STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1134

Minnesota Alliance for Retired Americans Educational Fund, et al.,
Respondents,

vs.

Steve Simon,
Appellant.

Filed March 24, 2025
Reversed and remanded
Bjorkman, Judge

Ramsey County District Court
File No. 62-CV-24-854

Sybil L. Dunlop, Amran A. Farah, Greene Espel PLLP, Minneapolis, Minnesota; and

Uzoma N. Nkwonta (pro hac vice), Elias Law Group LLP, Washington, DC (for respondents)

Keith Ellison, Attorney General, Angela Behrens, Allen Cook Barr, Emily B. Anderson, Madeleine DeMeules, Sarah Doktori, Assistant Attorneys General, St. Paul, Minnesota (for appellant)

Benjamin L. Ellison, Jones Day, Minneapolis, Minnesota (for amici curiae Republican National Committee and Republican Party of Minnesota)

Considered and decided by Bjorkman, Presiding Judge; Harris, Judge; and Jesson, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

SYLLABUS

1. The witness requirement for absentee voting in Minn. Stat. § 203B.07, subd. 3 (2024), does not violate the vouching prohibition of the Voting Rights Act of 1965, 52 U.S.C. § 10501(a), (b)(4) (2018), because it does not require any voter to prove their voting qualifications by another's voucher.

2. The witness requirement for absentee voting in Minn. Stat. § 203B.07, subd. 3, does not violate the materiality provision of the Civil Rights Act of 1964, 52 U.S.C. § 10101(a)(2)(B) (2018), as it pertains to a registered voter because the certifications that a witness provides for that voter do not relate to an application, registration, or other act requisite to voting.

OPINION

BJORKMAN, Judge

Appellant Minnesota Secretary of State Steve Simon (the secretary) challenges the district court's denial of his motion to dismiss the claims of respondents Minnesota Alliance for Retired Americans Educational Fund (the alliance), Teresa Maples, and Khalid Mohamed (collectively, plaintiffs) that the witness requirement for absentee voting in Minnesota violates federal voting laws. The secretary argues that (1) plaintiffs lack standing to challenge the witness requirement; (2) the witness requirement does not violate the vouching prohibition of the Voting Rights Act; and (3) the witness requirement does not violate the materiality provision of the Civil Rights Act. We conclude that the alliance has standing to pursue both claims but the witness requirement does not violate the Voting

Rights Act or the Civil Rights Act. Accordingly, we reverse and remand for entry of judgment of dismissal.

FACTS

According to the complaint, the alliance is a Minnesota nonprofit corporation with a mission to "ensure social and economic justice and full civil rights" for retirees. Maples is a qualified Minnesota voter registered in Goodhue County and a member of the alliance who regularly votes absentee. Mohamed is a qualified Minnesota voter registered in Hennepin County who also regularly votes absentee.

Plaintiffs initiated this action against the secretary in early 2024, asserting claims that the witness requirement for absentee voting in Minn. Stat. § 203B.07, subd. 3, along with the secretary's rules implementing that statute, violates (1) the Voting Rights Act because the witness requirement conditions absentee voters' right to vote on a "voucher" as to voter qualifications from a member of a specific class; and (2) the Civil Rights Act because the witness requirement permits denial of absentee voters' right to vote based on errors or omissions that are "not material" to determining voter qualifications. The plaintiffs seek a declaration that the witness requirement violates the Voting Rights Act and the Civil Rights Act and an injunction against its enforcement. The secretary moved to dismiss under Minn. R. Civ. P. 12.02(e), arguing that plaintiffs lack standing and fail to state actionable claims.[1] The district court denied the motion, concluding that (1) Maples

[1] Plaintiffs moved for a temporary injunction, which the district court denied. The Republican National Committee and the Republican Party of Minnesota moved to intervene, which the district court also denied, instead accepting their arguments as submissions of amici curiae. Neither of those decisions is at issue in this appeal.

and the alliance have standing; (2) plaintiffs state an actionable Voting Rights Act claim with respect to voters who are registering along with their absentee ballot (unregistered voters) but not with respect to previously registered voters (registered voters); and (3) plaintiffs state an actionable Civil Rights Act claim with respect to registered voters but not with respect to unregistered voters.

The secretary petitioned this court for discretionary review of the district court's denial of the motion to dismiss. We granted the petition and later granted the request of the Republican National Committee and Republican Party of Minnesota to submit a brief as amici curiae.

ISSUES

I. Do plaintiffs have standing to challenge the witness requirement?

II. Do plaintiffs state an actionable claim that the witness requirement violates the Voting Rights Act or the Civil Rights Act?

ANALYSIS

To be eligible to vote in Minnesota, a person must be at least 18 years old, be a United States citizen, "maintain residence in Minnesota for 20 days immediately preceding the election," and not meet any of the conditions that render a person ineligible to vote. Minn. Stat. § 201.014, subds. 1-2a (2024). Any person who satisfies these eligibility criteria "may vote by absentee ballot." Minn. Stat. § 203B.02, subd. 1 (2024). When a person requests an absentee ballot, election officials determine whether the person is registered to vote and, if not, include a registration application and registration instructions with the absentee ballot. Minn. Stat. §§ 203B.06, subd. 4, .07, subd. 1 (2024).

When voting absentee, the voter marks the ballot, places the ballot into a "ballot envelope," and places the ballot envelope into a "signature envelope." Minn. Stat. § 203B.08, subd. 1(a) (2024); Minn. R. 8210.0500, subps. 2-4 (2023). The outside of the signature envelope contains a "certificate of eligibility" that has two parts. Minn. Stat. § 203B.07, subd. 3. The first part requires the voter to provide identifying information and to sign a statement swearing that they "meet[] all of the requirements established by law for voting by absentee ballot." *Id.* The second part requires the voter to secure a witness who meets statutory qualifications. *Id.* The witness must sign a "statement" certifying that

> (1) the ballots were displayed to that individual unmarked;
>
> (2) the voter marked the ballots in that individual's presence without showing how they were marked, or, if the voter was physically unable to mark them, that the voter directed another individual to mark them; and
>
> (3) if the voter was not previously registered, the voter has provided proof of residence as required by [Minn. Stat. § 201.061, subd. 3 (2024)].

Id. As directed by the legislature, the secretary has established, by rule, the language that appears on absentee-ballot signature envelopes to effectuate this witness requirement. Minn. Stat. § 203B.125 (2024); Minn. R. 8210.0600 (2023).

I. The alliance has standing to challenge the witness requirement.

Standing is essential to jurisdiction. *Minn. Voters All. v. Hunt*, 10 N.W.3d 163, 167 (Minn. 2024). "We review the existence of standing de novo." *Id.* And we apply Minnesota law, even when the claims are based on federal law, because Minnesota courts are "not bound by the standing constraints of Article III of the United States Constitution." *Growe v. Simon*, 2 N.W.3d 490, 499 n.6 (Minn. 2024); *see also Lorix v. Crompton Corp.*,

736 N.W.2d 619, 626 (Minn. 2007) (recognizing a "desire for harmony" between federal and state courts on substantive law but emphasizing that Minnesota is not bound by federal standing law). When considering a motion to dismiss for lack of standing, both the district and appellate courts must "accept as true all material allegations of the complaint, and must construe the complaint in favor of the complaining party." *Forslund v. State*, 924 N.W.2d 25, 32 (Minn. App. 2019) (quotation omitted).

Standing "focuses on whether the plaintiff is the proper party to bring a particular lawsuit." *Hayden v. City of Minneapolis*, 937 N.W.2d 790, 799 (Minn. App. 2020), *rev. denied* (Minn. Apr. 14, 2020). To have standing, a party generally must have suffered an "injury in fact," meaning "a concrete and particularized invasion of a legally protected interest." *Minn. Voters All.*, 10 N.W.3d at 167. The injury must be "actual or imminent, not conjectural or hypothetical." *Forslund*, 924 N.W.2d at 32 (quotation omitted). A party challenging a statute must have a direct interest that is "different in character from the interest of the citizenry in general." *Rukavina v. Pawlenty*, 684 N.W.2d 525, 531 (Minn. App. 2004), *rev. denied* (Minn. Oct. 19, 2004).

The secretary argues that plaintiffs lack standing to challenge the witness requirement because neither the individual plaintiffs (Maples and Mohamed) nor the alliance alleges an injury in fact from the witness requirement. We turn first to the alliance, and because we conclude that it has standing, we decline to address whether the individual plaintiffs also have standing. *See id.* at 531-33 (concluding that individual plaintiffs lacked standing but sole organizational plaintiff had standing, and addressing merits of claims on that basis).

An organization has "associational standing" if it can demonstrate an injury to its members or to itself. *State by Humphrey v. Philip Morris Inc.*, 551 N.W.2d 490, 497-98 (Minn. 1996) (observing that an organization need not have members to establish standing). When asserting injury to its own interests, an organization must, like an individual, point to a concrete injury that goes beyond mere abstract concern with the issue. *See Minn. Voters All.*, 10 N.W.3d at 167; *see also In re Sandy Pappas Senate Comm.*, 488 N.W.2d 795, 798 (Minn. 1992) ("A mere 'interest' in the problem . . . does not confer standing on an individual or organization."). It is sufficient if the organization can identify actual "impediments to [its] activities and mission," *Rukavina*, 684 N.W.2d at 533, such as a diversion of its resources, *All. for Metro. Stability v. Metro. Council*, 671 N.W.2d 905, 914 (Minn. App. 2003).

With these principles in mind, we consider the allegations in the complaint. The alliance's mission is to "ensure social and economic justice and full civil rights" for retirees, which it achieves through "grassroots advocacy, contributions to state and federal labor and electoral campaigns, and participation in 'get out the vote' campaigns." It has more than 84,000 members, who "rely heavily on absentee voting." Many of them live alone or have mobility challenges that make it hard to find a qualifying witness for their absentee ballots. The alliance "divert[s]" resources—money and volunteer time—from "mission critical" programs in order to help its members learn about and comply with the witness requirement through postcard campaigns and facilitating connections between members to serve as each other's witnesses.

The secretary argues that these allegations are insufficient because an organization's use of resources to educate members about a law—particularly one that is not new—is too vague to establish standing. He contends an organization must divert resources to a specific project or for a specific time period to elevate it beyond routine activities and abstract interest, citing *Florida State Conf. of N.A.A.C.P. v. Browning*, 522 F.3d 1153, 1166 (11th Cir. 2008), and *Vote.Org v. Callanen*, 89 F.4th 459, 471 (5th Cir. 2023). We are not persuaded for two reasons. First, the standing analysis in those federal cases is not binding. *Lorix*, 736 N.W.2d at 626. Second, even if we consider those cases, we discern nothing in them that requires that the law in question be newly enacted or that the expenditure of resources related to the law be new or time limited. *Cf. Vote.Org*, 89 F.4th at 470-71 (rejecting argument that "organizational standing cannot be premised on 'routine' responses to allegedly unlawful conduct"). Rather, under those cases and, more importantly, Minnesota law, it is the actual or reasonably imminent expenditure of resources—particularly those that otherwise would serve other aspects of the organization's mission—that elevates an organization's relationship to a challenged law beyond mere abstract concern. *See All. for Metro. Stability*, 671 N.W.2d at 914 (recognizing diversion of organization's resources as sufficient to establish standing). Because the alliance plainly alleges that it "divert[s]" resources from other aspects of its mission to address the witness requirement, it has alleged sufficient facts to establish standing in its own right.

The secretary also argues that, even if the alliance has standing to challenge the witness requirement insofar as it affects registered voters like its member Maples, it lacks

standing to challenge the witness requirement insofar as it uniquely affects unregistered voters because the alliance does not allege that it has any unregistered members. This argument is unavailing. While the witness requirement calls for a witness to provide different certifications for registered and unregistered voters, it imposes the same burden on all absentee voters—the burden to secure a witness. And more important to our conclusion that the alliance has standing in its own right, the injury of diverting money and other resources to address the requirement through educational and member-connection efforts does not depend on its members' voting status.

In sum, the alliance has standing based on its own diversion of resources related to the witness requirement to pursue the full breadth of the claims that the witness requirement violates the Voting Rights Act and the Civil Rights Act. We, therefore, turn to the merits of those claims.

II. The alliance does not state an actionable claim that the witness requirement violates the Voting Rights Act or the Civil Rights Act.

We review de novo a decision whether to dismiss a claim for failure to state a claim upon which relief may be granted under Minn. R. Civ. P. 12.02(e) and questions of statutory interpretation that inform that decision. *Abel v. Abbott Nw. Hosp.*, 947 N.W.2d 58, 68 (Minn. 2020). When interpreting state and federal voting statutes, we "start with the plain language of the statutes, beginning with the federal statute." *DSCC v. Simon*, 950 N.W.2d 280, 289 (Minn. 2020). If a statute does not define its operative terms, we may consider dictionary definitions. *Buzzell v. Walz*, 974 N.W.2d 256, 262 (Minn. 2022). But we do not construe those terms in isolation. We consider the whole statute so we can

understand statutory language in context and harmonize and give effect to all parts of the statute. *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 132-33 (2000); *Aldean v. City of Woodbury*, 2 N.W.3d 918, 922 (Minn. App. 2024). We also presume that words grouped together in a list have related meanings, and that general words grouped with more specific ones are of the same type. *Cir. City Stores, Inc. v. Adams*, 532 U.S. 105, 114-15 (2001); *In re Surveillance & Integrity Rev.*, 999 N.W.2d 843, 857 (Minn. 2024); *accord Graham Cnty. Soil & Water Conservation Dist. v. U.S. ex rel. Wilson*, 559 U.S. 280, 287 (2010) (stating "a word may be known by the company it keeps" (quotation omitted)).

A. The witness requirement does not violate the vouching prohibition of the Voting Rights Act.

The alliance first alleges that the witness requirement violates the following provision of the Voting Rights Act:

> (a) No citizen shall be denied, because of [their] failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State.
>
> (b) As used in this section, the term "test or device" means any requirement that a person as a prerequisite for voting or registration for voting . . . (4) prove [their] qualifications by the voucher of registered voters or members of any other class.

52 U.S.C. § 10501 (2018).[2] No Minnesota cases have interpreted this provision or the Minnesota statute that imposes the witness requirement, Minn. Stat. § 203B.07, subd. 3. We turn first to the Voting Rights Act.

[2] Both the Voting Rights Act and the Civil Rights Act protect against citizens being denied the right to vote. 52 U.S.C. § 10501(a); 52 U.S.C. § 10101(a)(2)(B). The amici argue that

The parties agree, and it stands to reason, that a voter's "qualifications" are their voting qualifications, meaning the requirements they must meet to be eligible to vote under state law. Similarly, the parties agree, and logically so, that "voucher of" another person means that the other person "vouches" for the voter. This leaves two questions. First, what does it mean to "vouch" for someone? Second, what does it mean to "prove" a voter's qualifications "by [another's] voucher"?

As to the first question, the Voting Rights Act does not define the term "vouch," but it has two common definitions. It means to give a guarantee or personal assurance for another. *Black's Law Dictionary* 1896 (12th ed. 2024) ("To answer for (another); to personally assure."); *The American Heritage Dictionary of the English Language* 1943 (5th ed. 2018) ("To give personal assurances or a guarantee."). And it means to substantiate, prove, or verify something with evidence. *Black's Law Dictionary*, *supra*, at 1896 ("To call on, rely on, or cite as authority; to substantiate with evidence."); *The American Heritage Dictionary of the English Language*, *supra*, at 1943 ("To substantiate by supplying evidence; prove."). While the secretary emphasizes the first of these and the alliance emphasizes the second, they are not incompatible. Based on these definitions, we conclude that a person vouches for another if they give their personal assurance as evidence to prove or verify something for the other.

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both of the alliance's claims fail because noncompliance with the witness requirement merely denies a citizen the opportunity to vote by absentee ballot but does not entirely deny any citizen the right to vote. But the parties have not presented that argument. Because appellate courts generally do not "decide issues raised by an amicus that are not raised by the litigants themselves," *League of Women Voters Minn. v. Ritchie*, 819 N.W.2d 636, 645 n.7 (Minn. 2012), we decline to decide this issue.

This conclusion helps answer the second question—what it means to prove a voter's eligibility to vote by another's voucher. The person receiving the voucher is the voter. And the thing that is the subject of the voucher, being proved by the voucher, is the voter's eligibility to vote. So a voter proves their eligibility to vote by another's voucher if another person's assurance is the evidence that proves the voter's eligibility.

The question, then, is whether the witness requirement calls for a witness to give their personal assurance as evidence that proves an absentee voter's eligibility. Because the witness requirement requires some certifications for all voters and additional certifications for unregistered voters, we first address the broader category.

Witness Certifications Required of all Absentee Voters

For all absentee voters, the witness requirement (as given effect through the secretary's rules) calls for a witness to provide the following certifications regarding the voter: (1) "the voter showed me the blank ballots before voting"; (2) "the voter marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter"; and (3) "the voter enclosed and sealed the ballots in the ballot envelope." Minn. R. 8210.0600, subps. 1a, 1b; *see* Minn. Stat. § 203B.07, subd. 3(1)-(2). These are the only certifications that a registered voter must secure from a witness.

The secretary argues that the witness who provides these certifications does not vouch for the voter's eligibility but merely attests to voter conduct and voting mechanics. The district court concluded as much, and we agree. None of the certifications pertain to the voter's eligibility to vote under Minnesota law—they do not address the voter's age, citizenship status, residence, or any disqualifying conditions. *See* Minn. Stat. § 201.014,

subds. 1-2a. The witness merely attests that they saw the voter perform the three specified voting procedures. Consistent with other courts that have considered similar witness requirements for absentee voting, we conclude that the witness "simply confirming with a signature what [they] observed" does not amount to a voucher to prove the voter's eligibility. *Liebert v. Millis*, 733 F. Supp. 3d 698, 705-06 (W.D. Wisc. 2024); *accord Thomas v. Andino*, 613 F. Supp. 3d 926, 961 (D.S.C. 2020) (stating that witness is not required to vouch that the voter is qualified but "is simply required to witness the oath taken by the voter"); *People First of Ala. v. Merrill*, 467 F. Supp. 3d 1179, 1225 (N.D. Ala. 2020) (stating that witness's signature does not vouch for voter's identity or qualifications, "only that they observed the voter sign the [absentee-voting] affidavit").

Witness Certifications Required of Unregistered Absentee Voters

When an unregistered voter submits an absentee ballot, the witness requirement calls for two additional certifications that pertain to registration: (1) "the voter registered to vote by filling out and enclosing a voter registration application in this envelope," and (2) "the voter provided proof of residence as indicated above." Minn. R. 8210.0600, subp. 1b; *see* Minn. Stat. § 203B.07, subd. 3(3). The referenced list identifies the same types of "proof of residence" that a voter may use to "prove residence" for in-person election-day registration: (1) a driver's license or Minnesota identification card, (2) a document approved by the secretary "as proper identification," (3) a current student fee statement and picture identification card, or (4) another person's signed oath vouching for the voter's residency. Minn. Stat. § 201.061, subd. 3; *see* Minn. R. 8210.0600, subp. 1b.

The witness must indicate the type of proof the voter provided. Minn. R. 8210.0600, subp. 1b.

The secretary asserts that a witness providing the two registration certifications does not vouch for the voter's eligibility but merely attests to "registration mechanics and voter conduct (i.e., showing a listed document)." But the alliance contends that attesting to the act of providing "proof of residence" amounts to vouching that the voter has proven the residence requirement for eligibility and, therefore, is vouching for the voter's eligibility. The secretary has the better argument for two reasons.

First, as with the certifications required of all absentee voters, the plain language of the two registration certifications calls for the witness to attest to the conduct of the voter, not the witness's personal knowledge. Indeed, the witness merely certifies that the voter completed the registration application, placed the application into the signature envelope, and "provided" one of the listed types of "proof of residence." The witness is not attesting that they know that the information contained in the application or the documentation the voter provided is valid or that any documents display the voter's current address.[3] *Cf.* Minn. R. 8210.0500, subp. 3 (requiring that instructions to unregistered absentee voters call for a "valid" driver's license or identification card with a "current address"). Nor is the witness attesting that they know where the voter currently resides or that the voter satisfies the 20-day Minnesota residency requirement. *See* Minn. Stat. § 201.014,

[3] As the secretary emphasizes, all "new voter registration applications," including those submitted with absentee ballots, must be "verified" by the county auditor. Minn. R. 8200.5500, subp. 2 (2023).

subd. 1(3). This is in contrast to a person who "vouch[es]" for a voter's residency as the voter's "proof of residence" during election-day registration; such a person attests that they "personally know[] that the [voter] is a resident of the precinct" where they seek to vote. Minn. Stat. § 201.061, subd. 3(a)(4) (addressing in-person voting); Minn. R. 8210.0500, subp. 3 (permitting such a voucher on a separate "voucher form" for absentee voting). Even if the same person serves as absentee-ballot witness and residency voucher—an option that the instructions provided in Minn. R. 8210.0500, subp. 3, expressly permit—these are plainly two separate acts.[4]

Second, the witness's attestation is in addition to the absentee voter's certification of their own eligibility. Absentee ballots must contain a "certificate of eligibility" with space for "a statement to be signed and sworn *by the voter* indicating that the voter meets all of the requirements established by law for voting by absentee ballot." Minn. Stat. § 203B.07, subd. 3 (emphasis added). This appears on the absentee-ballot signature envelope as a space for the voter to sign below the statement: "I certify that on Election Day I will meet all the legal requirements to vote." Minn. R. 8210.0600, subp. 1b. This is the only statement on the absentee-ballot signature envelope that directly addresses eligibility to vote.

In short, under Minnesota law, an unregistered absentee voter proves their own eligibility to vote by completing the registration application, signing the eligibility certification, and marshaling the requisite documentation or other proof of residence. The

[4] The alliance does not allege that this residency voucher violates the Voting Rights Act.

witness requirement merely requires that a witness attest that the voter has done so. Accordingly, we conclude the witness requirement does not require an unregistered absentee voter to prove their eligibility to vote by having another vouch for their eligibility and, therefore, does not violate the Voting Rights Act.[5]

B. The witness requirement does not violate the materiality clause of the Civil Rights Act as it pertains to registered voters.

The alliance next alleges that the witness requirement violates the materiality provision of the Civil Rights Act:

> No person acting under color of law shall . . . deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election . . . .

52 U.S.C. § 10101(a)(2)(B). As with the Voting Rights Act, no Minnesota case has interpreted this provision.

By its plain terms, the materiality provision bars a state from denying the right to vote based on an "error or omission" that has two characteristics: (1) it is made on a specified document—"any record or paper relating to any application, registration, or other act requisite to voting"; and (2) it is of a specified type—"not material in determining whether such individual is qualified under State law to vote in such election." *Id.* An error

[5] The secretary also argues that the witness requirement does not violate the Voting Rights Act because it does not require that witnesses be "registered voters or members of any other class." 52 U.S.C. § 10501(b) (2018). Because our conclusion that the witness requirement does not require an improper voucher is dispositive of the alliance's Voting Rights Act claim, we need not address the secretary's alternative argument.

or omission must have both characteristics to establish a violation of the materiality provision. *Id.*

As to the first characteristic—document type—the parties dispute whether the witness certifications required of a registered voter are a record or paper that "relat[es] to any application, registration, or other act requisite to voting."[6] Neither argues that they are part of an "application" or "registration." But they disagree about whether the certifications relate to an "other act requisite to voting."

The secretary contends this phrase refers exclusively to documents that are used in registration (or whatever a state calls its process for determining voter qualifications), not those that effectuate voting mechanics after registration. The alliance urges us to broadly construe the phrase "other act requisite to voting" to encompass any paperwork at any stage of the voting process that is necessary to have a vote counted, excluding only "the paper vote itself." We agree with the secretary for several reasons.

First, interpreting "other act requisite to voting" as pointing specifically to assessment of voter qualifications harmonizes it with the terms "registration" and "application" that it follows and references. The term "registration" plainly and undisputedly points to determination of voter qualifications. The term "application" is less obvious. For example, under Minnesota law, the term sometimes refers to registration and

[6] We focus on registered voters because the district court denied the secretary's motion to dismiss based on a determination that the witness requirement violates the materiality provision as it pertains to registered voters. The alliance does not advance, as an alternate basis for affirmance, an argument that application of the witness requirement to unregistered voters violates the materiality provision.

therefore a determination of voter qualifications, *e.g.*, Minn. Stat. § 201.061, subd. 1(a) (2024) (addressing voter registration "application"), and sometimes refers to situations not directly related to voter qualifications, *e.g.*, Minn. Stat. § 203B.04, subd. 1 (2024) (addressing absentee-ballot "application"). But read in context with the term "registration" and the phrase "other act requisite to voting," the term "application" plainly means an application that is, itself, an act requisite to voting, making it functionally synonymous with registration. Because the two terms that precede it refer to voter qualification, and voter qualification is a necessary precursor to voting, the general phrase "other act requisite to voting" plainly includes only qualification-related acts. *See Surveillance & Integrity Rev.*, 999 N.W.2d at 857 (stating that words grouped together "should be given related meanings" (quotation omitted)).

Second, this interpretation of the first clause of the materiality provision (document type) aligns with the provision's second clause (error type). While the questions of document type and error type are distinct, they are logically linked. An error or omission that is not "material in determining" qualification could occur *either* on a document that is related to some "act requisite to voting" (making it plainly within the scope of the materiality clause) *or* on a document that is, itself, unrelated to any "act requisite to voting" (making it outside the provision's scope).[7] *See* 52 U.S.C. § 10101(a)(2)(B). But an error or omission that is material to determining voter qualification could occur *only* on a document that it is related to some act requisite to voting. In short, a document "relating

[7] The alliance acknowledges that this second category includes the ballot itself because completing the ballot is voting, not an act "requisite" to voting.

to any . . . act requisite to voting" must be related to determining voter qualification for the second and equally important question of error type to be relevant.

Third, this focus on voter qualification is mirrored and confirmed in the materiality provision's surrounding provisions. The one that precedes the materiality provision prohibits using different standards for different voters to "determin[e] whether any individual is qualified under State law or laws to vote in any election." *Id.* (a)(2)(A) (2018). The one that follows prohibits "any literacy test as a qualification for voting." *Id.* (a)(2)(C) (2018). And the remedy for violating any of these three provisions is "an order declaring [the voter] qualified to vote." *Id.* (e) (2018). This statutory context further persuades us that the materiality provision focuses specifically on registration and other determinations of voter qualifications.

Finally, the alliance's proposed broader interpretation of the phrase "other act requisite to voting" creates a logical conflict with the statutory definition of the term "vote." For purposes of the materiality provision (and the surrounding provisions discussed above), the term "vote" is defined to include

> all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election . . . .

Id. The alliance contends that "other act requisite to voting" must include all stages of the voting process listed in this definition because the materiality provision, by its terms, protects against denial of the "right . . . to vote." *See id.* (a)(2)(B). But while the definition

of the term "vote" includes acts prerequisite to voting, ensuring comprehensive protection of that right, it defies logic to say that voting and an "act requisite to voting" are the same thing. Indeed, the alliance seems to recognize as much by stating that an act requisite to voting "does not include the paper vote itself." We decline to adopt the alliance's untenable interpretation.

Our conclusion that the certifications required of a witness do not implicate voter qualifications not only comports with the plain language of the materiality provision but also is consistent with persuasive analysis from two of the handful of other courts that have interpreted the phrase "application, registration, or other act requisite to voting." The Third Circuit Court of Appeals considered that phrase as part of its review of a Civil Rights Act challenge to a Pennsylvania statute requiring absentee voters to date their return envelopes. *Pa. State Conf. of NAACP Branches v. Sec'y Commonwealth of Pa.*, 97 F.4th 120, 131-32 (3d Cir. 2024) (*Pa. NAACP*), *cert. denied* ___ S. Ct. ___, 2025 WL 247452 (2025). It reasoned that Congress's reference to acts like application and registration "signaled" its intent that the materiality provision applies only to paperwork related to voter "qualification." *Id.* at 132. More recently, the United States District Court for the Western District of Wisconsin came to a similar conclusion in rejecting a challenge to Wisconsin's witness requirement for absentee voting. *Liebert*, 733 F. Supp. 3d at 713. The *Liebert* court endorsed the reasoning in *Pa. NAACP* but also independently reasoned that an "'act requisite to voting' is not simply anything that happens before a vote is counted, and is something more akin to registration than to casting a ballot." *Id.* at 713, 715.

The alliance acknowledges these decisions but urges us to disregard them, asserting that the "weight of authority" actually supports applying the materiality provision "outside the voter registration context." It is correct that two federal district courts—the Western District of Texas and the Northern District of Georgia—have so interpreted the phrase "application, registration, or other act requisite to voting." *La Unión del Pueblo Entero v. Abbott*, 705 F. Supp. 3d 725, 756 (W.D. Tex. 2023) (*LUPE*); *Vote.org v. Ga. State Election Bd.*, 661 F. Supp. 3d 1329, 1340 (N.D. Ga. 2023). But those decisions are not persuasive because they rely on reasoning that we reject above. *LUPE*, 705 F. Supp. 3d at 756 (conflating voting and "act requisite to voting"); *Vote.org*, 661 F. Supp. 3d at 1340 (relying on the term "application" to reject argument that absentee-voting application was not "act requisite to voting"). And the other cases the alliance cites are merely additional decisions from the Northern District of Georgia, *e.g.*, *Martin v. Crittenden*, 347 F. Supp. 3d 1302, 1308 (N.D. Ga. 2018), or decisions that focus on the second clause concerning error type and either completely ignore or barely address the phrase "application, registration, or other act requisite to voting," *e.g.*, *Migliori v. Cohen*, 36 F.4th 153, 162-64 & n.56 (3d Cir. 2022), *judgment vacated sub nom. Ritter v. Migliori*, 143 S. Ct. 297, 298 (2022).[8] In short, we do

[8] Conversely, the secretary overstates his own case by asserting, based on *Schwier v. Cox*, 340 F.3d 1284 (11th Cir. 2003), that the Eleventh Circuit Court of Appeals has held that the materiality provision is "limited to documents related to voter registration." In that case, the Eleventh Circuit stated, by way of background, that the materiality provision "was intended to address the practice of requiring unnecessary information for voter registration." 340 F.3d at 1294. But it did not decide what the provision means, instead addressing only whether it may be enforced through a private action. *Id.* at 1294-97.

not consider the alliance's cited cases persuasive and conclude that the weight of the limited persuasive authority on this issue supports our conclusion.

In sum, the plain language of the materiality provision, particularly when viewed in its statutory context, indicates that the phrase "other act requisite to voting" refers specifically to registration or comparable determinations of voter qualifications.

This interpretation, in turn, leaves little question as to whether the witness certifications required of registered voters in Minnesota are the type of document to which the materiality provision applies. As noted above, a witness must provide three certifications about a registered absentee voter: (1) "the voter showed me the blank ballots before voting"; (2) "the voter marked the ballots in private or, if physically unable to mark the ballots, the ballots were marked as directed by the voter"; and (3) "the voter enclosed and sealed the ballots in the ballot envelope." Minn. R. 8210.0600, subp. 1a; *see* Minn. Stat. § 203B.07, subd. 3(1)-(2). Because none of these certifications pertains to registration or other assessment of the voter's qualifications, they are not a document "relating to any application, registration, or other act requisite to voting." Accordingly, the alliance does not state an actionable claim that the witness requirement as it pertains to registered voters violates the materiality provision of the Civil Rights Act.[9]

[9] Because the alliance must demonstrate that (1) the required witness certifications are on a document related to an "act requisite to voting," and (2) an error or omission in certifications is "not material in determining" voting qualifications, 52 U.S.C. § 10101(a)(2)(B), the failure on the first of these is dispositive and we need not address the second.

DECISION

The alliance has standing to challenge the witness requirement based on its alleged diversion of financial and other resources to address the witness requirement. But the complaint does not state a claim upon which relief may be granted because the witness requirement does not violate the Voting Rights Act or the Civil Rights Act.

Reversed and remanded.