”). Instinctively, this makes sense. One can only imagine the damage to the public’s confidence in the integrity of the electoral process if a state could never act to protect its elections until after suffering harm.

Nor does the relatively small number of criminal prosecutions establish that the State’s concerns are illusory. Dr. Atkeson explained that election fraud is inherently difficult to detect and prosecution statistics are an unreliable measure of its actual incidence. Not every suspected instance of fraud results in prosecution. Besides, Kansas does not mandate that county election officials or prosecutors report every referral or prosecution to the Secretary of State. Moreover, prosecutors have broad discretion as to which cases to charge and election fraud cases historically have not been prioritized. There is also a practical finality problem unique to ballots: once a mail ballot has been separated from its signed envelope and counted, election officials cannot later identify and remove that ballot if they subsequently learn it was fraudulently cast.

These practical realities further demonstrate why the State need not rely exclusively on after-the-fact detection and prosecution rather than reasonable preventive safeguards.

As Dr. Atkeson additionally noted, elections frequently turn on tight margins. Election officials have no way of knowing in advance which contests may come down to a handful of votes. But an election safeguard does not become constitutionally insignificant merely because the misconduct it is designed to prevent occurs infrequently.

The trial evidence nevertheless demonstrated that the fraud risks addressed by the SVR are not purely hypothetical. Sherman testified, for example, that the Johnson County Election Office had made criminal referrals during his tenure when a questioned signature, coupled with information obtained during the cure process, suggested that someone other than the registered voter had cast the ballot. In one such instance, the purported voter reported being away at school and stated that he had neither signed nor voted the ballot. Howell similarly testified about his experiences in Shawnee County. (Tr. 775-76). And Dr. Atkeson referenced incidents from other jurisdictions in which signature verification revealed ballots signed by someone other than the registered voter, including parents signing ballots issued to children away on religious missions and a Colorado voter who advised election officials during the cure process that he had neither received nor voted the ballot attributed to him. These examples, which represent just the tip of the iceberg,⁵ are not necessary to establish the constitutionality of the SVR, but they confirm that the risk Kansas seeks to address is a real one.

The SVR also advances Kansas' interest in the orderly administration of elections. That interest extends beyond preventing fraud. As the Supreme Court recognized, a State's interest in

⁵ See <https://electionfraud.heritage.org> (summarizing criminal convictions for fraudulent use of absentee ballots).

electoral integrity encompasses identifying invalid signatures resulting from mistake as well as fraud and, more broadly, “promoting transparency and accountability in the electoral process.” *Doe v. Reed*, 561 U.S. 186, 198 (2010). The trial evidence demonstrated why the SVR serves those objectives. Dr. Atkeson testified that approximately 32 states employ signature verification for mail ballots and that the process combines several useful administrative features: it imposes a low barrier on voters, requires relatively little additional technology from election administrators, and creates a transparent and auditable record that can be reviewed if questions later arise concerning an election. (Tr. 576-77). Those features are particularly valuable in mail voting, where election officials relinquish the chain of custody they possess when voting occurs in person. Signature verification thus provides Kansas with a practical and widely used means of verifying mail voters while simultaneously promoting transparency and accountability in the administration of elections.

The State also has a substantial interest in protecting public confidence in the integrity of its elections. See *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 197 (2008) (recognizing the legitimacy of the State’s interest in “safeguarding voter confidence”). The Kansas-specific evidence at trial strongly supports that interest. Dr. Atkeson testified that approximately 66% of Kansas respondents to the Survey of the Performance of American Elections in 2022 reported that signature verification increased their confidence in elections either “a lot” or “a little.” The corresponding figure in 2024 was approximately 62%. While that survey data does not establish whether election fraud actually occurred, it does demonstrate that signature verification itself meaningfully contributes to public confidence in the security of Kansas elections.

Importantly, the State's substantial interests are advanced through the imposition of an extremely modest requirement on advance mail voters. Kansas does not require mail voters to obtain identification, appear before an election official, have their signatures notarized, or satisfy a forensic standard of authenticity. It simply requires them to sign the ballot envelope, just as they signed the application used to obtain the ballot. If trained election officials conclude that the signature is inconsistent with the voter's signatures on file, the ballot is not rejected. The voter instead receives notice and an opportunity to cure before the canvass. And the actual experience under the SVR confirms the limited nature of the resulting burden: more than 99.9% of advance mail ballots were ultimately counted in both general elections for which the Court received evidence.

In sum, there is far more than the "rational connection" necessary under rational basis review, *Hoesli*, 303 Kan. at 370, for the SVR to pass constitutional muster. Requiring a voter casting a ballot outside the presence of election officials to provide a signature that is generally consistent with a signature already associated with that voter is clearly and rationally related to the State's interests in deterring improperly cast ballots, protecting the weight of lawful votes, facilitating the orderly administration of elections, and maintaining public confidence in election results. The fact that Plaintiffs or their experts might prefer different safeguards, additional training, or some alternative method of identity verification does not render the Legislature's chosen means unconstitutional. Equal protection does not require "the best governance possible." *Schweiker*, 450 U.S. at 230.

The same conclusion follows under *Anderson-Burdick*. The burden imposed by the SVR is minimal, and that modest burden must be compared to and contrasted with the State's

powerful interests described above. Reasonable, nondiscriminatory election regulations are justified by important regulatory interests. *Burdick*, 504 U.S. at 434. A state has no obligation to demonstrate that its chosen measures are the least restrictive or most finely calibrated means of advancing those interests.

Accordingly, whether analyzed under traditional rational basis review, *Anderson-Burdick* balancing, or even just the specific equal protection formulation that Plaintiffs seek to splice from *LWV II* without further context, the result here is the same. The evidence demonstrates a statewide system governed by objective standards and multiple safeguards that is capable of, and in practice achieves, reasonable uniformity. Plaintiffs have not established that similarly situated voters are subjected to arbitrary or materially disparate treatment, much less that the extremely limited burden associated with the SVR is unjustified by the substantial State interests it serves. Plaintiffs' equal protection claim therefore fails under any potentially applicable standard.

D. Plaintiffs Have Failed to Establish a Due Process Violation

1. Governing Legal Standard

Plaintiffs' due process claim presents a more focused inquiry. The Kansas Supreme Court directed this Court to determine whether the SVR provides voters with "reasonable notice of defects and an opportunity to cure." *LWV II*, 318 Kan. at 807. The evidence at trial established that Kansas amply provides both. No voter's ballot is rejected merely because election officials initially identify an inconsistent signature. Instead, the State requires affirmative efforts to notify the voter of the perceived deficiency and provide the voter an opportunity to cure the apparent mismatch before the ballot is finally rejected. The procedures required by Kansas law, and the

evidence concerning how those procedures operate in practice, satisfy the requirements of due process.

Section 18 of the Kansas Constitution's Bill of Rights requires that voters receive "reasonable notice" of an apparent signature mismatch and "an opportunity to be heard at a meaningful time and in a meaningful manner" so that they may cure the deficiency. *LWV II*, 318 Kan. at 806. The Supreme Court distilled that inquiry when it directed this Court on remand to determine whether Kansas provides "reasonable notice of defects and an opportunity to cure." *Id.* at 807.

Plaintiffs seek to impose a more elaborate constitutional standard. At summary judgment, they urged application of the three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976), under which courts weigh the private interest affected, the risk of erroneous deprivation and probable value of additional safeguards, and the governmental interests involved. But *LWV II* did not adopt *Mathews* as the governing test on remand. Instead, after considering the Legislature's authority under Article 5 of our Constitution to prescribe "proper proofs" for determining voter qualifications, the Court articulated the specific due process inquiry quoted above. *LWV II*, 318 Kan. at 805-07. That formulation controls this Court's analysis.

Federal appellate authority likewise counsels against importing the *Mathews* framework wholesale into challenges to generally applicable election laws. As the Fifth Circuit explained in rejecting a due process challenge to Texas' signature verification requirement, applying *Mathews* to election regulations would invite courts to weigh "the pros and cons of various balloting systems," while failing adequately to account for the State's important interest in regulating elections. *Richardson*, 978 F.3d at 234-35. Every other federal appellate court to reach the issue

has come to the same conclusion. See *Ariz. Democratic Party v. Hobbs*, 18 F.4th 1179, 1194-95 (9th Cir. 2021); *Memphis A. Philip Randolph Inst. v. Hargett*, 978 F.3d 378, 387-88 (6th Cir. 2020); *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1282 (11th Cir. 2020) (explaining that applying *Mathews* to generally applicable election regulations “would stretch concepts of due process to their breaking point”).

The U.S. Supreme Court has likewise made clear that it has “never viewed *Mathews* as announcing an all-embracing test for deciding due process claims.” *Dusenbery v. United States*, 534 U.S. 161, 168 (2002). When the particular question concerns the adequacy of notice, the Court has instead looked to *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), which supplies “a more straightforward test of reasonableness under the circumstances.” *Dusenbery*, 534 U.S. at 167. Under *Mullane*, due process requires notice “reasonably calculated, under all the circumstances, to apprise interested parties” of the matter affecting their interests and to afford them an opportunity to respond. 339 U.S. at 314. That formulation closely parallels the inquiry prescribed in *LWV II*, which asks whether Kansas provides voters “reasonable notice of defects and an opportunity to cure.” 318 Kan. at 807. Thus, at least with respect to Plaintiffs’ challenge to the adequacy of the notice required by K.A.R. 7-36-9, *Mullane* provides a closer doctrinal analogue than the generalized balancing framework of *Mathews*.

Even if *Mathews* did supply the governing standard, however, the result would be no different here. As discussed above, the SVR imposes only the most minimal burden on advance mail voters, incorporates multiple safeguards designed to minimize erroneous determinations, and serves substantial State interests in promoting election integrity, fraud prevention, orderly administration, and public confidence. And most critically, an initial determination by county

election officials that a signature is inconsistent does not result in the deprivation of the voter's ballot. It simply triggers the very procedural safeguard that Plaintiffs claim is constitutionally required: notice and an opportunity to cure before the ballot is rejected.

2. Voters are Provided Reasonable Notice and Meaningful Opportunity to Cure Signature Mismatches

Kansas' cure procedures comfortably satisfy that standard. Once at least two trained election officials agree that a ballot-envelope signature is inconsistent with the voter's signatures on file, the ballot is not rejected. Instead, K.A.R. 7-36-9 requires county officials to undertake affirmative efforts to notify the voter and provide an opportunity to resolve the discrepancy at any time before the county canvass.

The notice requirements are substantial. If a telephone number is reasonably available, the county must attempt to contact the voter by telephone at least three times. K.A.R. 7-36-9(b)(2)(A). Unless prior telephone contact makes written notice unnecessary, the county must also send notice by first-class mail advising the voter of the apparent signature inconsistency and explaining how the voter may verify his or her identity. K.A.R. 7-36-9(b)(2)(B). Counties may additionally use other means of contact, including email or a personal home visit. K.A.R. 7-36-9(b)(2)(C). The regulation further requires counties to document their contact efforts. K.A.R. 7-36-9(c).

The opportunity to cure is highly meaningful. A voter may correct an inconsistent ballot envelope signature at any time until the commencement of the county canvass by providing an updated signature. K.A.R. 7-36-9(d)(1). If the discrepancy is cured, the ballot is counted. The key point is that the State provides the voter an opportunity to resolve the perceived deficiency *before* the ballot is finally excluded, rather than merely informing the voter after the deprivation

has occurred. Moreover, the cure process is easy, straightforward, and – as clearly evident by the very small number of ballots that were rejected due to an uncured signature mismatch in the two general elections since the SVR took effect – extremely effective.

The trial evidence confirmed that these procedures are not merely theoretical. Riley County Clerk Vargo testified that his office commences the cure process immediately after staff identify an inconsistency. Riley County calls the voter right away, sends written notice the same day, and makes additional telephone calls over the following two days when necessary. Shawnee County Election Commissioner Howell similarly testified that his office ordinarily begins the notice process the same day the inconsistency is identified or within approximately 24 hours. No evidence presented at trial demonstrated any systemic delay by county election offices in processing advance mail ballots or initiating the cure process.

The evidence likewise demonstrated flexibility in the manner in which voters may cure. County election officials described procedures permitting voters to verify their identities and provide updated signatures through practical means that include in-person submission, mail, and, in many circumstances, electronic transmission. Even home visits occur on occasion. Contact with the voter is not always possible, of course, and curing does not always occur. But that is to be expected. As Mr. Caskey noted, election officials can provide voters every opportunity to cure but ultimately cannot compel voters to respond to those efforts. And that is not a constitutional infirmity. Due process requires a meaningful *opportunity* to cure. It does not require election officials to *guarantee* that every voter will avail himself/herself of that opportunity.

Federal and state appellate courts regularly reject due process challenges to signature verification laws that provide voters meaningful procedural protections. See, e.g., *Weber*, 113

F.4th at 1096-97; *Memphis A. Philip Randolph Inst.*, 978 F.3d at 387-88; *Richardson*, 978 F.3d at 235-41; *Lemons*, 538 F.3d at 1102-05; *Vet Voice Found.*, 564 P.3d at 991-92; *Arizonans for Second Chances, Rehab. & Pub. Safety v. Hobbs*, 471 P.3d 607, 619-25, 631-32 (Ariz. 2020). These decisions reinforce the basic proposition reflected in *LWV II*: due process does not prohibit election officials from questioning a ballot envelope signature that appears inconsistent with the voter's signatures on file. What matters is whether the voter receives reasonable notice and a meaningful opportunity to address the perceived deficiency before the ballot is finally rejected.

The handful of district court cases striking down signature verification procedures on due process grounds only sharpen that distinction. Those cases involved procedures that afforded voters no, or almost no, opportunity to correct a questioned signature. See *Saucedo v. Gardner*, 335 F.Supp.3d 202, 206 (D.N.H. 2018) (voters given neither notice of rejection nor opportunity to cure); *Frederick v. Lawson*, 481 F.Supp.3d 774, 782 (S.D. Ind. 2020) (same); *League of Women Voters v. Andino*, 497 F. Supp. 3d 59, 66-67 (D.S.C. 2020) (same); *Zessar v. Helander*, 2006 WL 642646, at *1, *6 (N.D. Ill. 2006) (same); *Martin v. Kemp*, 341 F.Supp.3d 1326, 1329-32 (N.D. Ga. 2018) (voters with a signature mismatch on an absentee-ballot envelope required either to apply for a new ballot before Election Day or vote in person). Kansas stands in marked contrast. Our State provides precisely what was absent from the procedures found deficient in the aforementioned cases: notice and a meaningful opportunity to correct the problem before the ballot is finally rejected. Indeed, Kansas provides the most robust opportunity to cure possible, giving voters all the way until the date of the county canvass (when the election is finalized) to do so.

3. Facial Nature of Plaintiffs' Claims Further Precludes Relief

Plaintiffs' due process theory encounters an additional and ultimately insurmountable obstacle in the facial nature of their challenge. As discussed above, Plaintiffs cannot establish that the SVR itself is unconstitutional simply by identifying isolated instances in which an election official may have made an erroneous determination or failed to administer the cure procedures perfectly. Indeed, our Supreme Court expressly recognized that "faulty signature mismatch" determinations may sometimes occur without rendering the Legislature's "proper proofs" requirement unconstitutional. *LWV II*, 318 Kan. at 804 (citing *State v. Butts*, 31 Kan. 537, 555, 2 P. 618 (1884)).

More importantly, the trial record provides no basis for concluding that Kansas' cure procedures are inherently incapable of providing constitutionally adequate process. The governing regulation requires affirmative notification efforts and affords voters whose signatures are questioned an opportunity to cure before their ballots are rejected. The testimony concerning the actual administration of those procedures demonstrated that county election officials initiate the cure process promptly and employ multiple means of attempting to reach affected voters. The possibility that an election official might occasionally make a mistake in administering those procedures does not transform an otherwise constitutionally adequate system into a facial violation of Section 18.

In sum, the evidence establishes that Kansas more than adequately provides the process that *LWV II* requires. Voters whose ballot envelope signatures are questioned receive reasonable notice of the perceived deficiency and a meaningful opportunity to cure before their ballots are finally rejected. Plaintiffs have not shown that the SVR or its implementing regulation inherently

denies voters either protection. Their facial due process challenge under Section 18 therefore must fail.

E. Plaintiffs' Right to Vote Claim is Foreclosed by the Mandate Rule and the Law of the Case Doctrine

Finally, Plaintiffs seek to relitigate their right to vote claim that the Supreme Court previously rejected in this case. This cause of action, of course, is foreclosed by the mandate rule. K.S.A. 60-2106(c). A district court must execute any further proceedings “according to the command of the appellate court made therein,” K.S.A. 20-108, and as part of this directive, “a district court is required to apply the mandate without exception.” *State v. Kleypas*, 305 Kan. 224, 297, 382 P.3d 373 (2016).

The claim is also precluded by the law of the case doctrine. See *Hodes & Nauser, MDs, P.A. v. Kobach*, 318 Kan. 940, 948, 551 P.3d 37 (2024) (“An argument once made to and resolved by an appellate court becomes ‘the law’ in that case and generally cannot be challenged in a second appeal.”) (citing *State v. Collier*, 263 Kan. 629, Syl. ¶ 3, 952 P.2d 1326 (1998)). “[T]he first decision is generally the settled law of the case on all questions involved in the first appeal, and reconsideration will not normally be given to those questions.” *Id.* (quoting *State v. Parry*, 305 Kan. 1189, Syl. ¶ 1, 390 P.3d 879 (2017)).

IV. Conclusion

Plaintiffs have failed to carry their burden of establishing that the SVR is violative of the Kansas Constitution. Plaintiffs, on this record, are unable to establish standing to pursue their attack on the SVR, which independently requires judgment in Defendants’ favor. But even if standing existed, the claims would fail on the merits. The SVR is capable of reasonably uniform application under objective standards, does not subject similarly situated voters to arbitrary or

materially disparate treatment, and is rationally related to substantial State interests in protecting the integrity and orderly administration of Kansas elections. The SVR also provides voters reasonable notice of a questioned signature and a meaningful opportunity to cure before their ballots are rejected. Plaintiffs have simply not demonstrated that K.S.A. 25-1124(h) or K.A.R. 7-36-9 violate their rights to equal protection, due process, or suffrage under the State Constitution.

Judgment therefore will be entered in favor of Defendants and against Plaintiffs on all claims.

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Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of September, 2026, a true and correct copy of the above and foregoing was electronically filed with the Clerk of the District Court by using the eFlex filing system, which will transmit a copy to all counsel of record.

By: /s/ Bradley J. Schlozman

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