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**Re: Presidential Candidate Information 2024**

3 messages

**MDOS-BOERegulatory** <MDOS-BOERegulatory@michigan.gov>

Fri, Mar 29, 2024 at 12:50 PM

To: "\*\*\*\*\*" &lt;\*\*\*\*\*&gt;

Dear Mathew Tyler:

The Department is in receipt of your March 6, 2024 email where you request an accommodation to be placed on the November ballot as candidate for president without “collecting signatures and submitting signatures.” As a threshold matter, it is unclear that submitting signatures is a service, program, or activity of a public entity for purposes of the Americans With Disabilities Act.

Assuming for purposes of this email that the submission of petitions is a “service, program, or activity”, your request is denied as it does not seek an accommodation, but rather seeks a fundamental altering of a state program in the form of waiving a statutory requirement in its entirety. While rules, policies, and practices may be subject to reasonable modification, essential eligibility requirements are not. See e.g. *Mary Jo C. v. New York State & Local Ret. Sys.*, 707 F.3d 144, 159 (2d Cir. 2013). Waiving an essential eligibility standard would constitute a fundamental alteration in the nature of the program at issue. See also *Pottgen v. Missouri State High School Activities Ass’n*, 40 F.3d 926, 930 (8th Cir. 1994). In Michigan, any individual wishing to run as a candidate without party affiliation for president submit a minimum of 12,000 signatures to be eligible to appear on the ballot.

Thank you,

Bureau of Elections

Michigan Department of State

Secretary of State Jocelyn Benson

P.O. Box 20126

Lansing, Michigan 48901

**Main: 517-335-3234**

*Get personalized voter information  
on early voting and other topics  
at [Michigan.gov/Vote](https://michigan.gov/Vote)*

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**Mathew Tyler** <\*\*\*\*\*>

Sat, Mar 30, 2024 at 9:34 PM

To: MDOS-BOERegulatory &lt;MDOS-BOERegulatory@michigan.gov&gt;

Michigan Bureau of Elections,

Where is the demonstration that honoring my request would fundamentally alter the nature of the service as required by 28 CFR § 35.130(7)(i), 28 CFR § 35.130(b)(8)? Collection of signatures has no relation to the qualifications for one being President. It is important to note that even if the state is able to demonstrate that honoring my request would cause an undue burden or fundamentally alter anything, which the Department of Justice provides guidelines for (subsequent in the email) who can make the determination and that a demonstration is required; the state is still required to provide inclusive access (28 CFR § 35.130(d), (g)) to the services to me which will be on the state to determine eligibility requirements that do not discriminate against me,

Have you actually read and fathom *Mary Jo C. v. New York State & Local Ret. Sys.*, 707 F.3d 144, 159 (2d Cir. 2013)? I cite it numerous times later in this email which is why I ask.

*Seaman v. Virginia*, 593 F. Supp. 3d 293, 321 (W.D. Va. 2022) ("The Fourth Circuit has further clarified that Title II of the ADA "trumps state regulations that conflict with its requirements," considering that "[r]equiring public entities to make changes to rules, policies, practices, or services is exactly what the ADA does." *Nat'l Fed. of the Blind v. Lamone*, 813 F.3d 494, 508 (4th Cir. 2016). If that were not so and "all state laws were insulated from Title II's reasonable modification requirement solely because they were state laws ... the ADA would be powerless to work any reasonable modification in any requirement imposed by state law, no matter how trivial the requirement and no matter how minimal the costs of doing so." *Lamone*, 813 F.3d at 509 (quoting *Mary Jo C. v. New York State & Local Ret. Sys.*, 707 F.3d 144, 163 (2d Cir. 2013) )")

As needs associated with disabilities are broad and unique to each person, requiring case by case reasonable accommodations which is why the ADA is so broad, reaffirmed by the ADAAA. An ADA request for reasonable accommodations is not a matter for the state to determine whether my request meets my needs or not, the state is required to provide reasonable accommodations (28 C.F.R. § 35.130[d]; 28 C.F.R. § 35.149; 28 C.F.R. § 35.160[b], [c]; 28 C.F.R. § 35.130[b][1]-[3], [6]-[8]; 42 U.S.C. § 12182[b][1][A][i]-[iii], [B]-[E]; 42 U.S.C. § 12182[b][2][A][i]-[iii]) unless the state can demonstrate and providing reasonable accommodations would cause undue hardship to the state or that honoring them would fundamentally alter the nature of the services (42 U.S.C. § 12182[b][2][A][ii], [iii]); herein subsequently elaborated on.

Although according to the Department of Justice via [ada.gov](https://www.ada.gov), "Public entities may not ask about the nature or extent of an individual's disability,"(1) For me personally though, major life activities affected by Central core disease: performing manual tasks, walking, standing, lifting, bending, breathing, and stamina; ADHD: learning, reading, concentrating, thinking, communicating, time/appointments, and working leading to my being indigent thus unable to pay filing fees aka poll taxes. 42 U.S.C. § 12131(2); 42 U.S.C. § 12102(1)(A), (B).

I wish to be listed on the ballot as an unaffiliated (independent) candidate in the 2024 general election.

I request reasonable modifications through an exception to practices, policies, and procedures to any and all physical requirements as well as time related requirements imposed by the state including without limitation to: the solicitation of signatures, collection of signatures, submission of signatures, start times, and deadlines for filing for ballot access as an unaffiliated (independent) US presidential candidate in the 2024 general election. 42 U.S.C. § 1983; 42 U.S.C. § 12101(b), 42 U.S.C. § 12103(1)(D). If it's a matter of public record/procedure, my ADA request could be certified (by the State) and kept on file in lieu of the signatures required.

As a qualified individual with a disability, I should not be reliant on others being available for help; "Although [plaintiffs] were ultimately able to cast their vote with the fortuitous assistance of others, the purpose of the Rehabilitation Act is 'to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society'.... The right to vote should not be contingent on the happenstance that others are available to help." *Nat'l Fed'n of the Blind v. Lamone*, 813 F.3d 494, 506-7 (4th Cir. 2016). The purpose of the ADA and 504 is to empower persons with disabilities.

### **Preemption / preclusion of conflicting state laws,**

Preemption of inconsistent state law when necessary to effectuate a required "reasonable modification" is affirmed by, *Mary Jo C. v. New York State and Local Retirement Sys.*, No. 11-2215, 35 at 6 - 36 at 2, 37 at 7 - 39 at 9 (2d Cir. 2013)

`The "natural effect" of Title II's "reasonable modification" requirement, Crosby, 530 U.S. at 373, in light of the foregoing observations, requires preemption of inconsistent state law when necessary to effectuate a required "reasonable modification." Congress clearly meant Title II to sweep broadly. If all state laws were insulated from Title II's reasonable modification requirement solely because they were state laws, "state law [would serve as] an obstacle to the accomplishment and execution of the full purposes and objectives of Congress" in enacting Title II. Marsh, 499 F.3d at 177. Far from "provid[ing] a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities," 42 U.S.C. § 12101(b)(1), the ADA would be powerless to work any reasonable modification in any requirement imposed by state law, no matter how trivial the requirement and no matter how minimal the costs of doing so. We conclude that the ADA's reasonable modification requirement contemplates modification to state laws, thereby permitting preemption of inconsistent state laws, when necessary to effectuate Title II's reasonable modification provision.[8]` (*Mary Jo C. v. New York State and Local Retirement Sys.*, No. 11-2215 [2d Cir. 2013])

`...the ADA preempts inconsistent state law when appropriate and necessary to effectuate a reasonable accommodation under Title II is also consistent with decisions from our sister Circuits. See, e.g., Barber v. Colorado Dep't of Revenue, 562 F.3d 1222, 1232-33 (10th Cir. 2009) (ultimately concluding that there was no conflict between state law and the ADA in the case before it, but observing that the court "in no way affirm[ed] the district court's conclusion that '[a]n accommodation that would have required defendants to willfully ignore or violate the law is per se not reasonable.'" (citation omitted)); Quinones v. City of Evanston, Ill., 58 F.3d 275, 277 (7th Cir. 1995) ("[The defendant] believes that it is compelled to follow the directive from the state, but the Supremacy Clause of the Constitution requires a different order of priority. A discriminatory state law is not a defense to liability under federal law; it is a source of liability under federal law." (emphasis in original)); Williams v. Gen. Foods Corp., 492 F.2d 399, 404 (7th Cir. 1974) (similar). As the Ninth Circuit explained:

The court's obligation under the ADA . . . is to ensure that the decision reached by the state authority is appropriate under the law and in light of proposed alternatives. Otherwise, any state could adopt requirements imposing unreasonable obstacles to the disabled, and when haled into court could evade the antidiscrimination mandate of the ADA merely by explaining that the state authority considered possible modifications and rejected them...

The NYSLRS argues that "Title II . . . requires reasonable modification only of `rules, policies, or practices' — not state statutes," NYSLRS Br. 19, and seeks to distinguish Crowder, which contemplated the modification of a mandatory Hawaii State administrative regulation rather than a state statute, see Crowder, 81 F.3d at 1481-85, on this ground, NYSLRS Br. 21 n.6. But as a general rule, duly promulgated state regulations have the force of law for these purposes as do statutes. See, e.g., State v. Kotis, 91 Hawai'i 319, 331, 984 P.2d 78, 90 (1999) (Under Hawaii law, "[a]dministrative rules, like statutes, have the force and effect of law."); Allstate Ins. Co. v. Rivera, 12 N.Y.3d 602, 608, 911 N.E.2d 817, 820, 883 N.Y.S.2d 755, 758 (2009) (under New York law, "[a] duly promulgated regulation . . . has the force of law." (internal quotation marks omitted)). From the standpoint of the ADA's preemptive force, we can discern no reason to distinguish between the preemption of state statutes and state regulations. Cf. Crosby, 530 U.S. at 372 n.6 (noting that "a variety of state laws and regulations may conflict with a federal statute" and be preempted). And for the reasons discussed above, we do not read the ADA to prohibit reasonable modifications to state statutes when appropriate.` (*Mary Jo C. v. New York State and Local Retirement Sys.*, No. 11-2215 [2d Cir. 2013])

"The ADA is meant to ensure that people with disabilities can fully participate in all aspects of civic life. Under Title II, all state/local governments must follow the ADA regardless of their size."(2)

"The Americans with Disabilities Act (ADA) is a federal civil rights law that provides protections to people with disabilities to ensure that they are treated equally in all aspects of life. Title II of the ADA requires state and local governments ("public entities") to ensure that people with disabilities have a full and equal opportunity to vote. The ADA's provisions apply to all aspects of voting," and "The ADA's provisions apply to all aspects of voting,"(3)

"the fact that a person with a disability is able to walk for some distance does not necessarily contradict a verbal assurance – many people with mobility disabilities can walk, but need their mobility device for longer distances or uneven terrain. This is particularly true for people who lack stamina, have poor balance, or use mobility devices because of respiratory, cardiac, or neurological disabilities."(1)

ADA stuff from the DOJ and ADA websites for the subsequent quotes is publicly accessible on my Google drive via the subsequent link. Please let me know if you have a problem accessing the files and I can

email them to you; [https://drive.google.com/drive/folders/1eyOqitflj37wTdgDooXibhml2ZXUP4d3?usp=drive\\_link](https://drive.google.com/drive/folders/1eyOqitflj37wTdgDooXibhml2ZXUP4d3?usp=drive_link)

"...when a state law directly conflicts with the ADA, the state law must be interpreted in a way that complies with the ADA" (*American-Nurses-Assoc.-v.-ODonnell,-California-Superintendent-of-Schools-United-States-Amicus-Brief.pdf*)

"the ADA requires Wisconsin to make reasonable modifications in policies, practices, and procedures when the modifications are necessary to avoid discrimination on the basis of disability. "(*statement\_of\_interest-carey\_v\_wisconsin\_election\_commission.pdf*)

Qualification standards and selection criteria that screen out people based on their disabilities that are not job-related or consistent with business necessity violate the ADA (*complaint\_-\_united\_states\_v\_alabama\_department\_of\_transportation.pdf*)

"Under Title II of the ADA, no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a). This means that the County must give individuals with disabilities an equal opportunity to participate in and benefit from any service provided to others. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(1). These legal requirements include providing equal access to the County's website and the public content posted there." (*letter\_of\_findings-upton\_county\_tx\_election\_website\_accessibility\_1.pdf*)

"...to avoid discrimination, a public entity must reasonably modify its policies, procedures, or practices when necessary to avoid disability discrimination, unless it can show that the modifications would fundamentally alter the nature of the service, program, or activity." (*statement\_of\_interest-in\_re\_georgia\_sb\_202.pdf*)

"...under the ADA, voters with disabilities must have an equal opportunity to vote ... this equal opportunity requirement is separate from the requirement that public entities make reasonable modifications" (*statement\_of\_interest-in\_re\_georgia\_sb\_202.pdf*)

"The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government. [...] Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized."; *Reynolds v. Sims*, 377 U.S. 533, 555 (1964)

"Voting is a quintessential public activity. In enacting the ADA, Congress explicitly found that " 'individuals with disabilities ... have been ... relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals.' " *Tennessee v. Lane*, 541 U.S. 509, 516, 124 S.Ct. 1978, 158 L.Ed.2d 820 (2004) (quoting 42 U.S.C. § 12101(a)(7)). Ensuring that disabled individuals are afforded an opportunity to participate in voting that is equal to that afforded others, 28 C.F.R. § 35.130, helps ensure that those individuals are never relegated to a position of political powerlessness." *Nat'l Fed'n of the Blind v. Lamone*, 813 F.3d 494, 507 (4th Cir. 2016)

The Department of Justice offers the following(1) pertaining to undue burden and fundamentally altering anything;

1. "The decision that an action would result in an undue burden must be made by a high level official, no lower than a Department head, having budgetary authority and responsibility for making spending decisions, after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in an undue burden, a public entity must take any other action that would not result in an undue burden but would nevertheless ensure that individuals with disabilities receive the benefits or services provided by the public entity."
2. "There are some situations where it simply is not possible to integrate people with disabilities without fundamentally altering the nature of a program, service, or activity. For example, moving a beach volleyball program into a gymnasium, so a player who uses a wheelchair can participate on a flat surface without sand, would "fundamentally alter" the nature of the game. The ADA does not require changes of this nature."

29 CFR § 1630.2(j)(iii) The **primary object** of attention in cases brought under the ADA should be **whether covered entities** have **complied with their obligations** and whether discrimination has occurred, **not** whether an individual's impairment substantially limits a major life activity. Accordingly, the threshold issue of whether an impairment "substantially limits" a major life activity should not demand extensive analysis.

28 CFR § 35.101(b)

42 U.S.C. § 12112(b)(5)(A), 42 U.S.C. § 12111(10)(A); 42 U.S.C. § 12182(b)(2)(A); 42 U.S.C. § 12182(b)(2)(A)(ii)-(iii)

28 CFR § 35.164

28 CFR § 35.101(b), 28 CFR § 35.102(a), 28 CFR § 35.130, 28 CFR § 35.160,

42 U.S.C. § 2000e-7, 42 U.S.C. § 2000a(d), 42 U.S.C. § 1983, 42 U.S.C. § 1986

### **Noncompliance / insubordination,**

If the State does not honor my request for reasonable accommodations and the State does not demonstrate how honoring my request would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations, **you and the state will be committing a hate crime (18 U.S.C. § 249)** against me by **discriminating** against me for **my disability** in my participation and enjoyment of **federally protected activities (18 U.S.C. § 245)** which will also **violate my civil rights**; due process and equal protection **(18 U.S.C. § 241 and 18 U.S.C. § 242)**

1. 18 U.S.C. § 245(b)(1)(A) Interfering with my ability to qualify and campaign as a candidate for elective office in any primary, special, or general election; and,
2. 18 U.S.C. § 245(b)(1)(B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States; and,
3. 18 U.S.C. § 245(b)(1)(E) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance; and,
4. Civil litigation and criminal complaints with state law enforcement agencies and federal law enforcement agencies will be pursued.

### **Non ADA cases:**

1. *Trump v. Anderson, No. 23-719, 601 U.S. (2024)* establishes (1) States lack the power to disqualify a candidate for federal office and, (2) that not including a candidate on the ballot, even for a primary would be disqualifying the candidate; "It would be incongruous to read this particular Amendment as granting the States the power — silently no less — to disqualify a candidate for federal office"
2. [Arbitrary and capricious] candidate requirements are not in line with founding, quintessential principles of America, historical tradition, or the rights enshrined by the U.S. Constitution; *New York State Rifle & Pistol Association, Inc. v. Bruen, 597 U.S. 1* establishes that "historical tradition" is a means in which law can be determined; and,
3. [heavy] burdens on minor parties seeking to be placed on the ballot for presidential electors violates the Equal protection clause, *Williams v. Rhodes, 393 U.S. 23 (1968)*; and,
4. Presidential candidate requirements violate the First and Fourteenth Amendments to the US Constitution; *Anderson v. Celebrezze, 460 U.S. 780 (1983)*; and,
5. Fees imposed by the State violate my equal protection rights (*Harper v. Virginia State Board of Elections, 383 U.S. 663 [1966]*), due process, and the 24th amendment to the U.S. Constitution

### **Non ADA laws**

52 U.S. Code § 10501(a) via 52 U.S. Code § 10501(b)(4) and I would also argue (b)(1)

52 U.S. Code § 10502(a)(1), (3)-(6)

\* durational residency is established by the requirement of registered voters of the state to sign a petition

\*\* A durational-residency requirement is a rule that requires a person to be a resident of a particular state for a specific period before they can exercise a particular right or privilege.

18 U.S. Code § 595

**Constitutional authority**

United States Constitution, Art. I § 4, cl. 1 Pertains to Senator and Representatives, not the President of the United States of America; "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

-Mathew Tyler

- (1) <https://www.ada.gov/resources/title-ii-primer/>
- (2) <https://www.ada.gov/topics/title-ii/>
- (3) <https://www.ada.gov/resources/polling-places-checklist>

[Quoted text hidden]

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**Mathew Tyler** <\*\*\*\*\*>

Mon, Apr 8, 2024 at 10:04 AM

To: Mathew Tyler <\*\*\*\*\*>

Cc: MDOS-BOERegulatory <MDOS-BOERegulatory@michigan.gov>

What other actions/alternatives to my request for reasonable modifications is the state proposing to make to satisfy the state's obligation to operate in an inclusive manner; providing me, a qualified individual with disabilities with an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of the state?

As mandated by federal law (28 CFR § 35.107), what is the contact information of the ADA coordinator / designated employee [28 CFR § 35.107(a)] and what is the published complaint procedure for grievances [28 CFR § 35.107(b)]?

29 U.S.C. § 794(a)

-Mathew Tyler

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