



**THE APPOINTMENT, RIGHTS AND DUTIES OF
ELECTION CHALLENGERS
AND POLL WATCHERS**

**Michigan Department of State
Bureau of Elections
September, 2008**

www.Michigan.gov/sos

The Appointment, Rights and Duties of Election Challengers and Poll Watchers

The law allows “election challengers” and “poll watchers” to monitor the election process as a safeguard against election fraud. Challengers, appointed by political parties and qualified groups and organizations, enjoy special rights and privileges. While poll watchers are not extended the same rights and privileges, there is no appointment process associated with the placement of poll watchers in the polls or on absent voter counting boards.

This publication is a summary of the laws and rulings which govern election challengers and poll watchers; it is not intended as a complete interpretation of the law. Questions may be directed to the Michigan Department of State, Bureau of Elections, P.O. Box 20126, Lansing, Michigan 48901. Phone: (517) 373-2540. E-mail: <Elections@Michigan.gov>. Fax: (517) 373-0941.

ELECTION CHALLENGERS

Election challengers may be appointed by:

- A state-recognized political party.
- An incorporated organization.
- An organized group of citizens interested in the adoption or defeat of a proposal on the ballot.
- An organized group of citizens interested in preserving the purity of elections and in guarding against the abuse of the elective franchise.

It merits note that a candidate does not have the authority to appoint challengers. Similarly, a Candidate Committee registered under Michigan’s Campaign Finance Act or any other type of organization expressly formed to support or oppose a candidate does *not* have the authority to appoint challengers.

Election challengers have the right to:

- Observe the election process in voting precincts and absent voter counting board precincts.
- Challenge a person’s right to vote if the challenger has *good reason to believe* that the person is not eligible to vote in the precinct.
- Challenge the actions of the election inspectors serving in the precinct if the challenger believes that election law is not being followed.

GENERAL INFORMATION

- A challenger must be a registered voter in the state of Michigan.
- A challenger may *not* be a candidate for any elective office in the election. (Exception: a candidate for precinct delegate may serve as a challenger in a precinct other than the precinct in which he or she is a candidate.)
- A person appointed as an election inspector at the election may not act as a challenger at any time throughout the course of the day.
- A challenger may be assigned to serve in any precinct or absent voter counting board established in the state. In addition, a challenger may be assigned to serve in any number of precincts.
- A political party, group or organization may not have more than *two* challengers present in a voting precinct or more than *one* challenger present in an absent voter counting board at any time throughout the course of the day.
- A political party, group or organization may rotate challengers assigned to a voting precinct; a challenger assigned to an absent voter counting board must remain in the room in which the absent voter counting board is working until the close of the polls (8 p.m.).
- All challengers must carry an identification card issued by the appointing political party, group or organization. The identification card must show the challenger's name; the name of the appointing political party, group or organization; and the precinct or precincts in which the challenger is authorized to serve. It is recommended that challengers wear an identification badge which bears the words "ELECTION CHALLENGER." Upon entering a precinct, the challenger must exhibit the identification card to the precinct chairperson.
- A challenger appointed to serve in an absent voter counting board is required to take and sign the following oath: "I (name) do solemnly swear (or affirm) that I shall not communicate in any way information relative to the processing or tallying of voters that may come to me while in this counting place until after the polls are closed." The oath may be administered by any member of the absent voter counting board.

THE APPOINTMENT OF ELECTION CHALLENGERS

Political parties may appoint election challengers to serve at partisan and nonpartisan elections. The appointments may be made at any time through the date of the election. A political party is *not* required to follow an application process to appoint election challengers.

An incorporated organization, a group interested in the adoption or defeat of a proposal on the ballot or a group interested in preserving the purity of elections and in guarding against the abuse of the elective franchise may appoint election challengers if authorized to do so under an application process. To apply for appointment authorization, the organization or group must file, *not less than 20 days nor more than 30*

days prior to the election, the two items below with the clerk of the county, city, township or village where the election will be held.

- 1) A statement which sets forth the organization's or group's intention to appoint election challengers and the reason why the right to make the appointments is claimed. The statement must be signed under oath (notarized) by the chief presiding officer, secretary or any other officer of the group or organization.
- 2) A copy of the identification card which will be carried by the challengers appointed by the group or organization. The identification card must have entry spaces for the challenger's name, the group's or organization's name, the precinct or precincts in which the challenger is authorized to serve and the signature of a recognized officer of the group or organization.

APPOINTMENT AUTHORIZATION APPLICATIONS SUBMITTED BY GROUPS AND ORGANIZATIONS: PROCESSING STEPS

A clerk receiving a challenger appointment authorization application from an organization or group is required to approve or deny the request and notify the group or organization of the decision *within two business days*. A clerk has the authority to deny a challenger appointment authorization application if the group or organization fails to demonstrate that it is qualified to appoint challengers.

If the application is denied, the group or organization may appeal the decision to the Secretary of State *within two business days after the receipt of the denial*. Upon the receipt of an appeal, the Secretary of State is required to render a decision on the appeal and notify the organization or group of the decision *within two business days*. Notification of the decision is also forwarded to the clerk who issued the application denial.

Before the opening of the polls, the clerk is required to notify all precincts in the jurisdiction of the groups and organizations that have gained the right to appoint challengers at the election.

CONDUCT STANDARDS

- Challengers must conduct themselves in an orderly manner at all times. A challenger can be expelled from the precinct for unnecessarily obstructing or delaying the work of the election inspectors; touching ballots, election materials or voting equipment; campaigning; or acting in a disorderly manner.
- A challenger is expressly prohibited from threatening or intimidating voters 1) entering the polling place 2) applying to vote 3) entering a voting station 4) voting or 5) leaving the polling place.
- Challenges may *not* be made indiscriminately or without good cause.

- Challengers cannot campaign, distribute literature or display any campaign material (including campaign buttons) 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.
- Challengers do not have the authority to approach voters or talk to voters for any reason. Similarly, challengers are prohibited from wearing anything, displaying anything or saying anything that suggests or conveys that they are available to assist voters in anyway or answer questions that voters may have.
- Challengers do not have the right to use video cameras or recording devices in the polling place.
- A challenger is prohibited from wearing or otherwise displaying a button, armband, vest, shirt, hat or any similar items which identifies the organization he or she represents.
- Challengers do not have the authority to place tables in the polls.

RIGHTS OF CHALLENGERS

It is the duty of the precinct board to provide space for challengers which will enable them to observe all election procedures being carried out. In a voting precinct, challengers are permitted to position themselves behind the election inspectors' table. Those present in the polls (including all election inspectors and voters) are expressly prohibited from threatening or intimidating any challengers assigned to serve in the polling place.

Challengers have the right to:

- Examine the voting equipment before the polls open and after the polls close.
- Observe each person offering to vote. (Challengers may *not* observe electors voting.)
- Observe the processing of voters.
- Bring to the precinct board's attention the improper handling of a ballot by a voter or an election inspector; that the 100 foot campaign restriction is being violated; or that any other election law or prescribed election procedure is being violated.
- Inspect the Applications to Vote, Poll Books, registration list and any other materials used to process voters at the polling place. (When exercising this right, challengers may *not* touch the Applications to Vote, Poll Books, registration list or other materials being used by the precinct board.)
- Keep notes on the persons offering to vote, the election procedures being carried out and the actions of the precinct board.
- Remain in the precinct until the precinct board completes its work.

If two challengers are representing a political party, group or organization in the precinct, only *one* of the challengers may hold the authority to challenge at any give time. The challengers may alternate the authority to challenge at their discretion. The challengers must advise the precinct board each time the authority is alternated.

CHALLENGE PROCEDURE: “UNQUALIFIED 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 is not qualified to vote in the precinct. For example, the voter 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.

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.

Challenges issued against voters must be directed to the chairperson of the precinct board before the voter is issued a ballot. 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. (If there are other voters present, the challenged voter can be removed from the line to avoid processing delays.) 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 reason for the challenge; the time of the challenge; the name, address and telephone number of the person challenged; and any other pertinent information.

A challenger is not permitted to challenge a voter’s right to vote unless the challenger *has good reason to believe* that the elector is not eligible to vote in the precinct. A challenger does not have the right to issue a challenge based on an “impression” that the voter may not be eligible to vote in the precinct due to the voter’s manner of dress, inability to read or write English, perceived race or ethnic background

or need for assistance with the voting process. Similarly, a challenger does not have the right to issue a challenge due to any physical or mental disability the voter may have or is perceived to have.

Every effort must be made to ensure that the challenge procedures are properly carried out in the polls as the abuse of the process can have serious consequences including the disenfranchisement of qualified electors, criminal violations and legal challenges over the election results. The precinct chairperson has the authority to expel challengers who abuse the challenge process.

CHALLENGE PROCEDURE: ABSENTEE VOTER AT POLLS

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.

If such a challenge is made, the precinct inspector handling the challenge issues the voter a ballot which has been prepared as a “challenged ballot” and enters a 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.)

THE PREPARATION AND ISSUANCE OF CHALLENGED BALLOTS

A challenged voter must vote on a specially prepared optical scan ballot as explained below:

- 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 a slip of paper as directed by the election official administering the election.
- The election inspector enters the voter’s name in the Poll Book.

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 absentee 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.

CHALLENGE PROCEDURE: PRECINCT BOARD FAILS TO AUTOMATICALLY ISSUE A CHALLENGED BALLOT WHEN REQUIRED

Under the circumstances outlined below, precinct boards are required to *automatically issue* a voter who attends the polls a ballot prepared as a “challenged ballot” and enter a record of the challenge on the “CHALLENGED VOTERS” page in the Poll Book:

- 1) 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.”
- 2) 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.”
- 3) 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.)
- 4) An absentee ballot must be prepared as a “challenged ballot” if the ballot stub is missing or the ballot serial number does not match the serial number recorded for the absentee voter.

If a challenger has reason to believe that the precinct board is not preparing a ballot as a “challenged ballot” when required, the challenger must direct 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 on the “CHALLENGED VOTERS” page in the Poll Book.

CHALLENGE PROCEDURE: ABSENTEE BALLOTS

If a challenger has reason to believe that an absentee ballot has been submitted by a person who is not qualified to vote in the precinct, a challenge may be made as the ballot is being processed. If such a challenge is made, the election inspector handling the challenge writes the number appearing on the voter’s ballot in pencil on the back of the ballot; conceals the number with tape or a slip of paper as directed by the election official administering the election; enters a record of the challenge on the “CHALLENGED VOTERS” page in the Poll Book; and proceeds with the routine processing and counting of the ballot.

CHALLENGE PROCEDURE: ACTIONS OF THE PRECINCT BOARD

If a challenger has reason to believe that the precinct board is not following election law, the actions of the precinct board may be challenged by consulting with the board chairperson. If the chairperson rejects the challenge, the challenger has the right to contact the election official in charge of the election on the matter at issue. The election inspectors must enter a complete record of the challenge in the Poll Book.

CHALLENGE PROCEDURE: ADMINISTRATION OF VOTER IDENTIFICATION REQUIREMENT

Every Michigan voter who offers to vote at the polls must show picture identification or sign an affidavit attesting that he or she is not in possession of picture identification.

As a challenger may challenge election procedures that are not being properly performed, a challenge may be made if an election inspector attempts to issue a ballot to a voter who has not shown picture identification or signed an affidavit. Also, a challenger may challenge the ballot of a voter if the challenger *has good reason to believe* the person is not properly registered. Consequently, a challenge may be issued if a voter provides picture identification with an address that is different than the address on the precinct's QVF list.

A voter *cannot* be challenged just because he or she is not in possession of picture identification or did not bring picture identification to the polls and signs the affidavit in order to vote. Of course, as is the case with any voter, a voter who is unable to show picture identification can be challenged if a challenger *has good reason to believe* that the person is not qualified to vote in the precinct.

PENALTIES

Michigan election law provides penalties for the following infractions:

- A person who submits a challenger appointment authorization application on behalf of a group or organization that is not authorized to appoint challengers.
- A clerk who knowingly fails to perform the duties related to the challenger appointment process.
- A person who challenges a qualified elector for the purpose of annoying or delaying the voter.
- A challenged elector who gives false information regarding his or her qualifications to vote.
- An election official or precinct board that prevents a challenger from being present in the polls or refuses to provide a challenger with any conveniences needed for the performance of his or her duties.

POLL WATCHERS

An election is an open process that may be observed by any interested person. (However, note that candidates may not remain 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 -- who is not a qualified election challenger -- is commonly called a "poll watcher." The qualifications, rights and duties of poll watchers and challengers are contrasted below:

- A challenger must be registered to vote in the state of Michigan; poll watchers do not have to meet this requirement.
- Poll watchers are subject to the same "conduct standards" as challengers.
- A challenger has the right to challenge a person's right to vote and the actions of the precinct board; 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 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 poll watcher who wishes to be present in an absent voter counting board must remain in the room in which the absent voter counting board is working until close of the polls (8 p.m.).
- A poll watcher who wishes to be present in an absent voter counting board is required to take and sign the following oath: "I (name) do solemnly swear (or affirm) that I shall not communicate in any way information relative to the processing or tallying of voters that may come to me while in this counting place until after the polls are closed." The oath may be administered by any member of the absent voter counting board.

ELECTION CHALLENGERS AND POLL WATCHERS: SUMMARY OF RIGHTS AND DUTIES

	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, button, arm band, vest, etc. that identifies organization he or she represents.	No	No
May place tables in the polls.	No	No
Has the right to approach and question voters.	No	No
Can offer assistance to 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

The equal treatment of competing interests is the cornerstone of fair elections! As a result, any special measures taken in polls to provide challengers and poll watchers with information on the voters who have participated in the election must be administered in such a way as to ensure equal access to the information by all interested persons.



Secretary of State
Ruth Johnson

www.Michigan.gov/sos