



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* features a number of critical reminders and points of information related to the management of the polls on election day. The following topics are covered:

- **Maintaining Order on Election Day**
- **Use of Video Cameras, Cell Phones, Cameras, Televisions and Recording Equipment in the Polls**
- **Challengers and Polls Watchers: Actions to Take if Problems Occur**
- **When Identification and/or Residency Confirmation Can Be Requested in the Polls**
- **Heightened Ballot Security Provisions**
- **Voters Can Satisfy "Vote in Person" Requirement by Requesting an Absentee Ballot in Person**
- **Delivery of Absent Voter Ballots to Voters: A Reminder**
- **Securing Optical Scan Programs and Ballots: Clarifications**

Maintaining Order on Election Day

Michigan election law, MCL 168.678, extends precinct boards full authority to "maintain peace, regularity and order at the polling place" Precinct boards are extended such authority as voters have a right to vote a secret ballot in a secure, orderly environment which is free of distractions. To ensure the orderly management of the polls on November 7, all city and township clerks are urged to take the following actions before the polls open:

- Outside of each building which will be used as a polling place, measure off and mark where individuals who wish to solicit votes outside of the polls may conduct their campaign activities. (Michigan election law stipulates that no person is permitted to solicit votes 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.)

- Inside each room where a polling place will be established, clearly mark off the “public area” of the room. The “public area” of the polling place must be clearly distinguishable from the “voting area” of the room. All poll watchers and media representatives must remain in the “public area” of the polling place at all times.

Use of Video Cameras, Cell Phones, Cameras, Televisions and Recording Equipment in the Polls

To ensure that all voters who attend the polls on November 7 have a full opportunity to exercise their right to vote in private without undue distractions or discomfort, the following must be observed:

- The use of video cameras (including cell phone video cameras), cameras and recording devices by voters, challengers and poll watchers is prohibited in the polls during the hours the polls are open for voting.
- Broadcast stations and news media representatives may be permitted to briefly film from the public area of the polling room. In no case can personnel working for broadcast stations or the news media set up a camera in the voting area of the polling room. In an instance where a broadcast station or media representative wishes to film a polling room and the public area of the polling room is too small to accommodate the film crew without interfering with the voting process, the film crew must film from the entryway to the polling room. Regardless of whether a film crew making such a request positions themselves in the public area of the polling place or the entryway to the polling room, the precinct chairperson must supervise the filming process to ensure that the secrecy of the ballot is fully protected and no voters are inconvenienced by the filming process.
- News reporters are not permitted to interview voters inside the polling place.
- The use of cell phones by voters who have entered a voting station to vote is prohibited. (Voters may be permitted to use cell phones while waiting in line at the processing table if not disruptive to the voting process. Similarly, challengers and poll watchers may use cell phones if not disruptive or intrusive.)
- Television watching is prohibited in the polls during the hours the polls are open for voting.

Challengers and Polls Watchers: Actions to Take if Problems Occur

If a challenger or poll watcher is disruptive or refuses to observe all applicable conduct standards, caution the challenger or poll watcher that he or she will be ejected from the polls if problems persist.

If problems with the challenger or poll watcher continue, eject the individual from the polling place. If the challenger or poll watcher refuses to leave the polling place, contact your local enforcement authorities and ask for assistance in removing the challenger or poll watcher from the polls.

If your local enforcement authorities will not eject challengers or poll watchers from the polls at your request, contact the Michigan Department of State's Bureau of Elections. Phone: (517) 373-2540.

Points of clarification: Important points of clarification regarding the appointment and conduct of challengers and poll watchers are provided below:

- “Challengers” can be placed in the polls by the political parties, interest groups that support or oppose the passage of a proposal on the ballot and organizations which have an interest in preserving the purity of elections. 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 organizations 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.
- Attorney General Opinion No. 6488, issued January 15, 1988, provides that a person who wishes to observe the election process – who is not qualified to serve as an election “challenger” – can watch from the public area of the polling room. Such individuals, commonly known as “poll watchers,” do not have the right to approach voters, challenge a person’s right to vote or question the actions of the precinct board.
- Challengers and poll watchers cannot display any signs, distribute literature or approach voters in the polls or within 100 feet of any doorway being used by voters to enter the building in which the polling place is located.
- Poll watchers and challengers do not have the authority to approach voters or talk to voters for any reason.
- Challengers and poll watchers do not have the right to use video cameras or recording devices in the polling place.
- A challenger may sit behind the processing table; a poll watcher does not have this privilege. (Poll watchers must sit or stand in the “public area” of the polling place 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 board chairperson. A challenger or a poll watcher may not touch the Poll Book or any other voting records.
- A challenger or poll watcher who has the name of an organization he or she represents displayed on a button, armband, vest, t-shirt or other item of clothing must remove it or turn it over.
- Poll watchers and challengers do not have the authority to place tables in the polls.

Documents which explain 1) the challenge process and 2) the differences between challengers and poll watchers are provided with this newsletter for further reference.

When Identification and/or Residency Confirmation Can Be Requested in the Polls

All city and township clerks are reminded that in Michigan, there are only two situations where voters are required to display identification and/or residency verification documents in the polls:

Identification and residency confirmation requirements associated with provisional balloting:
A voter who does not appear on the QVF list who wishes to vote a provisional ballot must show identification and documentation to confirm that he or she currently resides in the precinct. (See Step Three on the Four-Step Procedure form.)

Federal identification requirement imposed for first-time mail registrants: Federal law stipulates that a voter who has never voted in Michigan who chooses to register by mail must satisfy an identification requirement. If a voter subject to the new federal identification requirement does not meet the requirement when registering, the voter must present an acceptable form of identification before voting in the first election in which he or she wishes to participate.

It merits emphasis that unless a voter is subject to the identification and/or residency confirmation requirements referenced above, election workers cannot and must not ask voters offering to vote for any type of identification and/or residency verification documents.

Heightened Ballot Security Provisions

Michigan election law, MCL 168.810a, stipulates that upon the request of the county clerk, a member of the board of county canvassers or a county political party chairperson (“major political party” only), the city or township clerk is required to initiate the following ballot security measures until the board of county canvassers meets at 1:00 p.m. on the day after the election: 1) immediately place all election materials in a secure location 2) ensure that he or she is the only person who has access to the secured election materials and 3) make arrangements for any individual designated by a county political party chairperson to monitor “all access points to the secure location” until 1:00 p.m. on the day following the election.

Michigan election law further stipulates that when the board of county canvassers meets, the county clerk, a member of the board of county canvassers or a county political party chairperson may petition for a continuation of the security measures. If the request is granted, the board of county canvassers is required to prescribe “the amount of security to be provided and the persons responsible for that security.”

Voters Can Satisfy “Vote in Person” Requirement by Requesting an Absentee Ballot in Person

A voter who 1) registered by mail 2) is subject to the “vote in person” requirement and 3) needs an absentee ballot can satisfy the “vote in person” requirement by requesting an absentee ballot in person from the clerk of his or her city or township of residence anytime through November 6, 2006.

It bears emphasis that the “vote in person” requirement does not apply to a voter who registered to vote through a Secretary of State branch office; through a county, city or township clerk’s office; or through a designated voter registration agency. In addition, the “vote in person” requirement does not apply to voters who are 60 years of age or more, disabled or eligible to vote under the Uniformed and Overseas Citizens Absentee Voting Act.

Delivery of Absent Voter Ballots to Voters: A Reminder

In an instance where a voter appears in a clerk’s office to personally apply for an absent voter ballot, the requested ballot must be immediately issued to the voter. In such a situation, there is no need to issue the requested ballot to the voter by mail. If, on the other hand, a voter requests an absent voter ballot by mail, the 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, an absentee ballot requested by mail should not be delivered by hand unless the hand delivery of the ballot is necessary to ensure the timely return of the ballot.

Securing Optical Scan Programs and Ballots: Clarifications

As detailed in Issue No. 39 of *Election News*, all program test materials and optical scan ballots must be sealed in an approved ballot container. The following offers several clarifications regarding the sealing of the program test materials and ballots:

- The number on the seal used to secure the pre-election test materials must be recorded on the Optical Scan Test Certification form and the Ballot Container Certificate.
- The serial numbers on the seals used to seal the programs into the tabulator and terminal following successful testing must be recorded in the Poll Book (Clerk’s Preparation Certificate).
- The number on the seal that is used to secure the used and unused ballots following the close of the polls must be recorded in the Poll Book (Election Inspectors Certificate), on the Statement of Votes and on the Ballot Container Certificate.



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The Challenge Process: Questions and Answers

When is it permissible for a challenger to challenge a voter?

- A challenger has the right to challenge a voter if the challenger has good reason to believe that a person who offers to vote 1) is not a true resident of the city or township 2) has not yet attained 18 years of age 3) is not a United States citizen or 4) did not register to vote on or before the “close of registration” for the election at hand.
- A challenger has the right to challenge any voter issued an absentee ballot who appears at the polls to vote on election day claiming that he or she never received the absentee ballot, lost the absentee ballot or destroyed the absentee ballot.
- A challenger has the right to challenge a voter in any instance where the precinct board fails to prepare a “challenged ballot” for a voter when required.

If a challenger challenges a voter because he or she has “good reason to believe” that the voter is not fully qualified to vote in the precinct, is the challenger required to show any documentation to support the challenge?

While the challenge must be based on information obtained by the challenger through a reliable source or means, the challenger is not required to show any documentation to support such a challenge.

What constitutes “good reason to believe” that a voter is not qualified to vote in the precinct?

Generally, such challenges are based on research conducted in advance of the election by the challenger or the organization the challenger represents. In other cases, the voter may make a statement regarding his or her age, residency status, registration date or citizenship status when offering to vote that gives the challenger “good reason to believe” that the voter is not qualified to vote in the precinct.

In an instance where a challenger has “good reason to believe” that a voter is not qualified to vote in the precinct, how is the challenge handled?

Such a challenge must be directed to the chairperson of the precinct board. After the challenge is issued, the chairperson of the precinct board or an election inspector designated by the chairperson is responsible for supervising the challenge to make sure that it is conducted promptly and courteously. The challenge proceeds as follows:

- 1) After the challenge is made, the challenged person takes the oath printed below. The oath is administered by the chairperson of the precinct board or a designated election inspector.

“I swear (or affirm) that I will truly answer all questions put to me concerning my qualifications as a voter.”

- 2) After the oath has been administered, the precinct chairperson or a designated election inspector may question the challenged voter. Election law stipulates that the questions be confined to the person’s qualifications as a voter (citizenship, age, residency and date of registration).
- 3) A challenged voter is permitted to vote a specially prepared “challenged ballot” if the answers given under oath prove that he or she is qualified to vote in the precinct. A challenged voter may *not* vote if he or she refuses to take the oath, refuses to answer appropriate questions under oath or is found to be not qualified to vote through the answers given under oath.
- 4) A complete record of the challenge must be entered on the “CHALLENGED VOTERS” page in the Poll Book. The record must include the name of the person making the challenge; the time of the challenge; the name, address and telephone number of the person challenged; and any other pertinent information.

How is the challenge handled in an instance where a voter issued an absentee ballot claims that he or she never received the absentee ballot, lost the absentee ballot or destroyed the absentee ballot?

If such a challenge is issued, the precinct inspector handling the challenge permits the voter to vote a specially prepared “challenged ballot” and enters a complete record of the challenge on the “CHALLENGED VOTERS” page in the Poll Book; the questioning of the voter is not required. (Note: A voter issued an absentee ballot who appears at the polls to vote on election day claiming that he or she never received an absentee ballot, lost his or her absentee ballot or destroyed his or her absentee ballot is required to sign an affidavit to that effect before voting in person. This requirement applies regardless of whether the voter is challenged.)

How is the challenge handled in an instance where the precinct board fails to prepare a “challenged ballot” for a voter when required?

If a challenger has reason to believe that the precinct board is not preparing a ballot as a “challenged ballot” when required, the challenger directs the challenge to the precinct chairperson. If the chairperson rejects the challenge, the challenger has the right to contact the election official in charge of the election to resolve the matter at issue. The election inspectors must enter a complete record of the challenge in the Poll Book.

When is a precinct board required to prepare a “challenged ballot” for a voter?

A precinct board is required to prepare a “challenged ballot” for a voter under the following circumstances:

- A voter challenged for any of the reasons described above is required to vote a ballot prepared as a “challenged ballot.”
- A voter who refuses to enter his or her birthdate on the Application to Vote form is required to vote a ballot prepared as a “challenged ballot.”
- A voter who enters a birthdate on the Application to Vote form which does not correspond to the birthdate recorded for the voter on the precinct’s QVF list is required to vote a ballot prepared as a “challenged ballot.”
- A voter who is issued a “provisional ballot” is required to vote a ballot prepared as a “challenged ballot.” (In such an instance, the ballot issued to the voter must be prepared as a “challenged ballot” regardless of whether the ballot will be tabulated in the polls or preserved as an “envelope ballot” and held for evaluation after the election.)
- An absent voter ballot must be prepared as a “challenged ballot” if the ballot stub is missing or the ballot serial number does not match the ballot serial number recorded for the absentee voter.

When a ballot must be prepared as a “challenged ballot,” what steps are followed?

The election inspector handling the challenge writes the number appearing on the voter’s ballot in pencil on the back of the ballot. After the ballot number is recorded in pencil on the ballot, the number is concealed with tape and/or slip of paper as directed by the election official administering the election.

If the voter is present in the polls, the election inspector issues the specially prepared ballot to the voter. The voter then votes the ballot in a voting station. After the voter has voted the ballot, the ballot is deposited in the tabulator under routine procedure.

If an absent voter ballot is involved, the election inspector deposits the specially prepared ballot in the tabulator under routine procedure.

A challenged ballot cannot be retrieved for examination after the election without an appropriate court order.



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**Challengers and Poll Watchers:
 Rights and Duties**

“Challengers” can be placed in the polls by the political parties, interest groups that support or oppose the passage of a proposal on the ballot and organizations which have an interest in preserving the purity of elections. 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 organizations 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 person who wishes to observe the election process – who is not a qualified election “challenger” – is commonly called a “poll watcher.”

	Challengers	Poll Watchers
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