



# ELECTION NEWS

A special informational bulletin on the implementation of Michigan's new "consolidated elections" legislation

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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 8 primary. The following topics are covered:

- Posting Absentee Voting Information
- Michigan's Absentee Voting Process: Critical Points to Remember
- Administration of Provisional Balloting Process: A Review
- Certification of Precinct Delegate Votes: Reminders

## Posting Absentee Voting Information

Michigan election law, MCL 168.765(5), requires all city and township clerks to comply with the following posting requirements:

- The clerk must post before 8:00 a.m. on election day: 1) the number of absent voter ballots distributed to absent voters 2) the number of absent voter ballots returned before election day and 3) the number of absent voter ballots delivered for processing.
- The clerk must post before 9:00 p.m. on election day: 1) the number of absent voter ballots returned on election day 2) the number of absent voter ballots returned on election day which were delivered for processing 3) the total number of absent voter ballots returned both before and on election day and 4) the total number of absent voter ballots returned both before and on election day which were delivered for processing.
- The clerk must post immediately after all precinct returns are complete: 1) the total number of absent voter ballots returned by voters and 2) the total number of absent voter ballots received for processing.

A form which can be used to post the information specified above is attached for your convenience.

## **Michigan's Absentee Voting Process: Critical Points to Remember**

To protect and enhance the integrity of Michigan's absentee voting process, all election officials are required to observe the legal requirements, practices and policies detailed below:

***Eligibility:*** A registered voter is eligible to obtain an absent voter ballot for an upcoming election if he or she: 1) is 60 years of age or more 2) is unable to vote without assistance 3) expects to be absent from his or her city or township of residence for the entire time the polls are open 4) is in jail awaiting arraignment or trial 5) has been appointed to work as an election inspector in a precinct outside of his or her precinct of residence or 6) is unable to attend the polls due to his or her religious beliefs.

***Eligibility restriction:*** A person who registers to vote by mail must vote in person in the first election in which he or she participates. The restriction does not apply to overseas voters, voters who are handicapped or voters who are 60 years of age or older.

***Application process:*** A voter who wishes to receive an absentee ballot must request it in writing from the clerk; absentee ballots may not be delivered as a result of an oral request made in person or over the phone. However, an absent voter ballot application form may be provided as a result of an oral request.

The written request may be on a form supplied by the clerk or other election official, in a letter or on a postcard. The written request must include a statutory reason why the voter is eligible to receive an absentee ballot and the applicant's signature.

***Absentee ballot application submission timeframes:*** Absent voter ballot requests may be submitted anytime after the 75<sup>th</sup> day preceding the election. (Absent voter ballot requests submitted prior to the 75<sup>th</sup> day preceding the election may be retained on file for later processing.) The 75-day absent voter ballot request submission restriction does not apply to absent voter ballot requests submitted for federal elections by absent uniformed services voters.

A voter who applies for an absent voter ballot for a primary may, at the same time, request an absent voter ballot for the following general election if he or she is eligible to receive an absent voter ballot for both elections.

If the ballot must be issued by mail, the application for the ballot must reach the clerk no later than 2:00 p.m. on the Saturday prior to the election.

Absent voter ballots can be requested by voters in person anytime up to 4:00 p.m. on the day prior to the election. A voter who visits his or her clerk's office on the day prior to the election to obtain an absent voter ballot must vote the ballot in the clerk's office; the voter is not permitted to leave the clerk's office with the ballot.

The law also provides for the issuance of "emergency" absent voter ballots on the day of the election. The emergency absentee voting process is explained below.

***Office hours on Saturday preceding election:*** The clerk or other authorized personnel appointed by the clerk must be available in the clerk's office on the Saturday preceding the

election until 2:00 p.m. -- the deadline for requesting an absentee ballot which must be mailed.

**Restrictions on possession of signed absent voter ballot applications:** The persons who may be in lawful possession of a signed absent voter ballot request are limited to 1) the applicant 2) a member of the applicant's immediate family 3) a person residing in the applicant's household 4) a person whose job normally includes the handling of mail (but only during the course of his or her employment) 5) a registered elector asked to handle the application by the applicant and 6) an authorized election official.

A registered elector who returns an absentee ballot application at the request of the applicant must sign the following certificate which appears on the application form:

<b>CERTIFICATE OF AUTHORIZED REGISTERED ELECTOR RETURNING ABSENT VOTER BALLOT APPLICATION</b>	
I certify that my name is _____,	
my address is _____,	
and my date of birth is _____; that I am delivering the absent voter	
ballot application of _____	
at his or her request; that I did not solicit or request to return the application; that I have not made any	
marking on the application; that I have not altered the application in anyway; that I have not	
influenced the applicant; and that I am aware that a false statement in this certificate is a violation of	
Michigan election law.	
_____	_____
Date	Signature

**Application verification requirement:** Upon the receipt of a completed absent voter ballot application, the signature appearing on the application must be checked against the signature on the applicant's voter registration record to verify the applicant's identity.

**Issuance of absentee ballots:** A request for an absentee ballot must be processed immediately. It is recommended that the ballot be issued within 24 hours of the receipt of the application. Applications should be processed in the order they are received. This will avoid criticism that certain voters are being given preferential treatment. (While absentee ballots must be issued in the same order in which they are requested, an election official is not prohibited from issuing an absentee ballot to a voter applying in person despite the fact that there may be applications on file which have not yet been honored.)

An absentee voter can receive an absent voter ballot at his or her registration address, at any address outside of his or her jurisdiction of residence or at a hospital, nursing home or similar institution.

Campaign brochures or any other type of unauthorized materials may not be distributed with absentee ballots.

In every case, a requested absentee ballot must be transmitted to the applicant by mail if there is an adequate amount of time for the voter to receive the ballot by mail, vote the ballot and return the ballot prior to 8:00 p.m. on the date of the election. **To avoid any appearance of impropriety, absentee ballots should not be delivered by hand unless the hand delivery of the ballot is necessary to ensure the timely return of the ballot.**

***Absentee voters who receive assistance:*** If the absentee voter receives assistance from another person when voting the ballot, the individual who provided the assistance must sign the certificate shown below. The certificate appears on the outside of the ballot return envelope.

**It merits emphasis that the certificate must be signed by any person who assists an absentee voter vote his or her ballot including the voter’s spouse, a household member who lives with the voter, an election official or an individual employed as an election assistant.**

**TO BE COMPLETED ONLY IF VOTER IS  
ASSISTED IN VOTING BY ANOTHER PERSON**

I assisted the above named absent voter who is disabled or otherwise unable to mark the ballot in accordance with his or her directions. The absent voter ballot was inserted in the return envelope without being exhibited to any other person.	
Signature of Person Assisting Voter	
Street Address or R.R.	City, Twp., or Village

***Return of absentee ballots:*** Absentee ballots must be returned to the clerk by 8:00 p.m. on election day. On the day of the election, the clerk must make arrangements with the post office to pick up any absent voter ballots which are received by the post office after the post office has made its final mail delivery of the day to the clerk’s office.

The persons who may return an absentee ballot are limited to 1) the voter 2) a member of the voter’s immediate family who has been asked to return the ballot 3) a person residing in the voter’s household who has been asked to return the ballot 4) a person whose job normally includes the handling of mail (but only during the course of his or her employment) and 5) an authorized election official.

Given the above restrictions, it merits emphasis that an absentee voter is not permitted to ask another voter who is not a member of the voter’s immediate family or household to return his or her absentee ballot.

**Ballot pick-up requirement:** An election official is required to pick up a voter's absentee ballot if all of the following conditions are satisfied: 1) the election official issued the ballot to the voter 2) the voter is unable to return the ballot under any of the authorized delivery methods 3) the voter calls to request the pick up of his or her ballot before 5:00 p.m. on the Friday immediately preceding the election and 4) it is not necessary for the election official to travel outside of the jurisdiction to obtain the ballot. Under any other circumstances, an election official (or authorized assistant) may pick up a voter's absentee ballot at the election official's discretion if 1) the election official issued the ballot to the voter and 2) the voter is unable to return the ballot under any of the authorized delivery methods.

Election assistants authorized to pick up absentee ballots must carry appropriate credentials and show them when asked.

It merits note that an election official should not pick up a voter's absentee ballot unless the voter requests the pick up. **In no case should an election official or a person working as an election assistant contact an absentee voter in person or by phone to offer to return the voter's ballot.**

**Ballot verification requirement:** A voter who has obtained an absentee ballot must sign the following certificate which appears on the return envelope prior to returning the ballot to the clerk

<b>TO BE COMPLETED BY THE ABSENT VOTER</b>	
<p>I assert that I am a qualified and registered elector of the city, township, or village named above. I am voting as an absent voter in conformity with state election law. Unless otherwise indicated below, I personally marked the ballot enclosed in this envelope without exhibiting it to any other person. I further assert that this absent voter ballot is being returned to the clerk or an assistant of the clerk by me personally; by public postal service, express mail service, parcel post service, or other common carrier; by a member of my immediate family; or by a person residing in my household.</p>	
_____	_____
Date	Signature of Absent Voter

Upon the receipt of a returned absentee ballot, the signature appearing on the above certificate must be checked against the signature on the applicant's voter registration record to verify the applicant's identity.

If the voter fails to sign the certificate, the ballot is void and cannot be removed from the envelope or counted.

**Deceased absentee voter:** If it comes to the attention of a local election official or a precinct board that a voter who returned an absentee ballot has died, the ballot must be rejected. In such

an instance, the election official or precinct board writes “rejected as illegal” on the return envelope. Absentee ballots which are “rejected as illegal” cannot be removed from their return envelopes.

***Emergency absentee ballot requests:*** An elector may make an “emergency” request for an absentee ballot if he or she cannot attend the polls because of 1) personal disablement or 2) a family death or illness which will require that the elector leave the community for the entire time the polls are open on election day.

“Emergency” requests for absentee ballots must be made after the deadline for making “regular” requests for absentee ballots (2:00 p.m. on the Saturday before the election) and before 4:00 p.m. on election day. The emergency must have occurred at a time which made it impossible for the voter to apply for an absentee ballot by the statutory deadline for “regular” applications.

If an “emergency” absentee ballot is requested, the person making the application may authorize the person delivering the application to pick up and deliver the ballot. The authorization to pick up and deliver the ballot must be in writing and must be signed by the applicant. An “emergency” absentee ballot may also be delivered by hand to the applicant by a person authorized to handle this task.

***Penalties:*** Michigan election law provides the following penalties related to Michigan’s absentee voting process:

- A person who forges a signature on an absentee ballot application is guilty of a felony.
- An unauthorized person who both distributes absentee ballot applications to absent voters and returns those absentee ballot applications to a clerk or assistant of the clerk is guilty of a misdemeanor.
- A person, other than an authorized election official, who gives, lends or promises any valuable consideration to or for a person to induce that person to both distribute absentee ballot applications and receive signed absent voter ballot applications from voters for delivery to the clerk is guilty of a misdemeanor.
- A person who is present while a voter is voting an absent voter ballot who suggests how the voter should vote or attempts to influence the voter on how he or she should vote is guilty of a felony.
- A person who assists an absentee voter mark his or her ballot who suggests how the voter should vote or attempts to influence the voter on how he or she should vote is guilty of a felony.
- A person who assists an absentee voter mark his or her ballot who permits any other person to suggest how the voter should vote or permits any other person to attempt to influence the voter on how he or she should vote is guilty of a felony.
- A person in illegal possession of an absentee ballot (voted or unvoted) is guilty of a felony.

- An unauthorized person who returns, solicits to return or agrees to return an absentee ballot is guilty of a felony.
- A person who assists an absentee voter who falsifies the statement which must be signed by such assistants is guilty of a felony.
- A person who plans or organizes a meeting at which absentee ballots are to be voted is guilty of a felony.

### **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. 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. The four-step procedure form 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](http://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 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](http://www.michigan.gov/sos)>.

No later than the 7<sup>th</sup> day after the election, the city or township clerk must complete a “Provisional Ballot Report” form and submit it to the county canvassing board 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](http://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.

**Important points to remember:** 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.

### **Certification of Precinct Delegate Votes: Reminders**

***Absent voter counting boards used to administer primary:*** If your jurisdiction plans to use absent voter counting boards to administer the August 8 primary, special procedures must be implemented to ensure that complete precinct delegate vote results are generated and certified for each precinct. To accomplish this, the vote totals from each precinct must be merged with the votes cast by the precinct’s absentee voters. A special certifying board must be established to carry out this function.

***Absent voter counting boards not used to administer primary:*** If your jurisdiction does not plan to use absent voter counting boards to administer the August 8 primary, the precinct delegate vote results are determined by combining the votes cast for precinct delegates by absentee voters with the votes cast for precinct delegates by the voters who attended the polls. The precinct board is responsible for carrying out this function.

**ABSENTEE BALLOTS**  
**-- INFORMATION POSTING --**

**DATE OF ELECTION:** \_\_\_\_\_

*Complete and post before 8:00 a.m. on election day.*

Number of absent voter ballots distributed to absent voters: \_\_\_\_\_

Number of absent voter ballots returned before election day: \_\_\_\_\_

Number of absent voter ballots delivered for processing: \_\_\_\_\_

*Complete and post before 9:00 p.m. on election day.*

Number of absent voter ballots returned on election day: \_\_\_\_\_

Number of absent voter ballots returned both before and on election day: \_\_\_\_\_

Number of absent voter ballots returned both before and on election day which were delivered for processing: \_\_\_\_\_

*Complete and post immediately after all precinct returns are delivered.*

Number of absent voter ballots returned by voters: \_\_\_\_\_

Number of absent voter ballots received at the precincts or absent voter counting board(s) for processing: \_\_\_\_\_