



ELECTION NEWS

A special informational bulletin on the conduct of the November 7, 2006 general election

Michigan Department of State - Terri Lynn Land, Secretary of State

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In This Issue ...

This edition of *Election News* offers additional reminders and points of information regarding the administration of the November 7, 2006 general election. The following topics are covered:

- **Obtaining Updated Mailing Addresses for Military Voters**
- **Campaigning at the Polls; Exit Pollsters**
- **Challengers and Poll Watchers**
- **Optical Scan Voting Systems: Important Procedural Reminders**
- **Administration of Provisional Balloting Process: A Review**
- **First-Time Mail Registrants: Administering the "Vote-in-Person" and Federal I.D. Requirements**
- **Voters Permitted to Satisfy Citizenship Checkoff Box Requirement on Election Day**
- **Declaration of Intent Requirement; Documenting and Canvassing Write-In Votes**
- **Instructing Voters**

Obtaining Updated Mailing Addresses for Military Voters

Updated mailing addresses for military voters can be obtained by contacting the Federal Voting Assistance Program (FVAP) office in Washington, D.C. Seeking such information is essential anytime there is a question over a military voter's current address or in any instance where an absent voter ballot mailed to a military voter is returned as "undeliverable." There are two ways to seek such assistance:

- Fax the military voter's name, birth date, Social Security Number (if available) and any addressing information on file for the voter to Brian Griffiths of the FVAP office. Fax number: (703) 696-1352.
- Call the FVAP office and ask to speak to a representative. Toll free line: (800) 438-8683.

As indicated in Issue No. 36 of *Election News*, the Help America Vote Act of 2002 (HAVA) stipulates that a Federal Post Card Application (FPCA) used to request absent voter ballots must be honored “through the next 2 regularly scheduled general elections for Federal office” As a consequence, an FPCA form submitted for the August 3, 2004 primary, the November 2, 2004 general election or the August 8, 2006 primary must be honored for the November 7, 2006 general election.

Campaigning at the Polls; Exit Pollsters

Campaigning at the polls: There is often confusion on election day over the provisions which govern campaigning at the polls. As a consequence, all precinct chairpersons need to be aware of the following:

- No person is permitted to solicit voters or engage in any type of campaigning within 100 feet of any doorway used by voters to enter the building in which a polling place is located. In addition, no person is permitted to post, display or distribute any material that directly or indirectly makes reference to an election, a candidate or a ballot question in a polling place, in any hallway used by voters to enter or exit a polling place, or within 100 feet of any doorway used by voters to enter the building in which a polling place is located. The following activities are included under the 100-foot restriction:
 - Displaying “pro and con” information on the proposals appearing on the ballot.
 - Approaching voters to encourage them to vote for or against a candidate or ballot question.
 - Distributing any type of campaign literature or write-in stickers.
 - Displaying signs, posters or bumper stickers.
 - Attempting to collect petition signatures.
 - Requesting donations, selling tickets or engaging in similar activities.
- Before the polls open on election day, the members of the precinct board should inspect any doors, foyers or halls which the voters must pass through to enter the polling place to ensure that no unauthorized materials or signs are visible which indirectly or directly make reference to the election, candidates or ballots proposals. If any such signage or materials are found, they must be removed before the polls open.
- A voter may park a car or other vehicle bearing campaign signs or bumper stickers within 100 feet of the polling place during the time he or she is voting. Under any other circumstances, vehicles bearing campaign signs or bumper stickers must be parked at least 100 feet from any doorway used by voters to enter the building in which the polling place is located.

- Election workers have the right to ask voters entering the polls to remove campaign buttons or to cover up clothing bearing a campaign slogan or a candidate's name. In addition, voters may be told to conceal campaign literature or other campaign materials brought into the polls. While there is nothing to prohibit a voter from referring to campaign literature or "slate cards" when voting, such materials may not be left behind in the voting station. Precinct inspectors should periodically check each voting station for campaign literature left by voters and discard any that is found.

Exit polling: "Exit pollsters" are persons employed to survey electors after they have voted. While Michigan election law does not specifically regulate exit polling, the Department of State's Bureau of Elections has established by policy that exit pollsters 1) must remain at least 20 feet away from the entrance of the building in which the polling place is located 2) not enter the building in which the polling place is located and 3) not question any person entering the building in which the polling place is located. It merits emphasis that exit polling is the questioning of voters after they have left the polls.

Challengers and Poll Watchers

Challengers: Complete information on the qualifications, rights and duties of election challengers can be found on the Bureau of Elections' website <www.michigan.gov/sos>. Information on challengers also appears in the precinct manual distributed through the Department, *Managing Your Precinct on Election Day*. Several important points follow:

- Political parties are free to appoint challengers through the date of the election; advance application is not required. Interest groups which support or oppose the passage of a proposal or which have an interest in preserving the purity of elections must apply for authorization to appoint challengers 20 to 30 days prior to the election.
- A candidate does not have the authority to appoint challengers. Consequently, an application received from an organization that wishes to gain the authorization to place challengers in the polls must be denied if the name of the organization contains the name of a candidate (examples: "Citizens for Robert Jones," "Committee to Elect Dorothy Smith," "Nancy Lewis for State Representative," etc.). Candidates who wish to have challengers representing their interests in the polls should be advised to contact their local political party organizations.
- An individual appointed to serve as a challenger must be registered to vote in Michigan; registration within the jurisdiction in which the challenger is appointed to serve is not required. Challengers may be appointed to serve in more than one precinct.
- A challenger must have in his or her possession a "Challenger Card" issued by the organization he or she represents. Upon entering the precinct, the challenger must exhibit the card to the chairperson of the election board.
- While a political party or interest group may rotate challengers in a precinct, a political party or interest group may not have more than two challengers present in the precinct at any point throughout the course of the day.

- If two challengers are representing a political party or an organization in the precinct, only one of the challengers may hold the authority to challenge at any given time. The challengers may alternate the authority to challenge at their discretion. The challengers must advise the precinct board each time the challenge authority is exchanged.
- It is the duty of the election board to provide space for challengers which will enable them to observe all election procedures being carried out.
- Challengers may not touch ballots, election materials or voting equipment.
- Challengers may not unnecessarily obstruct or delay the work of the election inspectors.

***Other persons in polls:* An election is an open process that may be observed by any interested person. (However, note that candidates should not be present in the polling place after they have voted because of the possible conflict with the provisions which prohibit campaigning within 100 feet of the polls.) A person who wishes to observe the election process -- but who is not a qualified election challenger -- is commonly called a “poll watcher.” The distinction between poll watchers and challengers is summarized below:**

- A challenger has the right to challenge procedures and a person’s right to vote; a poll watcher does not have this authority.
- A challenger may sit behind the processing table; a poll watcher does not have this privilege. (Poll watchers must seat themselves where they will not interfere with the voting process.)
- Challengers have a right to look at the Poll Book; poll watchers may look at the Poll Book at the discretion of the precinct chairperson. A challenger or a poll watcher may not touch the poll book or any other voting records.

Optical Scan Voting Systems: Important Procedural Reminders

A number of important reminders regarding the use of optical scan voting equipment are provided below. The careful observance of the procedural points is essential to the proper use of the equipment.

- All optical scan ballots produced for the conduct of the preliminary test, public accuracy test or any other testing procedures must be clearly stamped or printed with the word “TEST.”
- The proper way to indicate a vote on an optical scan ballot is to make a mark within the “predefined area” designated for casting a vote. Any markings that are inconsistent with this standard cannot be counted as votes. Instructions for distinguishing between “stray marks” and valid votes cast on optical scan ballots are available on the Department of State’s website <www.michigan.gov/sos>. The instructions were issued by the Secretary of State pursuant to MCL 168.799a(3) as amended under PA 92 of 2004.
- Do not instruct or permit your election inspectors to “mark over” or “darken” votes cast on an optical scan ballot that appear “too light” or are marked with a writing implement that the

tabulator cannot read. Such ballots must be duplicated. In all cases, the original ballot cast by the voter must be preserved exactly as cast by the voter!

- It is improper for any member of the precinct board to view a voter's ballot after the voter has cast votes on the ballot. It is extremely important that this point be emphasized to all election inspectors. Voter complaints over this matter typically involve the mishandling of ballots rejected by the tabulator. To ensure the secrecy of optical scan ballots, instruct your election inspectors to remain at least 10 feet away from the tabulator whenever a voter is depositing his or her voted ballot into the tabulator. To ensure the proper handling of voters who have their ballot rejected, a "script" is provided with this newsletter. The distribution of the script to your precinct boards is recommended. The election worker responsible for monitoring the tabulator should read the script to any voter who experiences the rejection of his or her ballot due to a voting error.
- Optical scan tabulators employed by absent voter counting boards established for the November 7 general election must be programmed to reject blank ballots and ballots containing "over votes." If this programming feature is not employed as required, inaccurate vote results can occur due to ballots that contain false "over votes" and ballots that contain votes that cannot be scanned by the tabulator due to the voter's use of an improper marking implement.
- To preserve the secrecy of optical scan absentee ballots, secrecy sleeves must be issued with all optical scan absentee ballots printed on both sides.
- Jurisdictions introducing optical scan voting equipment to voters accustomed to voting on other types of ballots are advised to implement extra measures to instruct voters on 1) the proper way to vote optical scan ballots and 2) the importance of using the appropriate marking tool. Showing each voter a large illustration of a properly marked "target area" is recommended. To avoid any improper appearances, such instructional tools must not show the names of any candidates appearing on the official ballot.

Administration of Provisional Balloting Process: A Review

The provisional balloting process must be employed anytime a voter who completes an Application to Vote form does not appear on the precinct's QVF list.

To initiate the provisional balloting process, the precinct board must complete a "four-step procedure form." The four-step procedure form must be completed before a ballot is issued to the voter. There are two exceptions:

- 1) If the voter is in the proper polling place and is able to produce a voter registration receipt that shows that he or she registered to vote before the registration deadline, there is no need for the precinct board to complete the form. Instead, the precinct board should contact the clerk for assistance if needed and arrange to have the voter complete another registration form. After the voter has completed the registration form, the voter can be permitted to vote under regular procedure.

- 2) If the precinct board or the clerk determines that the voter is registered to vote in a different precinct and the voter is willing to travel to his or her proper polling place, there is no need for the precinct board to complete the form. Instead, the precinct board should give the voter directions to his or her proper polling place. (If the voter declines to travel to his or her proper polling place, the precinct board must complete the form. Such voters must be cautioned that while they are eligible to vote an “envelope” ballot, it will not count if it is later confirmed that the voter did not, in fact, vote in the proper precinct.)

Four-step procedure form: In an instance where the four-step procedure form must be completed before a ballot can be issued to the voter, the precinct board must carefully work through each of the four steps explained on the form. After completing the form, the precinct board must make a final determination on whether the ballot issued to the voter can be handled like any other ballot issued in the polls (i.e., deposited in the precinct’s tabulator) or must be preserved in a special “provisional ballot security envelope” and returned to the clerk’s office for further review after the polls close. The four-step procedure form is designed to guide the precinct board in making this determination. A ballot preserved in a provisional ballot security envelope is commonly called an “envelope” ballot. Four-step procedure forms and provisional ballot security envelopes can be purchased through commercial suppliers. The four-step procedure form is also available on the Department’s website <www.michigan.gov/sos>.

Actions clerk must take after election: City and township clerks who receive one or more “envelope” ballots after the polls close must evaluate the ballots within 6 calendar days after the election to determine if the ballots can be counted. The four-step procedure form is designed to guide the precinct board on recording all of the information needed by the clerk to determine whether an “envelope” ballot can be counted. The clerk is not permitted to open a provisional ballot security envelope unless the clerk determines that the ballot can be counted. The procedure for handling “envelope” ballots returned to the clerk’s office is available on the Department’s website <www.michigan.gov/sos>.

No later than the 7th calendar day after the election, the city or township clerk must complete a “Provisional Ballot Report” form and submit it to the county canvassing board and/or local canvassing board as appropriate. The Provisional Ballot Report form documents the number of provisional ballots which were 1) counted or tabulated in the polls on election day and 2) secured in Provisional Ballot Security Envelopes for delivery to the clerk’s office after the polls close. The report further documents 1) the number of “envelope” ballots determined valid and counted and 2) the number of “envelope” ballots determined invalid and not counted. A Provisional Ballot Report form is available on the Department’s website <www.michigan.gov/sos>.

“Free access system”: All voters who were issued a provisional ballot must have access to a cost-free informational system which the voters can use to obtain information on whether their ballot counted, and, if the ballot was not counted, the reason why the ballot was not counted. (HAVA refers to such systems as “free access systems.”) A notice must be distributed to each voter issued a provisional ballot to advise the voter of his or her right to obtain this information. (The notice is attached to the four-step procedure form.)

To ensure compliance with the new requirement, all city and township clerks must be prepared to handle inquiries from voters who were issued “envelope” ballots. When handling such inquiries

the clerk has an obligation to advise the voter on whether his or her “envelope” ballot was counted or was not counted. If the voter’s “envelope” ballot was not counted, the clerk must explain the reason why and the actions the voter can take to ensure that the next time the voter wishes to participate in an election, his or her ballot will count.

In accordance with federal law, PA 92 of 2004 stipulates that the free-access system may be “a telephone number that does not require a toll charge, a toll-free telephone number, an internet website, or a mailed notice.” If a “mailed notice” is employed, the notice must be sent to each and every voter who was issued an “envelope” ballot.

It merits emphasis that information on whether a provisional ballot issued to voter was counted or was not counted is restricted to the individual who voted the provisional ballot; such information cannot be disclosed to any other person.

Points of emphasis: A number of important points related to the administration of the provisional balloting process which merit emphasis are provided below:

- In any instance where a voter whose name does not appear on the QVF list refuses to complete the affidavit portion of the four-step procedure form to assert that he or she registered to vote on or before the registration deadline, the election inspectors must not issue a provisional ballot to the voter. Instead, such voters must be advised that they are ineligible to vote in the election.
- As noted earlier, if a voter 1) appears to vote in the wrong precinct and 2) declines to travel to his or her proper precinct to vote, it is important that the election inspectors tell the voter that his or her provisional ballot will not count if it is confirmed after the election that the voter has voted in the wrong precinct.
- In any situation where an “envelope” ballot has been issued to a voter who 1) appeared to vote in the wrong precinct and 2) declined to travel to his or her proper precinct to vote, the clerk must make every effort during the 6-day “envelope” ballot evaluation period to accurately confirm that the voter did, in fact, vote in the wrong precinct before rejecting the “envelope” ballot as invalid. The evaluation must include a check of the QVF street index to verify that the voter was not assigned to the wrong precinct in error. If a check of the street index reveals that a voter in this situation actually voted in the proper precinct, the “envelope” ballot must be counted.

First-Time Mail Registrants: Administering the “Vote-in-Person” and Federal I.D. Requirements

“Vote-in-person” requirement: A voter who has never voted in Michigan who chooses to register by mail, must appear in person to vote in the first election in which he or she wishes to participate.

A voter subject to the “vote-in-person” requirement who satisfies the requirement – and who then moves to a different jurisdiction in the state and again chooses to register to vote by mail –

is not required to satisfy the “vote-in-person” requirement a second time. In addition, the “vote-in-person” requirement does not apply if:

- 1) the voter hand delivers his or her mail registration form to the county or local clerk’s office;
- 2) the voter hand delivers his or her absent voter ballot request to the local clerk’s office;
- 3) the voter is 60 years of age or more;
- 4) the voter is disabled; or
- 5) the voter is eligible to vote under the Uniformed and Overseas Citizens Absentee Voting Act.

Federal I.D. requirement: HAVA stipulates that a voter who has never voted in Michigan who chooses to register by mail, must meet an identification requirement. To comply with the identification requirement, the voter must:

- 1) accurately enter his or her state issued driver license number or personal identification card number where requested on the mail-in voter registration form; or
- 2) enter the last four digits of his or her Social Security Number where requested on the mail-in voter registration form; or
- 3) send one of the following forms of identification when mailing the mail-in voter registration form to his or her county or local clerk: a copy of any current and valid photo identification or a copy of a paycheck, government check, utility bill, bank statement or a government document which lists his or her name and address.

If a voter subject to the federal identification requirement does not meet the requirement when registering, the voter must present one of the above listed documents before voting in the first election in which he or she wishes to participate. The federal identification requirement does not apply if:

- 1) the voter hand delivers his or her mail registration form to the county or local clerk’s office;
- 2) the voter is disabled; or
- 3) the voter is eligible to vote under the Uniformed and Overseas Citizens Absentee Voting Act.

Implementation points: The following implementation points merit close attention:

- The Qualified Voter File has been upgraded to assist Michigan’s city and township clerks administer the “vote-in-person” and federal identification requirement. With the upgrade, the QVF identifies those voters subject to the “vote-in-person” requirement (code: “MVIP”), those voters subject to the federal identification requirement (code: “ID”) and those voters who are subject to both requirements (code: “MVIP/ID”).

- A voter who is subject to the federal identification requirement who is unable or unwilling to produce an acceptable form of identification must be issued a “provisional” ballot. When issuing a “provisional” ballot to such a voter, it must be preserved as an “envelope” ballot. In an instance where an “envelope” ballot must be issued to a voter subject to the federal identification requirement, it is not necessary to complete the four-step procedure form. It merits note, however, that a special notice must be issued to the voter at the time the “envelope” ballot is issued. The notice is available on the Department’s website <www.michigan.gov/sos>.
- In an instance where a 1) a voter who is 60 years of age or more requests an absentee ballot 2) the voter is subject to the federal identification requirement because he or she is a first-time mail registrant who has never voted in Michigan and 3) the voter has not cleared the identification requirement prior to requesting the ballot, a provisional ballot must be issued to the voter by mail. Upon the return of the ballot, it must be preserved and handled as an “envelope” ballot.

Voters Permitted to Satisfy Citizenship Checkoff Box Requirement on Election Day

As required under the Help America Vote Act (HAVA), the following two questions have been added to all voter registration forms with “yes” and “no” checkoff boxes: 1) “Are you a citizen of the United States of America?” and 2) “Will you be 18 years of age on or before Election Day?” As further required under HAVA, the questions are accompanied by the following statement: “If you checked ‘no’ in response to either of these questions, do not complete this form.” Several important implementation points related to the checkoff box requirement are detailed below:

- HAVA provides that in an instance where a voter registration applicant fails to answer the citizenship question, the city or township clerk must notify the applicant and provide him or her with an opportunity to complete the form. The voter cannot vote until he or she affirmatively answers the citizenship question. A voter’s failure to respond to the age question does not affect the acceptability of the voter registration application.
- A voter who fails to respond to the citizenship question can satisfy the requirement when attending the polls. To satisfy the requirement the voter can 1) answer the question on a voter registration form 2) submit a written, signed statement affirming that he or she is a citizen of the United States or 3) respond to the citizenship question on the “Application to Vote” form (if your jurisdiction is using the version of the Application to Vote form which contains the citizenship question).
- A voter who fails to respond to the citizenship question who wishes to obtain an absentee ballot must satisfy the requirement before the ballot is released to the voter.
- A “Verify-Confirm Citizenship” status has been added to the QVF system to assist with the implementation of the requirement. When used, the status will appear next to the voter’s name on the QVF list generated for the voter’s precinct.

Declaration of Intent Requirement; Documenting and Canvassing Write-In Votes

- An individual who wishes to seek an office which will appear on the November 7, 2006 general election ballot with write-in votes must file a Declaration of Intent form with the filing official established for the office no later than 4:00 p.m. on Friday, November 3, 2006.
- Immediately after the elapse of the Declaration of Intent filing deadline, the Department of State's Bureau of Elections will notify all county clerks of the individuals who submitted the form on the state level. The county clerks are then required to notify all city and township clerks in their respective counties of the individuals who submitted the form on both the state and county level.
- After receiving the notification from the county clerk, the city and township clerks are responsible for advising the appropriate precinct boards of the individuals who submitted the form on the state, county and local level. The names of the declared write-in candidates must be delivered to the precinct boards no later than the close of the polls. A list of the write-in candidates' names or photocopies of the Declaration of Intent forms can be used to notify the precinct boards of the declared write-in candidates. (If a list is used, it must include the office each write-in candidate is seeking.)
- A write-in vote cast for an individual who has not filed a Declaration of Intent does not count and must not be recorded by the precinct board. Similarly, a write-in vote cast for an individual who filed a Declaration of Intent does not count unless the office for which the write-in vote was cast corresponds to the office identified on the Declaration of Intent. Write-in votes which do not count for the above reasons are not considered when determining whether an "over vote" has occurred.

As an exception, the Declaration of Intent requirement is waived if a candidate appearing on the ballot for the office involved dies or is otherwise disqualified on or after the Wednesday immediately preceding the election. If the waiver is invoked, all write-in votes cast for the office must be counted including any write-in votes cast for candidates who have not filed a Declaration of Intent.

- Write-in votes which show name variations and spellings which do not match the Declaration of Intent form are acceptable. It merits note that it is the precinct board's responsibility to record all valid write-in votes exactly as they were cast preserving any name variations and/or misspellings which may appear.

Example: John A. Smith - State Representative - 16 votes.
Jon Smith - State Representative - 2 votes.
J.A. Smith - State Representative - 1 vote.

- It is the Board of County Canvassers' responsibility to review all write-in votes and determine how they are to be counted. The Board may accept variations in the spelling of a write-in candidate's name if the manner in which the voter intended his or her vote to be cast is clear.

Instructing Voters

- When processing voters, a member of the precinct board must offer to give instruction on all aspects of the voting process including the procedure for casting write-in votes. If a voter states that he or she wishes to only receive instruction on the procedure for casting a write-in vote, the precinct board member handling this task may limit the instruction to the write-in process; otherwise, instruction on all aspects of the voting process must be offered to avoid any appearance that the precinct board is promoting write-in candidates.
- If a voter asks for information on the write-in candidates who are seeking the offices on the ballot, the precinct board must advise the voter to contact the clerk. The precinct board is not permitted to provide the names of write-in candidates while processing voters or display the names of the write-in candidates inside the polling place.



STATE OF MICHIGAN
TERRI LYNN LAND, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

September 29, 2006

Procedure for Handling Optical Scan Ballots Rejected in the Polls
-- November 7, 2006 General Election --

Election workers must be carefully instructed on the appropriate procedures for interacting with voters who have their ballot rejected by the tabulator. As a part of the instruction, it is extremely important to emphasize that the election inspectors cannot view the voter's ballot in an attempt to identify the voting error involved.

To ensure the proper handling of voters who have their ballot rejected, the following "script" is offered. The distribution of the script to all election inspectors is recommended. The election inspector responsible for monitoring the tabulator should read the script to any voter who experiences the rejection of his or her ballot due to a voting error.

STEP I: *Election worker reads following statement to any voter who experiences the rejection of his or her ballot due to a voting error:*

A. If voter has "over voted" an office: THE TABULATOR HAS REJECTED YOUR BALLOT BECAUSE IT IS IMPROPERLY MARKED. ACCORDING TO THE TABULATOR, YOU HAVE CAST MORE VOTES FOR AN OFFICE THAN ALLOWED.

IF YOU WISH TO CORRECT THE VOTING ERROR, WE WILL BE HAPPY TO SUPPLY YOU WITH A REPLACEMENT BALLOT.

IF YOU DO NOT WISH TO CORRECT THE VOTING ERROR, WE WILL BE HAPPY TO ACCEPT YOUR BALLOT AS PRESENTED. PLEASE BE AWARE, HOWEVER, THAT ANY INVALID VOTES MARKED ON YOUR BALLOT WILL NOT BE COUNTED.

B. If voter has not cast any votes (blank ballot): THE TABULATOR HAS REJECTED YOUR BALLOT BECAUSE IT DOES NOT READ ANY VOTES ON THE BALLOT.

IF YOU WISH TO CAST VOTES ON THE BALLOT, YOU MAY RETURN TO THE VOTING STATION. INSTRUCTIONS ON THE VOTING PROCESS ARE AVAILABLE AT YOUR REQUEST.

IF YOU DO NOT WISH TO RETURN TO THE VOTING STATION, WE WILL BE HAPPY TO ACCEPT YOUR BALLOT AS PRESENTED. PLEASE BE AWARE, HOWEVER, THAT NO VOTES WILL COUNT.

