



# ELECTION NEWS

A special informational bulletin  
on the conduct of the August 5,  
2008 primary

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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 August 5 primary. The following topics are covered:

- **Optical Scan Voting Systems: Procedural Reminders**
- **Campaigning at the Polls; Exit Pollsters**
- **Challengers and Poll Watchers**
- **Reminder: Check Post Office for Absent Voter Ballots that Arrive on August 5!**
- **Instructing Voters**
- **Document and Ballot Security Measures**
- **Recount Reminders**
- **Election Resources Available on Department's Website**
- **Have a Question or Need Assistance?**

### Optical Scan Voting Systems: 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](http://www.michigan.gov/sos)>.

- 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 must be programmed to reject blank ballots, ballots containing “overvotes” and ballots containing “crossover” votes (partisan primaries only). If this programming feature is not employed as required, inaccurate vote results can occur due to ballots that contain false “overvotes,” false “crossover” votes and ballots containing votes which 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. (It is not necessary to issue secrecy sleeves with optical scan absentee ballots printed on one side only.)

<p><b>Campaigning at the Polls; Exit Pollsters</b></p>
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***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.

<b>Challengers and Poll Watchers</b>
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***Challengers:*** A number of reminders regarding the qualification, rights and duties of election challengers are provided below:

- 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 anytime 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.

**Summary:** The following chart summarizes the rights and duties of challengers and poll watchers:

	<b>Challengers</b>	<b>Poll Watchers</b>
Must carry credentials issued by appointing authority.	Yes	No
Must be registered to vote in Michigan.	Yes	No
Has the right to challenge a person's eligibility to vote.	Yes	No
Has the right to challenge the actions of election inspectors.	Yes	No
May stand or sit behind processing table.	Yes	No – must remain in public area.
Has the right to look at the Poll Book and other election materials.	Yes	Yes – but only as permitted by precinct board and when voting process will not be delayed.
May handle the Poll Book and other election materials.	No	No
May use a video camera or recording device in polling place.	No	No
May use a cell phone in polling place.	Yes – if not disruptive.	Yes – if not disruptive.
May wear clothing, buttons, arm bands, vests, etc. that name organization he or she represents.	No	No
Has the right to approach and question voters.	No	No
May remain in the polling place until the election inspectors complete their work.	Yes	Yes
May obtain the vote results generated in the precinct after the polls close.	Yes	Yes

**Reminder: Check Post Office for Absent Voter Ballots that Arrive on August 5!**

Michigan election law, MCL 168.765(3), stipulates that on election day, the city or township clerk must contact the post office “at which the clerk regularly receives mail” and arrange to obtain any absent voter ballots being held at the post office in sufficient time to deliver the absent voter ballots to the appropriate precinct board by 8:00 p.m.

Given the above requirement, all city and township clerks must contact their local post office in advance of the August 5 primary to make arrangements to obtain any absent voter ballots that reach the post office on Tuesday, August 5. The requirement is designed to ensure that any and all absent voter ballots that reach the clerk’s post office on election day are counted – including those absent voter ballots that arrive in the post office after the clerk’s routine mail delivery on election day.

**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.

**Document and Ballot Security Measures**

**Canvass documents:** Michigan election law requires the Board of County Canvassers to seal all statement of votes forms, tally sheets and poll books in envelopes upon the completion of the canvass. Red paper seals may be used to comply with the security requirement.

**Optical scan ballots:** All program test materials and optical scan ballots must be sealed in an approved ballot container. The serial number appearing on the seal used to secure the ballot container must be recorded in the Poll Book, on the statement of votes forms and on the certificate affixed to the ballot container. If a two-sided ballot container is used to store optical scan ballots, both sides must be sealed and both seals must be recorded. (If one side of the container is permanently sealed, the precinct inspectors do not have to list the permanent seal if the number on the permanent seal is properly documented in the clerk’s office.) Programs removed from optical scan tabulators must be sealed in an approved ballot container. Programs

cannot be erased or transferred to another electronic medium for extended retention until clearance is received from the Department of State's Bureau of Elections.

### **Recount Reminders**

Michigan election law stipulates that a candidate who seeks nomination or election to the office of U.S. Representative in Congress, State Senator or State Representative who wishes to obtain a recount must file with the Secretary of State. Please keep this requirement in mind if you are contacted by any U.S. House or State House candidates who wish to seek a recount after the August 5 primary. (The office of State Senator does not appear on the August 5 primary ballot.)

County and local recounts requested after the August 5 primary may not be conducted until written clearance is received through the Michigan Department of State's Bureau of Elections. All ballots, voting equipment, programs and other materials placed under security must remain sealed until instruction is received through the Bureau. A memo on the conduct of county and local recounts will be forwarded to the county clerks throughout the state in early September.

A summary of the recount process is provided with this newsletter (*Chronology of Recount Process: August 5, 2008 Primary*).

### **Election Resources Available on Department's Website**

A wide variety of election related information and materials can be accessed through the Department's website [www.michigan.gov/sos](http://www.michigan.gov/sos). To locate, click on "Elections in Michigan"; on the Elections in Michigan page, click on "Information for Election Administrators." The information and materials currently available on the website include the following:

- Michigan election law.
- August 5, 2008 Voter Information Poster. (English and Spanish)
- August/November election date calendar.
- Provisional balloting implementation materials.
- Election inspector training materials.
- Michigan voter identification requirement implementation materials.
- AutoMARK implementation materials.
- Archives of previous issues of *Election News* and *News You Can Use*.

**Have a Question or Need Assistance?**

If you have a question or need assistance with your election related duties, please do not hesitate to contact the Michigan Department of State's Bureau of Elections. We will be happy to assist in any way possible!

**Mailing address:** Michigan Department of State  
Bureau of Elections  
PO Box 20126  
Lansing, MI 48901-0726

**Phone:** (517) 373-2540

**Email:** [elections@michigan.gov](mailto:elections@michigan.gov)

**Fax:** (517) 373-0941





STATE OF MICHIGAN  
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DEPARTMENT OF STATE  
LANSING

July 16, 2008

## Procedure for Handling Optical Scan Ballots Rejected in the Polls

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 "overvoted" an office or has voted in more than a single party primary:*** 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) (VOTED IN MORE THAN A SINGLE PARTY PRIMARY).

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.

**STEP II:** *If the voter wishes to have his or her ballot cast as presented, the election worker should reemphasize how the ballot will be counted and afford the voter a second opportunity to obtain a replacement ballot or return to the voting station:*

- A.** *If voter has “overvoted” an office:* IF YOUR BALLOT IS CAST AS MARKED, NO VOTES WHICH APPEAR UNDER ANY OFFICE THAT YOU HAVE “OVERVOTED” WILL COUNT. ARE YOU CERTAIN THAT YOU DO NOT WISH TO RECEIVE A REPLACEMENT BALLOT?
  
- B.** *If voter has voted in more than a single party primary:* IF YOUR BALLOT IS CAST AS MARKED, NO VOTES WHICH APPEAR IN THE PARTISAN SECTION OF YOUR BALLOT WILL COUNT. ARE YOU CERTAIN THAT YOU DO NOT WISH TO RECEIVE A REPLACEMENT BALLOT?
  
- C.** *If voter has not cast any votes (blank ballot):* IF YOUR BALLOT IS CAST AS PRESENTED, NO VOTES WILL COUNT FOR ANY CANDIDATES OR PROPOSALS. ARE YOU CERTAIN THAT YOU DO NOT WISH TO RETURN TO THE VOTING STATION?



STATE OF MICHIGAN  
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DEPARTMENT OF STATE  
LANSING

## **Chronology of Recount Process: August 5, 2008 Primary**

### **Certification of Results**

- County Canvassing Boards convene at 1:00 p.m. on August 6, 2008 to initiate canvass of primary.
- County Canvassing Boards complete canvass of primary no later than August 19, 2008. Results for county and local offices are certified as official. Results for state level offices are forwarded to Secretary of State within 24 hours.
- Board of State Canvassers certifies state-level offices no later than August 25, 2008. Board authorizes staff to act on its behalf if recounts are requested.

### **Petitioning Process**

- A candidate who seeks nomination to a county office, township office, the office of Probate Judge or any other local office on the primary ballot who wishes to obtain a recount must submit a “recount petition” to the county clerk within six days after the Board of County Canvassers certified the results for the office involved.

A candidate who seeks nomination to the office of U.S. Representative in Congress, the office of State Representative or a judicial office (except Probate Judge) who wishes to obtain a recount must submit a “recount petition” to the Secretary of State within 48 hours after the Board of State Canvassers certified the results for the office involved.

- Petition must be notarized.
- Petition must claim “fraud or mistake” in the canvass of votes.
- Petition must specify precincts to be recounted. (Can request a “full” recount or “partial” recount.)
- A \$10.00 deposit per precinct must be included with petition. (Deposit returned if election is reversed.)
- Official receiving recount petition (Secretary of State or county clerk) immediately notifies all opponents that recount petition has been filed.
- Opponents can “counter petition” if a partial recount. If original recount petition was submitted on the county level, counter petition must be filed within 48 hours after the submission of original petition. If original recount petition was filed with the Secretary of State, counter petition must be filed by 4:00 p.m. on the seventh calendar day after the

submission of original petition. Opponents can also file objections by 4:00 p.m. on the seventh calendar day after submission of original petition. If objections are filed, the canvassing board responsible for conducting the recount holds a hearing to consider the objections.

### **Coordination of State-Level Recounts; Conduct of Local Recounts**

- As soon as the state-level recount deadline elapses, Secretary of State contacts the clerks of the counties where recounts are requested to initiate coordination of recount. Considerations:
  - Date, time and place.
  - Coordination of an orientation/training session with Board of County Canvassers, candidates, and representatives of candidates. (Usually held immediately prior to conduct of recount.)
  - Rules and procedures.
- Counties where recounts will not be conducted under the authority of the Board of State Canvassers are advised to proceed with any local recounts which must be conducted under the authority of Board of County Canvassers.

### **Conduct of State-Level Recounts**

- As soon as arrangements for any requested state-level recounts are complete, a packet of information is forwarded to each candidate giving full details on the coordination of the recount. The counties post recount with notices provided by Bureau.
- At the appointed time and place, the recount is convened and is conducted under the direction of the Board of State Canvassers' representative.
- The recount process takes place at "work tables."
  - The number of work tables set up in any given county depends on the number of ballots to be counted. Two to three workers are assigned to each work table.
  - The county is responsible for hiring the personnel needed to staff the work tables.
  - Each candidate can have up to two "challengers" at each work table.
- The ballots are counted under the state laws, rules and policies which govern the process.
  - All ballots are recounted by hand.
  - Michigan is not a voter intent state: the voter must follow instructions and cast vote by marking "target area." Any markings outside of "target area" cannot be considered.

- If there is a dispute over how a ballot is counted, the ballot is placed in an “exhibit envelope.”
  - Ballot is inspected by Board of County Canvassers who can overrule or uphold how ballot was counted at “work table.” Board votes on each challenged ballot; if a deadlock, manner in which ballot was counted at work table stands.
  - Board’s decision can be appealed to Board of State Canvassers’ representative who can overrule or uphold decision made by Board of County Canvassers.
  - Any decisions made by Board of State Canvassers’ representative can be appealed to Board of State Canvassers when it next convenes.
- Recount must be completed no later than the 20<sup>th</sup> calendar day after the deadline for submitting a “counter petition.” Recount is halted if original petitioner withdraws.
- If recount is completed, the Board of State Canvassers convenes to hear any challenges which the candidates wish to present. After ruling on any presented challenges, the Board certifies the result of the recount.
- If disputes remain, must be taken up in court.