



POLL CHALLENGERS

THE ROLE

Poll challengers are volunteers who are trained and credentialed by a political party or other credentialing organization to ensure elections are conducted in an open, fair and orderly manner. They must know what is proper and improper in the conduct of an election and report violations to election authorities.

Challengers may be assigned to work at:

- Polling locations
- Election day vote centers
- Absent voter counting boards
- Clerk's offices

NOTE: Members of the public, including those not registered to vote, may observe the election process from a designated public viewing area. They are referred to as **poll watchers** and do not need credentials or training.

ELIGIBILITY


According to **Michigan Compiled Law (MCL) 168.730 (2) A challenger shall be a registered elector of this state.** Except as otherwise provided in this section, a candidate for nomination or election to an office shall not serve as a challenger at the election in which he or she is a candidate. A candidate for the office of delegate to a county convention may serve as a challenger in a precinct other than the 1 in which he or she is a candidate. A person who is appointed as an election inspector at an election shall not act as a challenger at any time during the election day.

To serve as a poll challenger, a person must be a registered elector of the state and have a signed challenger credential from a political party or other credentialing organization that is specific to the election at which the person is serving as a challenger.

Poll challengers should read **MCL 168.727 through 168.734** to understand their rights and restrictions within the law. It is not a long read and can be done in one sitting!

CREDENTIALS

Under **MCL 168.732**, each challenger present at a polling place, early voting site, or an absent voter ballot processing facility must possess credentials that is signed by the party chair or presiding officer of the credentialing organization and has the name of the challenger to whom it is issued and the number of the precinct(s) to which the challenger has been assigned.



Michigan Challenger Credential Card

Name of Challenger:

Name of Credentialing Organization:

Date of Election for Which Challenger is Credentialed:

Signature of Chairman or Presiding Officer of
Organization Credentialing This Challenger:

Precinct number:

MICHIGAN BUREAU OF ELECTIONS
RICHARD H. AUSTIN BUILDING
1ST FLOOR • 430 W. ALLEGAN • LANSING, MICHIGAN 48918
(517) 335-3237

OBLIGATION TO FOLLOW ELECTION INSPECTOR INSTRUCTIONS

Election inspectors are empowered and obligated by law to maintain order and facilitate the peaceful conduct of elections at the polling place, early voting site, or absent voter ballot processing facility in which the election inspector is serving. **Challengers present at a polling place, early voting site, or absent voter ballot processing facility must follow the directions of the election inspectors operating the polling place, early voting site, or absent voter ballot processing facility.**

The directions election inspectors may give to challengers include, but are not limited to:

- Directing challengers on where to stand and how to conduct themselves in accordance with these instructions
- Directing challengers to cease any behavior prohibited by these instructions
- Directing challengers to cease any behavior that intimidates voters or disrupts the voting process
- Directing a challenger who violates these instructions to leave the polling place, early voting site, or absent voter ballot processing facility, or requesting that the local clerk or local law enforcement remove the challenger from the polling place, early voting site, or absent voter ballot processing facility.

CHALLENGER LIAISON

Every polling place, early voting site, or absent voter ballot processing facility should have an election inspector designated as the challenger liaison.

- At a polling place, the challenger liaison is the precinct chairperson.
- At an early voting site, the challenger liaison is the site coordinator.
- At an absent voter counting board, the challenger liaison is the most senior member of the clerk's staff present, or the chairperson of the facility.
- At the clerk's office, the challenger liaison is the most senior member of the clerk's staff present.

To ensure accuracy and consistency, challengers must not communicate with election inspectors other than the challenger liaison or the challenger liaison's designee(s) unless otherwise instructed by the challenger liaison or a member of the clerk's staff.

Challenger liaisons must be readily accessible to communicate with challengers, to answer questions about the voting and tabulating procedures, and to record any challenges made.

IDENTIFICATION UPON ARRIVAL AT BALLOT-PROCESSING FACILITY

Upon arriving at a polling place, an early voting site, an absent voter counting board, or a clerk's office, a challenger must introduce themselves and show their credential to the challenger liaison or their designee.

A challenger cannot make challenges or take advantage of any of the other rights afforded to challengers until they have properly made their presence known to the challenger liaison.

The challenger's name, the organization which the challenger represents, and the time of the challenger's arrival should be noted in the poll book.

AT POLLING PLACES & EARLY VOTING SITES

If two challengers from the same credentialing organization are present, both challengers enjoy the rights afforded to challengers, except that at any given time only one of the two challengers can be designated to make challenges.

The challengers must make known to the challenger liaison which of the two challengers is designated to make challenges. The challengers may agree to change which challenger is designated to make challenges at any time, but the challengers must inform the challenger liaison of that change.

AT ABSENT VOTER COUNT BOARDS

The challenger liaison serving at an absent voter ballot processing facility must administer an oath to any challenger wishing to serve in that facility:

“I (name of individual taking oath) do solemnly swear (or affirm) that I shall not communicate in any way information relative to any ballots or the tabulation of votes that may come to me while in this counting place until after the polls are closed. Further, I shall not photograph, or audio or video record, within the counting place, except for posted election results.”

A challenger may not enter the absent voter ballot processing facility without taking this oath and signing a document acknowledging the oath. Any person who violates this oath is guilty of a felony and must be removed from the facility.

Challengers must be permitted to remain in the absent voter ballot processing facility at any time when absent voter ballots are being processed until processing and tabulation is complete.

AT THE CLERK'S OFFICE

A challenger may be present only in areas of the clerk's office where an absent voter ballot may be requested. A challenger may be present in the clerk's office only when the office is open for business and during the period prior to an election when voters may request or return an absent voter ballot at the office. A challenger present in a clerk's office may not view the Qualified Voter File.

MAKING CHALLENGES

A challenge *must* be made to a challenger liaison. The challenger liaison will determine if the challenge is permissible.

If the challenge is permissible, the substance of the challenge, the time of the challenge, the name of the challenger, and the resolution of the challenge must be recorded.

If the challenge is rejected, the reason for that determination must be recorded.

If the challenge is accepted, the actions taken by the challenger liaison in response to the challenge must be recorded.

If the challenge is impermissible, it need not be recorded in the poll book.

IMPERMISSIBLE CHALLENGES

Impermissible challenges are challenges that are made on improper grounds.

- Challenges made to something other than a voter's eligibility or an election process
- Challenges made without a sufficient basis
- Challenges made for a prohibited reason

Because the challenge is impermissible, the challenger liaison does not evaluate the challenge to accept it or reject it.

Repeated impermissible challenges may result in a challenger's removal from the polling place, early voting site, or absent voter counting board.

PERMISSIBLE CHALLENGES

Permissible challenges are challenges that are made on proper grounds.

- Challenges to voter eligibility
- Challenges to an election process

The challenger liaison evaluates the challenge to accept it or reject it based on a context-specific determination.

CHALLENGE VOTER ELIGIBILITY

A challenger may make a challenge to a voter's eligibility to cast a ballot *only* if the challenger has a good reason to believe that the person in question is not a registered voter.

There are four reasons that a challenger may challenge a voter's eligibility; a challenge made for any other reason than those listed below is impermissible.

1. The person is not registered to vote.
2. The person is less than 18 years of age on Election Day.
3. The person is not a United States citizen.
4. The person has not lived in the city or township in which they are attempting to vote for 30 or more days prior to the election.

CHALLENGE VOTER ELIGIBILITY

(continued)

The challenger *must* cite at least one of the four listed permissible reasons that the challenger believes the person is not a registered voter, and the challenger *must* explain the reason the challenger holds that belief.

The challenger must make the challenge in a discrete manner not intended to embarrass the challenged voter, intimidate other voters, or otherwise disrupt the election process.

If a voter signs an *Affidavit of Voter Not In Possession of Picture ID*, he or she cannot be challenged on the grounds that the voter is not in possession of photo identification.

CHALLENGE VOTER ELIGIBILITY (continued)

Handling Permissible Challenges to a Voter's Eligibility

1. The election inspector takes the challenged voter aside. The voter is sworn in using the following oath: "I swear (or affirm) that I will truly answer all questions put to me concerning my qualifications as a voter."
2. The election inspector who administered the oath asks the voter to confirm that they meet the criteria to be eligible to cast a ballot. The election inspector may ask the voter only the questions necessary to confirm that they meet the criteria disputed by the challenger.
3. If the voter confirms they are eligible to vote, the challenge is rejected and the voter is permitted to vote a challenged ballot. A challenged ballot is prepared by writing the voter's ballot number on the ballot and then covering the number with tape or a slip of paper.
4. If the voter does not confirm they are eligible to vote after questioning under oath, the challenge is accepted, and voter is not allowed to cast a ballot.

CHALLENGE VOTER ELIGIBILITY (continued)

If a voter whose eligibility is permissibly challenged refuses to take the oath or answer questions designed to verify the voter's eligibility, the challenge is accepted, and the voter cannot cast a ballot.

A challenger cannot appeal a determination that a challenged voter is eligible to vote on Election Day. Outstanding challenges to a voter's eligibility after Election Day may be adjudicated through the judicial process.

CHALLENGE VOTER ELIGIBILITY (continued)

Permissible challenges to a voter's eligibility are recorded in both the electronic poll book and the paper poll book. When a voter's eligibility is permissibly challenged, the election inspector selects "Challenged Voter" in the electronic poll book, which automatically creates a notation of the challenge and the challenge's outcome. In addition, the election inspector should also record the challenge on the "Challenged Voters" page of the physical poll book. Finally, the election inspector should make a comment in the electronic poll book recording:

- The challenger's name
- The time of the challenge
- The substance of the challenge
- If the challenge was rejected, the reason why the challenge was rejected; or if the challenge was accepted, the reason the challenge was accepted

Because the only action taken by an election inspector in response to an accepted challenge to a voter's eligibility is to disallow that person from casting a ballot, and that denial is automatically recorded in the poll book when the voter is not issued a ballot, the election inspector does not need to record any additional information about an accepted challenge to a voter's eligibility.

CHALLENGE VOTER ELIGIBILITY (continued)

A voter who requested an absent voter ballot may vote in person so long as their local clerk has not received their absent voter ballot at the time they attempt to vote in person.

A voter is subject to challenge as an absent voter in the polling place or early voting site only if the poll book indicates that an absent voter ballot was sent to the voter and only if the voter does not surrender the absent voter ballot at the polling place or early voting site. The election inspector must always call the local clerk to verify that the voter's absent voter ballot has not been returned to the clerk. Once the clerk verifies to the election inspector that the absent voter ballot was not returned to the clerk, the voter must sign an affidavit of lost or destroyed absentee ballot stating that the voter did not successfully return the ballot.

If a challenge is still issued against that voter, the voter is permitted to cast a challenged ballot. If no challenge is issued, the voter may cast a regular ballot.

CHALLENGE ELEMENT OF ELECTION PROCESS

A challenger may challenge a voting process, including the way that election inspectors are operating a polling place or early voting site or processing absent voter ballots at an absent voter ballot processing facility.

A challenge to an election process must state the specific element or elements of the process that the challenger believes are being improperly performed and the basis for the challenger's belief. The challenger must include an accurate explanation why the election process is being performed in a manner prohibited by state law.

If a challenger wishes to challenge recurring elements of the election process, the challenger must make a blanket challenge to avoid unnecessary delay or disruption to the process. The blanket challenge shall be treated as a challenge to each occurrence of the process but need only be made and recorded in the poll book once.

CHALLENGE ELEMENT OF ELECTION PROCESS (continued)

A permissible challenge to an election process will be accepted if the challenger liaison determines that the challenger is correct and that the specific element or elements of the election process being challenged are not being carried out in accordance with state law. The challenger liaison shall inform the relevant election inspectors how to properly carry out the process and take any other remedial action necessary to correct the error.

A challenger liaison's determination that a challenge to an element of the election process is rejected may be appealed by the challenger to the city or township clerk of the jurisdiction in which the challenger is serving. At the request of a challenger, the challenger liaison must provide the contact information of the city or township clerk. The challenger may appeal the decision of the local clerk to the Bureau of Elections.

CHALLENGE ELEMENT OF ELECTION PROCESS (continued)

What To Watch For

- **“Zeroed Out” Tabulators and Adjudicators:** Prior to the start of the count, each ballot-processing machine should be zeroed. If this is not the case, then votes have been previously cast on the counter. Write this down and report it immediately!
- **Flow of Ballots:** Ballots are usually in plastic postal trays that hold a maximum of 350 ballots. Watch for any deliveries coming in through both the main entrance and any “unsecured” entrances. Write down times, numbers of ballots delivered, vehicle descriptions, driver(s) descriptions, license plates, etc. Watch for ways ballots and other electoral contraband can be “smuggled” inside through propped open doors, coolers, backpacks and other means.
- **Ballots In Serial Number Order:** Ballots arrive randomly and are mixed up continuously. Consecutive ballot numbers could indicate fraud. Report this immediately and write down the ballot numbers.

CHALLENGE ELEMENT OF ELECTION PROCESS (continued)

What To Watch For

- **Military Ballot Duplication:** Two people – one Republican and one Democrat – must open each military ballot and manually transfer the votes to a blank ballot, which is then sent to a scanner to be counted. Make sure there is both a Republican, a Democrat and an observer involved in this process. Write down the ballot numbers.
- **Closing the Election:** At the close of the entire election counting process, poll challengers must obtain the critical data they are entitled to under Michigan election law.
 1. **Statement of Votes** (number of votes cast) for each counting board, scanner and adjudicator (if present).
 2. **“Tabulator Tapes”**: the final printout from each scanner

POLL CHALLENGER RIGHTS

Poll challengers HAVE THE RIGHT to:

- Be present in the polling place, early voting site, absent voter ballot processing facility, or Election Day vote center for which they are credentialed
- Make challenges to the challenger liaison or the challenger liaison's designee
- Be treated with respect by election inspectors
- Be provided with reasonable assistance in performing their duties as a challenger
- Inspect applications to vote, registration lists, and other printed materials used to conduct elections, so long as the challenger does not touch or handle any of those materials and so long as the inspection does not impede the voting process
- Observe election inspectors' preparation of voting equipment at the polling place or early voting site before the opening of the polls during the early voting period and on Election Day, and observe election inspectors' handling of voting equipment after the close of polls on Election Day, so long as the challenger does not touch or handle any of that equipment and so long as that observation does not impede the election inspectors in completion of their duties

POLL CHALLENGER RIGHTS (continued)

Poll challengers HAVE THE RIGHT to:

- Observe the election process from a reasonable distance, so long as election inspectors have sufficient room to perform their duties and voters are not impeded in any way
- If serving in a polling place or early voting site during the early voting period or on Election Day, to use electronic devices, so long as the device is not disruptive and so long as the device is not used to make video or audio recordings of the polling place or early voting site
- Observe election-related activities at an early voting site or at a polling place on Election Day at any time the early voting site or polling place is open to the public, including prior to the opening of polls or after the closing of polls
- Take notes about the election process
- Notify the challenger liaison of perceived violations of election laws by third parties, including electioneering within 100 feet of the precinct, improper handling of a ballot by a voter, or other issues

POLL CHALLENGER RIGHTS (continued)

Poll challengers HAVE THE RIGHT to:

- Remain in the precinct after the close of polls or the end of tabulation and until the election inspectors complete their duties
- If serving in an early voting site or polling place where ballots are being issued, stand behind the processing table and close enough to view the poll book as ballots are issued to voters and the voters' names are entered into the poll book, so long as the challenger does not touch or handle the poll book or otherwise interfere with the work of the election inspectors
- If serving at an absent voter ballot processing facility, to stand in a location where the tabulation of absent voter ballots can be observed, or to stand in a location where the entry of the names of voters whose ballots are being processed into the poll book can be viewed, so long as the challenger does not touch or handle any election-related materials

POLL CHALLENGER RESTRICTIONS

Challengers ARE NOT PERMITTED to:

- Speak with or interact in any way with voters
- Threaten or intimidate voters or election inspectors, or attempt to threaten or intimidate voters or election inspectors at any stage of the voting process
- Speak with or interact with election inspectors who are not the challenger liaison or the challenger liaison's designee, unless given explicit permission by the challenger liaison or a member of the clerk's staff
- Make repeated impermissible challenges
- Make a challenge indiscriminately or without good cause, or for the purpose of harassing, delaying, or annoying voters, election inspectors, or any other person
- Physically touch or interact with ballots, absent voter ballot envelopes, electronic poll books, physical poll books, or any other election materials
- Stand so close to the poll book or other materials that the challenger's proximity to those materials interferes with the election inspectors' ability to perform their duties

POLL CHALLENGER RESTRICTIONS (continued)

Challengers ARE NOT PERMITTED to:

- Use a device to make video or audio recordings in a polling place, early voting site, clerk's office, or at an absent voter ballot processing facility (other than the recording of election results)
- Provide or offer to provide assistance to voters
- Wear any clothing or other apparel relating to any party, candidate, or proposition on the ballot or which disrupts the peace or order of the early voting site or polling place, unless the challenger is serving at an absent voter ballot processing facility and is given permission or instructed to wear such an identifier
- Wear clothing or other apparel expressly advocating for or against the election of a candidate or advocating the passage or defeat of a ballot measure
- Set up a table or other furniture in the early voting site or polling place
- Take any actions to disrupt or interfere with voting, ballot tabulation, or any other election process

POLL CHALLENGER WARNING & EJECTION

Warning

If a challenger fails to follow a direction given by an election inspector serving at the location at which the challenger is present, the challenger will be warned of their responsibility to adhere to the instructions issued by election inspectors. The warning and the reason that the warning was issued should be noted in the poll book. The warning requirement is waived if the prohibited action is so egregious that the challenger is immediately ejected.

Ejection

A challenger who repeatedly fails to follow the instructions issued by election inspectors may be ejected. A challenger who acts in a manner that disrupts the peace or order of the ballot processing facility, who acts to delay the work of any election inspector, or who threatens or intimidates a voter, election inspector, or election staff, may also be ejected. The ejection should be noted in the poll book. If the challenger refuses to leave after being informed of their ejection by an election inspector, the election inspector may request law enforcement remove the challenger.

POLL CHALLENGER WARNING & EJECTION (continued)

Appeal of Ejection

A challenger may appeal a decision by the challenger liaison or any other election inspector relating to a challenger's ejection to the city or township clerk of the jurisdiction in which the challenger is serving. At the request of a challenger, the challenger liaison must provide the contact information of the city or township clerk. The appeal must be made outside of the hearing of voters after the challenger has left the polling place, early voting site, or absent voter ballot processing facility. If the city or township clerk rejects the challenger's ejection as improper, the clerk shall inform the challenger liaison and the challenger shall be allowed to reenter the polling place, early voting site, or absent voter ballot processing facility. The challenger may appeal the decision of the local clerk to the Bureau of Elections.

PHYSICALLY PREPARE YOURSELF FOR A DAY OF POLL CHALLENGING

- Get plenty of sleep the night before.
- Inform key family, friends and business associates that you'll be out of communications most of the day.
- Dress business casual.
- Wear comfortable walking shoes, as you'll be on your feet for long hours!
- Wear a watch.
- Bring plenty of food and drinks in a cooler.
- Bring any medicines you may need.
- Bring a clipboard with lots of paper and an extra pen.
- Bring a copy of the Michigan Election Laws outlining your rights as a poll challenger.
- Chairs are not provided: bring a small folding chair if desired.

TREATMENT TO EXPECT & HOW TO RESPOND

Animosity

Unfortunately, election officials from the Secretary of State on down to supervisors at absent voter counting boards have increasingly treated poll challengers as a hindrance that must be tolerated, rather than as the vital safeguard against fraudulent elections conducted by any party now or in the future.

Rejected Challenges

Challenges to an election process not being conducted in accordance with Michigan Election Law are permissible. Though they may be rejected, they *must be recorded* in the poll book. This is very important. Make sure all relevant details are entered and take your own careful notes.

Attempts to Rile You

Avoid getting emotional. Argue your points in clear, even and measured tones. Do not tolerate abuse, obstruction or anyone interfering with your rights. Know your rights and be prepared to defend them! You can do this by citing the Michigan Election Laws mentioned earlier in this presentation.

COLLABORATION WITH OTHER POLL CHALLENGERS

It is critical for poll challengers at absent voter counting boards to coordinate efforts and operate as a well-oiled machine!

When you arrive at the absent voter counting board, find others from your group and organize your team. Introduce yourself to the lawyers present.

Establish a “division of labor” and assign tasks to specific individuals. For example, some challengers should be assigned to monitor specific ballot scanners or adjudicators, while others are assigned to watch points of entry for any ballots or other election-related materials entering or exiting.

If a poll challenger in your group is being treated poorly by others in the ballot processing facility, come to their aid at once! There is safety in numbers. Provide helpful facts, documents and arguments as appropriate. Do not engage in a shouting match but do get your points across and provide fellow challengers with moral and tactical support as warranted. Always maintain situational awareness.

TAKE LEGIBLE NOTES

Write down everything. This cannot be over-emphasized. These details will be critical evidence for any lawyer building a legal case.

WHO: Name tags are very important for identifying suspected violators of election law. Insist that they wear name tags or ask the supervisor for their name(s). If they refuse, write down a good description of their appearance.

WHERE: Describe where a suspected violator was located (which counting board, scanner, entry point, etc.).

WHEN: Record the time for every suspected violation!

WHAT & HOW: Provide as much detail as possible (ballot serial numbers, estimate number of ballots in tray, tabulator number, vehicle description, etc.).