



# Brian Van Bergen Yamhill County Clerk

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## FOR IMMEDIATE RELEASE

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## Notice

### *Commissioner recall attempt fails to qualify for ballot*

Yamhill County, Oregon – November 12, 2021.

The Yamhill County Clerk has determined that the effort to recall Yamhill County Commissioner Lindsay Berschauer, failed to garner enough qualified signatures from Yamhill County voters before the deadline to submit them to initiate a recall election.

The Clerk's office issued a formal letter to the Chief Petitioner on Wednesday afternoon November 10, 2021, that served as official notification of the results of the review of the signature petition sheets submitted to the Yamhill County Clerk's office on November 1, 2021, for recall petition YAM-2021-001 RECALL (a.k.a. Recall Lindsay Berschauer – County Commissioner). A similar letter was issued to the Public Officer. Both letters included the confirmation that the petition failed to yield the minimum number of qualified signatures to initiate a recall election.

“...effort to recall Yamhill County Commissioner Lindsay Berschauer, failed to garner enough qualified signatures....”



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After reviewing the submitted petition sheets, we determined that:

- Most of the submitted SEL 351 signature sheets met the minimum qualifications for review
- None of the submitted SEL 349 signature sheets met the minimum qualifications for review

Of the 991 submitted SEL 351 petitions, we had to disqualify:

- Sheet 597 – The Certifier dated the form November 14, 2021 (13 days after the sheets were submitted to our office)
- Sheet 641 – The Certifier dated the form November 17, 2021 (16 days after the sheets were submitted to our office)
- Sheet 802 – The required cover letter (SEL 353) was not printed on the back side
- Sheet 858 – The required cover letter (SEL 353) was not printed on the back side
- Sheet 924 – The Certifier failed to date the form
- Sheet 965 – The required cover letter (SEL 353) was not printed on the back side

Each petition sheet presented to voters is to be an exact replica of the original certified sheet without modification of any type. They should not be altered in any way before voters sign them. Although there are no clear rules from the Oregon Secretary of State's office regarding how much of a reduction of the original it would take to disqualify a petition sheet, we found that at least the sheets 145, 231, 278, 304, 305, 562-564, 580, 590, 591, 593, 596, 597, 601-604, 607, 620-624, 626, 628, 629, 632, 633, 636-641, 647, 650-654, 658, 660, 662, 663, 666-671, 676, 679, 681, 683, 686, 688, 690, 691, 694, 708-712, 716, 719-725, 729, 731, 732, 734, 736-739, 742, 743, 746, 754, 755, 757-759, 764, 768, 770, 771, 773, 781, 782, 790, 797, 802, 804, 805, 810, 811, 813, 816, 822-827, 831, 834-836, 839-841, 846, 851, 856, 857, 860, 862-865, 868-872, 962, 963, 970-972, 975, 984, 985 & 992 were copied at a reduced rate by as much as 86%. The Yamhill County Clerk did not disqualify any of these "altered" sheets but recommends any future efforts conform more closely with the original.

There are rules from the Oregon Secretary of State's (SOS) office that allow for modified forms, but those must originate at the SOS's office for modified form approval. After a modified form is approved from the SOS, it would then need to be submitted to our office (the filing officer) for certification before being presented to voters for signature gathering.

The qualifying sheets contained 7,362 lines with information. After removing from consideration the blank lines, lines that had been crossed out, etc., there remained 7,220 viable lines for us to potentially glean qualified voter signatures.



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The Oregon Secretary of State's office objected to our plan of reviewing each line of every qualified signature sheet. They directed our office to use their statistical sampling approach for signature verification even though their recall manual says it is only to be used for state, city, or district recall petitions. That section of their manual says on page 11:

**“For city and district recall petitions ONLY**

✓ coordinating with the county elections official for the verification of original signatures.

For a statewide office the statistical process described in OAR 165-014-0030 will be used to determine if the petition contains the required number of signatures.

Recalls for all other offices that require more than 4,500 signatures, the statistical sampling process described in OAR 165-014-0110 will be used to determine if the petition contains the required number of signatures, otherwise all signatures will be verified”

Upon the completion of our statistical sampling approach of 1,475 randomly selected lines, we verified 1,397 signatures from Active Registered voters within Yamhill County. According to the statistical sampling metrics provided by the Oregon Secretary of State's office, that acceptance rate (93.38% of signatures) would fail to reach the minimum number of signatures needed to initiate a recall election.

- The estimated number of qualified signatures via the statistical sampling approach was **6,742**.
- The number of qualified signatures needed to qualify is **6,873**
- The statistical sampling approach predicted a deficit of **131** signatures

At that point, our office took a broad interpretation of the Secretary of State's guidelines for how to conduct the next phase after the initial pass of their statistical sampling approach to recall signature verifications. According to OAR 165-014-0110 (9) (***emphasis added***)

“The size of the first sample of signatures will be 10% of the total number of signatures accepted for verification. The size of the second sample of signatures will be the same number used in the first sample, ***plus at least one additional signature.***”

Another broad interpretation of this approach comes from the Secretary of State's Recall Manual on Page 11 where it states in part (***emphasis added***):

“Recalls for all other offices that require more than 4,500 signatures, the statistical sampling process described in OAR 165-014-0110 will be used to determine if the petition contains the required number of signatures, ***otherwise all signatures will be verified***”



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In our follow-up phase to signature sheet review, the number of “additional signatures” included all the available signatures, not yet reviewed.

After reviewing all available signatures for each qualified sheet, we verified a total of **6,550** signatures from Active Registered voters in Yamhill County.

- The number of qualified signatures needed to qualify is **6,873**
- The line-by-line approach fell short of the statistical sampling approach. Reviewing signatures line-by-line, there is a deficit of **323** signatures

Since the number of qualified signature sheets failed to yield at least 6,873 verified signatures from Active Registered voters from Yamhill County by the deadline to submit them (November 1, 2021), recall petition YAM-2021-001 RECALL is now void.

To add clarity to the disqualification of the 1,421 “e-Sheets” (the SEL 349), we are **required** to disqualify any sheet submitted that was not an approved form.

- No SEL 349 was submitted to our office for certification
- No SEL 349 was certified for use by our office
- No modification requests were submitted to our office other than the modification to the original SEL 351 to include both paid and unpaid circulators.

**Page 3 of the Recall Manual says in part:**

“Signature sheets may only be accepted for verification if submitted by the chief petitioner or an authorized agent. In all instances petition signature sheets must be mailed or personally delivered to the Elections Division or local elections official.”

No SEL 349 was presented to our office for certification. We did not receive one from the Chief Petitioner, from any authorized agent of the Chief Petitioner, or from anyone else for that matter.

**Page 8 of the Recall Manual says in part:**

“Cover and signature sheets for a prospective recall petition must be approved in writing by the elections official before the chief petitioner may begin circulating the petition.”

There is no remedy after the last day to submit signature sheets to “cure” signature sheets.

**Page 9 of the Recall Manual says in part:**

“Any signature sheets must be approved by the local elections official before circulating.”



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The only sheet approved for circulation in petition YAM-2021-001 RECALL was the SEL 351. There was an approved alteration on October 11, 2021, when the addition was made to use both paid and unpaid circulators, but that alteration was only made on the SEL 351.

**Page 11 of the Recall Manual says in part:**

“Unapproved petition sheets and those that do not comply with legal requirements will be rejected.”

Our office has no remedy available to us after the last day to submit signature sheets. Some corrections are allowed to sheets before that date, but none exist in Oregon Law, Administrative Rule, or State Directives after the last day to submit.

**Page 14 of the Recall Manual says in part:**

“Any proposed variation to the approved signature sheets must be submitted and approved in writing by the elections official before circulating. Signatures collected on unapproved signature sheets will be rejected.”

The Oregon Secretary of State’s office does provide a mechanism for alterations to signature sheets but those must be approved before circulation (before voters sign them).

Recall petition summary:

- When:** Wednesday, November 10, 2021
- Where:** Yamhill County Clerk’s Office  
414 NE Evans St  
McMinnville, Oregon 97128
- When:** 5:00 p.m.
- What:** Recall attempt failed to garner enough signature to prompt a recall election
- 6,550** verified signatures certified
- 6,873** signatures needed
- 323** signatures short
- Who:** Yamhill County Commissioner, Lindsay Berschauer

For more information, call our office at 503-434-7518 or visit our website:

<https://www.co.yamhill.or.us/clerk>