



**STATE OF MINNESOTA**  
Office of Minnesota Secretary of State  
Steve Simon

July 13, 2021

Senator Mary Kiffmeyer  
95 University Avenue W.  
Minnesota Senate Building, Room 3103  
St. Paul, MN 55155

Dear Senator Kiffmeyer,

Thank you for your inquiry related to a candidate's place of residence, affidavits of candidacy, and the Office of the Secretary of State's legal authority regarding these issues. As you say in your letter, it is the Office's responsibility to implement the election laws passed by the legislature. That's true, and I am happy to walk through the relevant election laws you helped pass in 2010 that provide guidance on these topics. I hope that this refresher provides clarity on Minnesota's election law and the authority of the Office of the Secretary of State.

Minnesota Statute 204B.06 provides guidance for the form of an "affidavit of candidacy," the paperwork a person must complete and submit under penalty of perjury in order to appear on the ballot. Particularly related to a candidate's address and telephone number, Subdivision 1b states as follows:

- (a) An affidavit of candidacy must state a telephone number where the candidate can be contacted. An affidavit must also state the candidate's address of residence as determined under section 200.031, or at the candidate's request in accordance with paragraph (c), the candidate's campaign contact address. The form for the affidavit of candidacy must allow the candidate to request, if eligible, that the candidate's address of residence be classified as private data, and to provide the certification required under paragraph (c) for classification of that address.
- (b) For an office whose residency requirement must be satisfied by the close of the filing period, a registered voter in this state may request in writing that the filing officer receiving the affidavit of candidacy review the address as provided in this paragraph, at any time up to one day after the last day for filing for office. If requested, the filing officer must determine whether the address provided in the affidavit of candidacy is within the area represented by the office the candidate is seeking. If the filing officer determines that the address is not within the area represented by the office, the filing officer must immediately notify the candidate and the candidate's name must be removed

from the ballot for that office. A determination made by a filing officer under this paragraph is subject to judicial review under section 204B.44.

- (c) If the candidate requests that the candidate's address of residence be classified as private data, the candidate must list the candidate's address of residence on a separate form to be attached to the affidavit. The candidate must also certify on the affidavit that a police report has been submitted or an order for protection has been issued in regard to the safety of the candidate or the candidate's family, or that the candidate's address is otherwise private pursuant to Minnesota law. The address of residence provided by a candidate who makes a request for classification on the candidate's affidavit of candidacy and provides the certification required by this paragraph is classified as private data, as defined in section 13.02, subdivision 12, but may be reviewed by the filing officer as provided in this subdivision.
- (d) The requirements of this subdivision do not apply to affidavits of candidacy for a candidate for: (1) judicial office; (2) the office of county attorney; or (3) county sheriff.

As you can see, state law explicitly gives candidates the authority to have their residence be classified as private data. Additionally, this law provides only the very limited authority for the Office of the Secretary of State to determine whether the address provided in the affidavit of candidacy is within the area represented by the office the candidate is seeking if a registered voter in Minnesota provides a written request. In the instance referenced in your letter, no such request was made of the Office.

More broadly, as you know, the law does not provide our Office investigative or law enforcement powers of the kind that your letter suggests. We don't have guns or badges. The Legislature has chosen not to require the Office to independently verify the true residence of each candidate filing for office. Such a requirement would presumably require the work of dozens of trained law enforcement professionals visiting homes, combing through various records, or talking to witnesses related to hundreds of candidates for office in the space of the ten-day candidate filing period. Instead, the Legislature has chosen the instrument of the "affidavit of candidacy," a sworn statement under penalty of perjury. Submission of a false affidavit of candidacy, knowingly, is a crime. The Legislature's chosen framework therefore entrusts law enforcement agencies with enforcement.

These laws have been used to provide added safety and security to candidates since 2010, when you and other members of the Legislature voted in favor of the bill.

Please note that there is an additional remedy for the case of those who have already been elected to office. In the event that the residency of an elected official comes into question, the Minnesota Constitution clearly states in Section 6:

Each house shall be the judge of the election returns and eligibility of its own members. The legislature shall prescribe by law the manner for taking evidence in cases of contested seats in either house.

I hope this overview of the pertinent election laws provide clarity to you.

Sincerely,

A handwritten signature in black ink that reads "Steve Simon". The signature is written in a cursive, flowing style with a large initial "S".

STEVE SIMON  
Secretary of State