

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY	SUMMONS	CASE NUMBER 26-
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Court address _____ Court telephone number _____

Plaintiff's name, address, and telephone number
 REPUBLICAN NATIONAL COMMITTEE, MICHIGAN
 REPUBLICAN PARTY, CINDY BERRY, and EDWARD MCCALL

v

Defendant's name, address, and telephone number
 JOHNATHAN BRATER, in his official capacity as Director
 of Elections,

 430 W. Allegan St.
 Richard H. Austin Building - 4th Floor
 Lansing, MI 48918

Plaintiff's attorney bar number, address, and telephone number
 Jonathan B. Koch (P80408)
 200 Ottawa Ave., N.W. Ste 900
 Grand Rapids, MI 49503
 (616) 336-1076

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

- There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (MC 21) listing those cases.
- It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

- This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106.
- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has

been previously filed in this court, _____ Court, where

it was given case number _____ and assigned to Judge _____

The action remains is no longer pending.

Summons section completed by court clerk.

SUMMONS

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside of Michigan).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date	Expiration date*	Court clerk
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*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

Document received by the MI Court of Claims

PROOF OF SERVICE

TO PROCESS SERVER: You must serve the summons and complaint and file proof of service with the court clerk before the expiration date on the summons. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE OF SERVICE / NONSERVICE

I served personally by registered or certified mail, return receipt requested, and delivery restricted to the addressee (copy of return receipt attached) a copy of the summons and the complaint, together with the attachments listed below, on:

I have attempted to serve a copy of the summons and complaint, together with the attachments listed below, and have been unable to complete service on:

Name	Date and time of service
Place or address of service	
Attachments (if any)	

I am a sheriff, deputy sheriff, bailiff, appointed court officer or attorney for a party.

I am a legally competent adult who is not a party or an officer of a corporate party. I declare under the penalties of perjury that this certificate of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee \$	Miles traveled	Fee \$	
Incorrect address fee \$	Miles traveled	Fee \$	TOTAL FEE \$

Signature _____

Name (type or print) _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of a copy of the summons and complaint, together with

Attachments (if any) _____ on _____ Date and time

Signature _____ on behalf of _____

Name (type or print) _____

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY	SUMMONS	CASE NUMBER 26-
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Court address Court telephone number

Plaintiff's name, address, and telephone number
 REPUBLICAN NATIONAL COMMITTEE, MICHIGAN
 REPUBLICAN PARTY, CINDY BERRY, and EDWARD MCCALL

v

Defendant's name, address, and telephone number
 JOCELYN BENSON in her official capacity as Secretary of
 State,
 430 W. Allegan St.
 Richard H. Austin Building - 4th Floor
 Lansing, MI 48918

Plaintiff's attorney bar number, address, and telephone number
 Jonathan B. Koch (P80408)
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I am a legally competent adult who is not a party or an officer of a corporate party. I declare under the penalties of perjury that this certificate of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$

Signature _____

Name (type or print) _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of a copy of the summons and complaint, together with

Attachments (if any) _____ on _____ Date and time

Signature _____ on behalf of _____

Name (type or print) _____

**STATE OF MICHIGAN
IN THE COURT OF CLAIMS**

MICHIGAN REPUBLICAN PARTY,
REPUBLICAN NATIONAL COMMITTEE,
CINDY BERRY, and EDWARD MCCALL

Plaintiffs,

v

JOCELYN BENSON, in her official
capacity as Secretary of State, and
JONATHAN BRATER, in his official
capacity as Director of Elections,

Defendants.

Case No. 26-_____ -MZ

Hon. _____

EXPEDITED RELIEF REQUESTED

Jonathan B. Koch (P80408)
Dickinson Wright, PLLC
200 Ottawa Ave., N.W. Ste 900
Grand Rapids, MI 49503
(616) 336-1076
jkoch@dickinsonwright.com

Charles R. Spies (P83260)
Dickinson Wright, PLLC
1825 Eye Street N.W., Ste 900
Washington, D.C. 20006
202-466-5964
cspies@dickinsonwright.com

Robert L. Avers (P75396)
Daniel C. Ziegler (P86312)
Dickinson Wright, PLLC
350 S. Main Street, Ste 300
Ann Arbor, MI 48104
(734) 436-7363
ravers@dickinsonwright.com
dziegler@dickinsonwright.com

Attorneys for Plaintiffs

**VERIFIED COMPLAINT
FOR EXPEDITED DECLARATORY AND INJUNCTIVE RELIEF**

*There is no other pending or resolved civil
action arising out of the same transaction or
occurrence alleged in this verified complaint.*

Plaintiffs the Michigan Republican Party, the Republican National Committee, Cindy Berry, and Edward McCall bring this Verified Complaint against Michigan Secretary of State

Jocelyn Benson and Director of Elections Jonathan Brater (collectively, the “Secretary”) and state as follows:

INTRODUCTION

1. “The United States’ democracy is built on a foundation of checks and balances. They extend from the three branches of government to the relationship between state and federal legislatures—and even to the inner workings of local election administration. Election observers and challengers are one small, but mighty, component of our intricate system of collective governance.” See Orey & Thomas, Bipartisan Policy Center, *Policy to Advance Good Faith Election Observation*, at 1, 13, <https://bipartisanpolicy.org/report/election-observations-challenges/> (accessed June 23, 2026) (“The role of election challengers is to hold electoral systems to account.”).

2. Indeed, the presence of election challengers and the meaningful exercise of their corresponding rights are vital to instilling confidence in the electoral process. See *id.* at 13 (“The role of election challengers is to hold electoral systems to account.”).

3. Challengers thus play a vital role in elections across our nation.

4. By providing political parties and other public-interest groups with both insight and oversight into the methods and procedures by which elections are conducted and administered, challengers ensure accountability for election officials, instill confidence in our elections, and promote election integrity.

5. The Michigan Legislature clearly recognizes this reality.

6. To that end, the Michigan Election Law grants political parties such as the Michigan Republican Party the right appoint election challengers to monitor and observe the election process to ensure that Michigan’s elections are conducted in an open, fair, and orderly

manner, and to help preserve the purity of our elections and guard against the abuse of the elective franchise.

7. The Michigan Election Law also expressly grants individuals appointed as election challengers a series of rights, including—but not limited to—the right to “[o]bserve the manner in which the duties of the election inspectors are being performed,” the right to “[c]hallenge the voting rights of a person who the challenger has good reason to believe is not a registered elector,” and the right to “[c]hallenge an election procedure that is not being properly performed.” MCL 168.733(1)-(2).

8. To ensure challengers are able to perform their duties and safeguard their challenger rights, the Michigan Election Law expressly requires election inspectors to “provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” which ensures the meaningful and effective exercise of those rights granted to challengers under Michigan law. MCL 168.733(1)-(2).

9. The Michigan Election Law also ensures that election officials and election inspectors help (rather than hinder) challengers by requiring that “[t]he election inspectors and other election officials on duty *shall protect* a challenger in the discharge of his or her duties.” MCL 168.733(3) (emphasis added). Furthermore, the Legislature underscored election officials’ obligation to assist challengers in the performance of their duties by criminalizing “prevent[ing] the presence of any such challenger as above provided” and “refus[ing] or fail[ing] to provide such challenger with conveniences for the performance of the duties expected of him.” MCL 168.734.

10. For decades, the Democrat and Republican parties alike have appointed challengers to observe Michigan elections and instill public confidence by ensuring that election officials and election inspectors comply with the Michigan Election Law.

11. Despite those clear policy decisions supporting challengers' rights and which the Legislature expressly enshrined in Michigan law, an administrative ruleset recently promulgated by the Secretary (the "Challenger Regulations") violates each one of the above statutory provisions (and more).¹ Among other things, the Challenger Regulations violate the rights granted to challengers and challenger-credentialing organizations by the Michigan Election Law by allowing election officials to reduce the number of challengers at a polling place or counting board below the statutory threshold, by restricting challengers' rights to observe certain election processes, and by denying challengers conveniences for the performance of their duties. The Challenger Regulations are an assault on the rights of challengers and clearly conflict with Michigan law.

12. "When an administrative rule conflicts with a statute, the statute controls." *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161, 975 NW2d 52 (2021). Indeed, administrative rules like the Challenger Regulations "are *invalid* when they conflict with the governing statute, extend or modify the statute." *Guardian Indus Corp v Dept of Treasury*, 243 Mich App 244, 254; 621 NW2d 450 (2000) (emphasis added).

13. Here, Plaintiffs seek a declaratory judgment that the Challenger Regulations are invalid and *ultra vires* to the extent they conflict with the provisions of the Michigan Election Law related to challengers and/or the Michigan Constitution.

14. Plaintiffs seek an expedited hearing on this matter under MCR 2.605(D), which authorizes this Court to "order a speedy hearing of an action for declaratory relief" and to "advance [this case] on the calendar." Expedited consideration is warranted and necessary here. Absent declaratory and injunctive relief, Plaintiffs' respective rights to appoint election challengers and to

¹ Mich. Admin. Code. R 168.201-168.220 (Attached as Exhibit A) ("Election Challengers and Poll Watchers Administrative Rules").

carry out their rights and privileges as duly appointed election challengers under Michigan law will continue to be violated and jeopardized by Defendants' acts, including the promulgation and implementation of administrative regulations that conflict with the Michigan Election Law.

15. Time remains to adjudicate this case and controversy on the merits in an expedited fashion prior to the November 3, 2026 general election and without the need for temporary or preliminary injunctive relief.² To that end, Plaintiffs will make best efforts to effectuate formal service of process immediately upon the filing of this Verified Complaint and receipt of summonses from this Court and will contact the Assistant Attorneys General that typically serve as elections counsel for the Defendants to discuss a briefing schedule regarding the motion practice necessary to promptly decide the questions of law presented in this case.

PARTIES, JURISDICTION, AND VENUE

16. Plaintiff the Michigan Republican Party ("MRP") is a "major political party" as that term is defined by the Michigan Election Law. See MCL 168.16. Formed for the general purposes of, among other things, promoting Republican values and assisting candidates who share those values with election or appointment to partisan federal, state, and local office, MRP maintains headquarters at 503 Mall Court # 149, Lansing, MI 48912. By virtue of its authority under the Michigan Election Law to appoint election challengers, *see, e.g.*, MCL § 168.732, MRP issued credentials to more than 4,000 election challengers for the November 2026 general elections. MRP intends to appoint an equivalent quantity of election challengers during the upcoming 2026 election cycle, as well as future elections. MRP brings this action on behalf of itself, its members, and its credentialed challengers. Further, among its general purposes, MRP promotes and assists Republican candidates who seek election or appointment to partisan federal,

² Plaintiffs, of course, reserve the right to seek preliminary injunctive relief should the need arise.

state, and local office in Michigan. MRP works to further its purpose by, among other things, devoting substantial resources toward educating, mobilizing, assisting, and turning out voters in Michigan. To that end, MRP has made significant contributions and expenditures in support of Republican candidates up and down the ballot in Michigan in past election cycles and is doing so again in anticipation of the 2026 Michigan elections. Further, MRP works to ensure that elections in Michigan are conducted in a free, fair, and transparent manner, and it works to protect its members' and candidates' fundamental constitutional right to vote, and to promote their participation in the political process. MRP brings this action on behalf of itself, its members, and its candidates. As a result, Plaintiff MRP has a direct, personal, and substantial interest in this litigation to protect not only its own rights, but also those of its candidates, members, and credentialed challengers.

17. Plaintiff the Republican National Committee (the "RNC") is the national committee of the Republican Party as defined by 52 U.S.C. § 30101(14), with its principal place of business at 310 First Street, S.E., Washington D.C., 20003. The RNC manages the Republican Party's business at the national level, including the development and promotion of the Republican Party's national platform and election strategies. The RNC supports Republican candidates for public office at the federal and state levels across the country, including those on the ballot in Michigan's forthcoming 2026 elections. The RNC also assists state parties throughout the country, including Plaintiff MRP, to educate, mobilize, assist, and turn out voters, and also by supporting MRP's efforts to ensure that elections in Michigan are conducted in a free, fair, and transparent manner, and to protect the RNC's members' and candidates' fundamental constitutional right to vote. The RNC made significant contributions and expenditures in support of Republican candidates up and down the ballot and in mobilizing and educating voters in Michigan in past

election cycles and is doing so again in anticipation of the 2026 Michigan elections. The RNC has clear and obvious interests in the laws and rules under which it, and those it represents and supports, exercise their constitutional rights to vote and to participate in elections. The RNC brings this action on behalf of itself, its members, and its candidates. As a result, Plaintiff RNC has a direct, personal, and substantial interest in this litigation to protect not only its own rights, but those of its candidates and its members.

18. As representatives of their candidates and their voters and as organizations in their own right, Plaintiffs MRP and RNC (collectively, the Republican Committees) each have a substantial interest in getting Republican candidates elected to office—an interest that is unique and separate from any held by the public at large. That includes ensuring that Republicans can seek office in a fair, competitive environment where the Michigan Constitution is enforced, and that Republican challengers are able to observe election processes consistent with their rights under the Michigan Election Law. Given that the relief sought here would, among other things, (1) declare portions of the Challenger Regulations unlawful because they conflict with or modify the Michigan Election Law (2) declare the Challenger Regulations to be *ultra vires* because they go beyond the scope of Michigan Election Law and must be rescinded under MCL 168.31; and (3) declare the Challenger Regulations to be unconstitutional to the extent they conflict with the Michigan Election Law, thus violating the separation of powers and the purity of elections clause, the interests of RNC and MRP in preventing an illegally structured and anti-competitive election environment is sufficient under MCR 2.605.

19. The Republican Committees also spend significant resources to preserve voter confidence and turnout. These efforts are harmed when voters see that election officials hinder oversight by limiting the number of challengers in contravention of the Michigan Election Law

and/or limiting or preventing the ability of challengers to observe election processes as expressly required under the Michigan Election Law.

20. Plaintiff Cindy Berry serves as the Clerk for the Township of Chesterfield and resides in Macomb County. In that role, she is responsible for training her staff regarding their duties under the Michigan Election Law, including procedures relative to challengers. Berry has sworn to uphold the Constitution and Michigan Election Law in the execution of her duties as Chesterfield Township clerk. She is also bound by the Challenger Regulations. Accordingly, Berry has attempted to reconcile the Challenger Regulations with the provisions of the Michigan Election Law, but she finds that she cannot due to the inconsistencies alleged herein. As a local clerk, Berry seeks a declaration regarding whether the Challenger Regulations conflict with the Michigan Election Law. Without relief from this Court, Berry will have to choose which contradictory, binding authority she will follow.

21. Plaintiff Berry is also a registered voter that voted in all the 2024 elections; she is registered to vote and plans to vote in all future Michigan elections. Clerk Berry has a direct, personal, and substantial interest in ensuring that elections are conducted consistent with the Michigan Election Law such that her vote counts and is not diluted.

22. Plaintiff Edward McCall is a resident of Northville Township in Wayne County, Michigan, and a member of the Republican Party. During the November 2024 election, he trained challengers and was credentialed by the Michigan Republican Party as a challenger at the City of Detroit's combined AVCB during multiple days of early tabulation and election day. Plaintiff McCall plans to serve as a challenger at the November 2026 general election and in subsequent Michigan elections. As a challenger, McCall has rights under the Michigan Election Law, but he is also bound by the Challenger Regulations. Accordingly, he has attempted to reconcile the

Challenger Regulations with the provisions of the Michigan Election Law, but he finds that he cannot due to the inconsistencies alleged herein. As a past and future challenger, McCall seeks a declaration regarding whether the Challenger Regulations conflict with the Michigan Election Law. Without relief from this Court, he will have to choose which contradictory, binding authority he will follow.

23. Plaintiff McCall is also a registered voter that voted in all the 2024 elections, and who is registered to vote and plans to vote in all future Michigan elections. He has a direct, personal, and substantial interest in ensuring that elections are conducted consistent with the Michigan Election Law such that his vote counts and is not diluted.

24. Defendant Jocelyn Benson is Michigan's Secretary of State and is being sued in her official capacity. Secretary Benson is the "chief elections officer of the state" responsible for overseeing the conduct of Michigan elections and has "supervisory control over local election officials in the performance of their duties under the [Michigan Election Law]." MCL 168.21. When the Secretary promulgates administrative rules in accordance with the APA, they are considered "legislative rule[s]" and have "the force and effect of law." *True Care Physical Therapy, PLLC v Auto Club Group Ins Co*, 347 Mich App 168, 186; 14 NW3d 456 (2023). Thus, clerks like Clerk Berry, challengers like McCall, and challenger credentialing organizations like the Republican Committees are all bound to follow the Challenger Rules.

25. Defendant Jonathan Brater is Michigan's Director of Elections and is being sued in his official capacity.

26. This Court has exclusive jurisdiction to "hear and determine any claim or demand, statutory or constitutional . . . or any demand for . . . equitable[] or declaratory relief or any demand for an extraordinary writ against the state or any of its departments or officers notwithstanding

another law that confers jurisdiction of the case in the circuit court.” MCL 600.6419(1)(a). Additionally, this Court has authority to grant injunctive and declaratory relief under MCR 3.310 and MCR 2.605 respectively.

27. Because Plaintiffs raise statutory and constitutional claims and ask this Court to order equitable, declaratory, and injunctive relief against Defendants, this Court has exclusive jurisdiction to hear these claims. For the same reason, venue is appropriate in this Court. See MCL 600.6419(1)(a), MCR 3.310, and MCR 2.605.

28. An actual controversy is present here. The Michigan Election Law grants party organizations like the Michigan Republican Party the right to appoint up to two challengers at a time in a precinct, and one for every counting board where absent voter ballots are tabulated. The Michigan Election Law also grants challengers, including those appointed by the Michigan Republican Party the right to, among other things: (1) be “provide[d] space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote”; (2) “[o]bserve the manner in which the duties of the election inspectors are being performed” including the right to “[e]xamine...each ballot as it is being counted”; (3) “[b]ring to an election inspector’s attention” any “violation of election law or other prescribed election procedure”; and (4) be “[p]rovided space...at each counting board that enables the challengers to observe the counting of the ballots.” MCL 168.733(1)-(2).

29. The Secretary’s Challenger Regulations violate each one of those rights (and more) by allowing election officials to limit the number of challengers in a given location below the statutory threshold, restrict the ability of a challenger to observe election processes, and deny challengers conveniences for the performance of their duties.

30. Those violations of the Michigan Election Law injure Plaintiffs. And the injuries to Plaintiffs are at once completed and ongoing. The unlawful Challenger Regulations are currently in force and will govern the conduct and procedures relating to challengers credentialed for the upcoming primary and general elections. The Republican Committees are in the process of recruiting and training challengers for the upcoming elections. Likewise, Clerk Berry is in the process of training her employees for the upcoming elections. And, as a challenger, McCall is required to be knowledgeable of the rules and laws applicable to challengers. Each Plaintiff has attempted to reconcile the Challenger Regulations with the provisions of the Michigan Election Law but finds that they cannot. Absent relief from this Court, Plaintiffs will be forced to choose which contradictory, binding authority they will follow. These injuries will recur indefinitely because, absent relief here, the Challenger Regulations will continue to remain in force. A decision from this Court will redress the violation of Plaintiffs' rights under the Michigan Election Law and will guide Plaintiffs' and Defendants' future conduct in this regard for the November 3, 2026, election and each subsequent election.

31. To be clear, Plaintiffs seek declaratory relief regarding the November 3, 2026, general election, and all future elections.

LEGAL AND FACTUAL BACKGROUND

32. As with other states across the country, election challengers play a vital role in ensuring that Michigan's elections are conducted in an open, fair, and orderly manner by monitoring and observing the election process.

33. To that end, Michigan law expressly gives political parties the right to appoint challengers to observe the manner in which election inspectors conduct elections and challenge practices or procedures that violate the Michigan Election Law. See MCL 168.732. Specifically,

MCL 168.730(1) provides that “[a]t an election, a political party or an incorporated organization or organized committee of citizens interested in the adoption or defeat of a ballot question being voted for or upon at the election, or interested in preserving the purity of elections and in guarding against the abuse of the elective franchise, may designate challengers as provided in this act.”

34. The Michigan Election Law delineates the number of challengers that a credentialing organization is entitled to appoint: “[e]xcept as otherwise provided in this act, a political party, incorporated organization, or organized committee of interested citizens may designate not more than 2 challengers to serve in a precinct at any 1 time.” *Id.* One such exception is that “[a] political party . . . may designate not more than 1 challenger to serve at each counting board.” *Id.*

35. There are two requirements an individual must meet to serve as a challenger. A challenger “shall be a registered elector of this state” MCL 168.730(2). And a challenger must not be “a candidate for nomination or election to an office” or “appointed as an election inspector” at the election. *Id.*

36. Political parties such as MRP appoint election challengers by issuing those individuals an “authority signed by the recognized chairman or presiding officer” of MRP that includes “written or printed thereon the name of the challenger to whom it is issued and the number of the precinct to which the challenger has been assigned.” MCL 168.732. By law, that written authority—often referred to as a challenger’s “credential”—signed by the appointing organization’s chair, “shall be sufficient evidence of the right of such challengers to be present inside the room where the ballot box is kept, provided the provisions of the preceding sections have been complied with.” *Id.*

37. Credentialed challengers assigned to an election-day precinct or voting site have a right to be present in their assigned polling place, and to be provided space to fulfill their duties. Specifically, MCL 168.733(1) provides that the board of election inspectors “shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote.”

38. The Michigan Election Law also expressly authorizes credentialed challengers to engage in the following activities at the polling place (See MCL 168.733(1)(a)-(i)):

- a. Under the scrutiny of an election inspector, inspect without handling the poll books as ballots are issued to electors and the electors’ names being entered in the poll book.
- b. Observe the manner in which the duties of the election inspectors are being performed.
- c. Challenge the voting rights of a person who the challenger has good reason to believe is not a registered elector.
- d. Challenge an election procedure that is not being properly performed.
- e. Bring to an election inspector’s attention any of the following.
 - i. Improper handling of a ballot by an elector or election inspector.
 - ii. A violation of a regulation made by the board of election inspectors pursuant to MCL 168.742.
 - iii. Campaigning being performed by an election inspector or other person in violation of MCL 168.744.
 - iv. A violation of election law or other prescribed election procedure.
- f. Remain during the canvass of votes and until the statement of returns is duly signed and made.
- g. Examine without handling each ballot as it is being counted
- h. Keep records of votes cast and other election procedures as the challenger desires.
- i. Observe the recording of absent voter ballots on voting machines.

39. Meanwhile, challengers credentialed for an Absent Voter Counting Board (“AVCB”) possess the same rights. Specifically, MCL 168.733(2) provides that “[t]he board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots.” And “[a] challenger at the counting board may do 1 or more of the activities allowed in [MCL 168.733(1)], as applicable.” *Id.*

40. The Legislature recognized the crucial role that challengers play in promoting election integrity, instilling public faith in our elections, and in providing oversight of election inspectors and election officials. So, while it allowed a challenger to be removed “from the polling place or the counting board” if there is “evidence of drinking of alcoholic beverages or disorderly conduct,” the Legislature mandated that “[t]he election inspectors and other election officials on duty **shall protect** a challenger in the discharge of his or her duties.” MCL 168.733(4).

41. And, while challengers must refrain from “threaten[ing] or intimidat[ing]” voters, the Legislature also requires that “[a] person shall not threaten or intimidate a challenger while performing an activity allowed under [MCL 168.733(1)].” MCL 168.733(4).

42. To further underscore the importance of challengers—and to drive home that election officials are obligated to assist challengers and prohibited from obstructing the rights and privileges of challengers—the Legislature made it a two-year felony for an “officer or election board” to “prevent the presence of any such challenger as above provided, or [to] refuse or fail to provide such challenger with conveniences for the performance of the duties expected of him.” MCL 168.734.

Defendants' Challenger Regulations

43. The Secretary is “the chief election officer” of Michigan and has a duty to exercise “supervisory control over local election officials in the performance of their duties under the [Michigan Election Law].” MCL 168.21. As the Director of Elections, Director Brater supervises the Bureau of Elections and “shall be vested with the powers and shall perform the duties of the secretary of state under his or her supervision, with respect to the supervision and administration of the election laws.” MCL 168.32(1).

44. As part of her duties, the Secretary is tasked with “issu[ing] instructions and promulgat[ing] rules...for the conduct of elections and registrations **in accordance with the laws of this state.**” MCL 168.31(1)(a) (emphasis added).

45. The Secretary is also required to “[p]ublish and furnish for the use in each election precinct before each state primary and election a manual of instructions that includes specific instructions on assisting voters in casting their ballots, directions on the location of voting stations in polling places, **procedures and forms for processing challenges**, and procedures on prohibiting campaigning in the polling places as prescribed in this act.” MCL 168.31(1)(c) (emphasis added).

46. The Secretary has previously issued directions regarding challengers and poll watchers under the guise of a guidance document entitled “The Appointment, Rights and Duties of Election Challengers and Poll Watchers.”³

47. In early 2025, Defendants began the process of turning the Secretary’s instructions into binding administrative regulations by initiating Administrative Ruleset 2025-15 ST, which

³ See, e.g., Secretary of State, “The Appointment, Rights, and Duties of Election Challengers and Poll Watchers,” October 2024 (Attached as Exhibit B).

purported to “clarify required procedures regarding election challengers and poll watchers.”⁴ According to the Secretary, the proposed rules “do not conflict with any similar rules, requirements, or standards” at the state or federal level.⁵ However, she also claimed that they “reconcile and clarify certain aspects of the Michigan Election Law regarding challengers, including MCL 168.722, MCL 168.730-734.”⁶

48. The Secretary held a public hearing on Ruleset 2025-15 ST at which she “receive[d] public comments on proposed changes to the Election Challengers and Poll Watchers rule set.”⁷ Before and during the hearing, 5 individuals submitted comments of support, 4 individuals submitted neutral comments, and 37 individuals submitted comments of opposition.⁸

49. The written comments provided before the public hearing identified numerous conflicts between the proposed ruleset and the Michigan Election Law.⁹ For example, commenters pointed out that the ruleset conflicts with MCL 168.733, MCL 168.734 and other statutes in the Michigan Election Law by, among other things, adding additional qualifications that an individual must meet before serving as a challenger, limiting challengers in the performance of their duties, restricting challengers’ direct access to election processes and election inspectors, and allowing challengers to be ejected based on vague standards despite election officials’ obligation to

⁴ Michigan Office of Administrative Hearings and Rules Administrative Rules Division, Request for Rulemaking (2025-15 ST), <https://ars.apps.lara.state.mi.us/Transaction/RFRTtransaction?TransactionID=1588> (Attached as Exhibit C).

⁵ *Id.* at 1-2.

⁶ *Id.*

⁷ Michigan Office of Administrative Hearings and Rules Administrative Rules Division, Notice of Public Hearing, (2025-15 ST) <https://ars.apps.lara.state.mi.us/Transaction/RFRTtransaction?TransactionID=1588> (Attached as Exhibit D).

⁸ *Id.*

⁹ Michigan Office of Administrative Hearings and Rules Administrative Rules Division, Written Comments for December 12, 2025, Public Hearing (Attached as Exhibit E).

“protect” challengers.¹⁰ As one commenter summed it up, the proposed rules “run counter to long-standing provisions such as MCL 168.733, which outlines challenger rights and procedures already established in law.”¹¹

50. Similar to those written comments, many of the comments presented in-person at the hearing in opposition to the ruleset likewise pointed out inconsistencies between the proposed ruleset and the Michigan Election Law, including by “limiting the number of challengers,” “forcing volunteers to communicate through gatekeepers,” “replacing the statutory rights of the people with permissions granted by the State,” and “opening the door to silencing challengers with different political views.”¹² And, as one commenter put it, “[t]he proposed codifications favor everyone except the poll challengers.”¹³

51. Following the public hearing, Defendants made 28 changes to the proposed ruleset.¹⁴ But of those changes, only one related to an individual who opposed the rule—in response to his comment that challengers should be allowed to sit in chairs, Defendants amended the proposed rules to allow challengers to request and be provided with chairs if doing so would not interfere with the orderly conduct of elections.¹⁵

52. After being submitted to the Joint Committee on Administrative Rules (“JCAR”), the Challenger Regulations became finalized as part of the Michigan Administrative Rules on May 6, 2026.

¹⁰ See, e.g., *id.* at pp. 55-56, 58-60, 64-66, 70, 74-77, 80-81, 83-87, 89-94, 103, 105.

¹¹ *Id.* at 85.

¹² Michigan Office of Administrative Hearings and Rules Administrative Rules Division, December 12, 2025, Public Hearing Transcript at pp. 15, 19-22, 26-30 (Attached as Exhibit F).

¹³ *Id.* at 15.

¹⁴ Michigan Office of Administrative Hearings and Rules Administrative Rules Division, Agency Report to the Joint Committee on Administrative Rules re: 2025-15 ST (Attached as Exhibit G).

¹⁵ *Id.*

53. In the latest version of the Secretary’s challenger guidance, she states that “[t]he Election Challengers and Poll Watchers administrative rules became effective on May 6, 2026.”¹⁶ But, while she also states that “[a]n updated manual incorporating these rules will be posted before the August Primary Election,” the Secretary has not done so as of the date of this filing.

Background Legal Principles

54. In Michigan, “[a]dministrative boards, commissions, and officers have no common-law powers.” *Coffman v State Bd of Exam in Optometry*, 331 Mich 582, 590; 50 NW2d 322 (1951). Rather, an administrative agency’s authority “derives from powers that the Michigan Legislature has granted.” *Mich Farm Bureau v DEQ*, 292 Mich App 106, 128-130; 807 NW2d 866 (2011) (cites omitted).

55. “When an agency adopts a rule in accordance with the APA, it is considered a ‘legislative rule’ and has the force and effect of law.” *True Care Physical Therapy, PLLC v Auto Club Group Ins Co*, 347 Mich App 168, 186; 14 NW3d 456 (2023); *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161-162, 975 NW2d 52 (2021) (same).

56. But an administrative regulation must be “substantively valid” to be enforced. *Mich Farm Bureau v DEQ*, 292 Mich App 106, 128-130; 807 NW2d 866 (2011). Indeed, Michigan courts have held that an agency’s regulation is invalid if it exceeds its statutory authority. *Clonlara, Inc v State Bd of Educ*, 442 Mich 230; 501 NW2d 88 (1993); *Czybor’s Timber, Inc v City of Saginaw*, 478 Mich 348, 356; 733 NW2d 1 (2007) (an administrative agency “cannot exceed the authority granted by the Legislature” which is limited by the statutes’ “plain language”).

57. While the Legislature can give agencies authority to adopt regulations to effectuate their delegated authority, that authority exists “within limits defined in the law.” And “an

¹⁶ “The Appointment, Rights, and Duties of Election Challengers and Poll Watchers,” October 2024 at 1 (Ex B).

administrative agency may not, under the guise of its rule making power, abridge or enlarge its authority or exceed the powers given to it by statute, the source of its power.” *Coffman*, 331 Mich at 589-590 (citations omitted); *Ranke v Mich Corp and Securities Com’n*, 317 Mich 304, 309; 26 NW2d 898 (1947) (citations omitted).

58. Thus, “[w]hile administrative agencies have what have been described as ‘quasi-legislative’ powers, such as rulemaking authority, these agencies cannot exercise legislative power by creating law or changing the laws enacted by the Legislature.” *In re Complaint of Rovas Against SBC Mich*, 482 Mich. 90, 98, 754 NW2d 259 (2008).

59. Consistent with these principles, “Michigan courts have long recognized that, due to the very nature of an administrative agency’s rulemaking power, when a statute and an administrative rule conflict, the statute necessarily controls.” *Grass Lake Imp Bd v Dept of Environ Qual*, 316 Mich App 356, 366; 891 NW2d 884 (2016); *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161, 975 NW2d 52 (2021) (“When an administrative rule conflicts with a statute, the statute controls.”); *In re Complaint of Rovas*, 482 Mich 90, 98; 754 NW2d 259 (2008) (“While administrative agencies have what have been described as ‘quasi-legislative’ powers, such as rulemaking authority, these agencies cannot exercise legislative power by creating law or changing the laws enacted by the Legislature.”); *Mich Sportservice, Inc v Dep’t of Revenue Comm’r*, 319 Mich 561, 566, 30 NW2d 281 (1948) (“The provisions of the rule must, of course, be construed in connection with the statute itself. In case of conflict, the latter governs. It is not within the power of the department of revenue to extend the scope of the act.”).

60. To that end, administrative rules like the Challenger Regulations “are invalid when they conflict with the governing statute, extend or modify the statute.” *Guardian Indus Corp v*

Dept of Treasury, 243 Mich App 244, 254; 621 NW2d 450 (2000); *Sav-Time, Inc v Dept of Treasury*, ___ Mich App ___; ___ NW3d ___ (Mich App Mar 10, 2026) (slip op available at 2026 WL 679266) (“[A]n administrative rule that conflicts with a statute is invalid, as agencies are not empowered to change laws enacted by the Legislature.”); *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161, 975 NW2d 52 (2021) (“[A]n agency is not empowered to change law enacted by the Legislature. . . . When an administrative rule conflicts with a statute, the statute controls.”).

Defendants’ Challenger Regulations Violate the Michigan Election Law

61. The Challenger Regulations conflict with the Michigan Election Law in numerous ways.

Rule 168.205

62. Rule 168.205 creates the role of “challenger liaison,” i.e., the individual “responsible for answering challenger questions and addressing challenger concerns.” According to the rules, “[c]hallengers shall not communicate with election inspectors other than the challenger liaison or the challenger liaison’s designee unless otherwise instructed by the challenger liaison or a member of the clerk’s staff.” Rule 168.205(2). Although Rule 168.208(1) requires each clerk to “designate 1 or more election inspectors per Election Day polling place, early voting site, or absent voter ballot processing facility as a challenger liaison,” the Challenger Regulations also provide that “[i]f multiple precincts or absent voter counting boards are included in a single location, a single election inspector may serve as the challenger liaison for multiple precincts or absent voter counting boards.” Rule 168.205(4).

63. Rule 168.205 conflicts with the Michigan Election Law because the role of “challenger liaison” does not exist in the Michigan Election Law and there is no statutory basis for limiting which election inspectors with whom a challenger can communicate. Rather, the Michigan

Election Law expressly authorizes election challengers to speak with election inspectors, which is the complete opposite of the new prohibitions against communicating with election inspectors set forth in the Defendants’ 2022 Election Challenger Instructions. *See, e.g.*, MCL § 168.733(1)(e) (“A challenger may...[b]ring to an election inspector’s attention any of the following: (i) [i]mproper handling of a ballot by an elector or election inspector . . . (ii) [a] violation of a regulation made by the board of election inspectors . . . (iii) [c]ampaigning being performed by an election inspector or other person in violation of [MCL § 168.744] [, or] (iv) [a] violation of election law or other prescribed election procedure.”).

64. Rule 168.205 also conflicts with the Michigan Election Law by allowing clerks to designate a “single election inspector...as the challenger liaison” where “multiple precincts or absent voter counting boards are included in a single location.” Rule 168.205(4).

65. Rule 168.206(2) provides that “[a]t no point shall more than 1 challenger from any single credentialing organization observe the activities of any single team of election inspectors processing ballots at an absent voter ballot processing facility.”

66. Michigan law allows a city or township—or multiple cities or townships within the same county—to form a combined Absent Voter Counting Board at which all the absent voter ballots from all of the precincts within that jurisdiction or jurisdictions are counted. *See* MCL 168.764d; MCL 168.765a.

67. By way of example, the City of Detroit—Michigan’s most populous city that features more than 400 precincts—utilizes a single-location, combined AVCB for counting the tens of thousands of absent voter ballots returned in the City of Detroit. In 2024 (and previous elections), the Detroit AVCB was contained in a cavernous room at Huntington Place, and featured dozens of teams of election inspectors working at tables spread across a space larger than a football

field. Similarly, Oakland County—at 1.29 million residents, Michigan’s second most populous county—features a countywide combined AVCB that is “the state’s largest consolidated absent voter counting board.”¹⁷ In 2024, the Oakland County AVCB was contained in multiple rooms across multiple buildings all contained within a single location (the Oakland County Courthouse complex).

68. The size and layout of the Detroit and Oakland AVCBs—along with other large combined AVCBs—render it impossible both for a single challenger liaison to effectively communicate with all of the credentialed challengers, and for the challengers unable to communicate with anyone else to “[b]ring to an election inspector’s attention” improper ballot handling, illegal campaigning, or violations of the election laws or procedures. MCL 168.733. In other words, allowing large AVCBs to appoint a single challenger liaison to serve as the sole point of contact for every challenger credentialed for that location makes it effectively impossible for the challengers to perform their duties. Yet that is exactly what Rule 168.205 allows. So, not only does Rule 168.205 run afoul of MCL 168.733(1)-(2), but it also conflicts with MCL 168.734 by effectively depriving challengers at large AVCBs of the “conveniences” necessary “for the performance of the duties expected of [them].”

Rule 168.206(4)

69. Rule 168.206(4) provides that, “[i]f an Election Day polling place, early voting site, or absent voter ballot processing facility cannot accommodate the total number of challengers contemplated in [Rule 168.206(1)], the maximum number of challengers each credentialing organization is allowed to have present in that location as calculated in subrule (1) of this rule is

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<https://www.oakgov.com/Home/Components/News/News/1124/230?backlist=%2Fcommunity%2Famerican-rescue-plan> (accessed June 12, 2026)

decreased by an equal number for all credentialing organizations.” However, although Rule 168.206(1) identifies “[t]he maximum number of challengers that a credentialing organization may field at a location,” the rule simply identifies the number of challengers a single organization is entitled to appoint to an Election Day polling place, early voting sight, absent voter counting board, or combined absent voter ballot processing facility as the amount “provided in section 730(1) of the act, MCL 168.730.” MCL 168.206(1)(a)-(d). For its part, MCL 168.730(1) provides that “[e]xcept as otherwise provided in this act, a political party . . . may designate not more than 2 challengers to serve in a precinct at any 1 time” and “not more than 1 challenger to serve at each counting board.”

70. In other words, by creating situations in which a challenger-credentialing organization will be prevented from credentialing 2 challengers for a single location—or from credentialing at least one challenger per counting board at a combined absent voter ballot processing facility—Rule 168.206(4) directly conflicts with MCL 168.730(1). This is especially true for political parties like the Republican Committees because, unlike other credentialing organizations, political parties do not need to seek or obtain a clerk’s approval before appointing challengers. See MCL 168.731(1)-(3).

71. By allowing the use of facilities that “cannot accommodate the total number of challengers contemplated in [MCL 168.730(1)]”—facilities that cannot accommodate the number of challengers that organizations like the Michigan Republican Party have a *right* to appoint—Rule 168.206(4) conflicts with MCL 168.733(1)’s mandate that “[t]he board of election inspectors ***shall provide space*** for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” as well as MCL 168.733(2)’s mandate that “[t]he board of election inspectors ***shall provide space*** for each challenger, if any, at

each counting board that enables the challengers to observe the counting of the ballots.” (emphasis added); see also MCL 168.733(3) (“The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.”). For the same reasons, Rule 168.206(4) also conflicts with MCL 168.734’s prohibition on “prevent[ing] the presence of any such challenger as above provided” or “refus[ing] or fail[ing] to provide such challenger with conveniences for the performance of the duties expected of him.”

Rule 168.206(5)

72. Rule 168.206(5) provides that “[i]f the absent voter ballot processing facility cannot accommodate 1 challenger for each credentialing organization, the clerk’s notice under section 765a(12) of the act, MCL 168.765a, shall provide notice of the number of challengers that can be accommodated, and 1 challenger per organization is admitted until that number is met.”

73. In turn, Rule 168.206(1)(e) provides that “[d]uring processing and tabulation of absent voter ballots before Election Day, the total number of challengers allowed to each credentialing organization at the location must not exceed the total number allowed under section 765a(14) of the act, MCL 168.765a.” That statute provides that “[d]uring the processing and tabulation of absent voter ballots before election day, each political party, and each incorporated organization or organized committee of interested citizens as described under sections 730 and 731, may designate 1 challenger for every 8 election inspectors serving at the absent voter counting place. If there are 7 or fewer election inspectors serving at an absent voter counting place, each political party, and each incorporated organization or organized committee of interested citizens as designated under sections 730 and 731, may designate 1 challenger.” MCL 168.765a(14). Challenger-credentialing organizations determine how many challengers they are able to credential for a facility that is tabulating absent voter ballots before Election Day based on the

relevant clerk's notice issued pursuant to MCL 168.765a(12), which must identify, among other things, "the number of election inspectors who will process and tabulate absent voter ballots at the absent voter counting place."

74. To the extent Rule 168.206(5) purports to apply MCL 168.765a(14)'s limit on the number of challengers during the processing and tabulation of absentee ballots before Election Day to an absent-voter ballot processing facility on Election, Rule 168.206(5) conflicts with MCL 168.730(1).

75. In any event, Rule 168.206(5) conflicts with MCL 168.765a(14) because it allows clerks to reduce the number of challengers that a credentialing organization is entitled to appoint below the statutory threshold set by MCL 168.765a, and because it could give rise to situations where a credentialing organization is prohibited from having any challengers in a facility tabulating absent voter ballots before election day because there are more challenger credentialing organizations than challengers allowed by the clerk pursuant to Rule 168.206(5). Again, this is especially problematic for political parties like the Republican Committees because, unlike other credentialing organizations, political parties do not need to seek or obtain a clerk's approval before appointing challengers. See MCL 168.731(1)-(3).

76. By allowing the use of an "absent voter ballot processing facility [that] cannot accommodate 1 challenger for each credentialing organization"—facilities that cannot accommodate the number of challengers that organizations like the Michigan Republican Party have a *right* to appoint—Rule 168.206(5) conflicts with MCL 168.733(1)'s mandate that "[t]he board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote," as well as MCL 168.733(2)'s mandate that "The board of election inspectors shall provide space for

each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots.” (emphasis added); see also MCL 168.733(3) (“The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.”). For the same reasons, Rule 168.206(5) also conflicts with MCL 168.734’s prohibition on “prevent[ing] the presence of any such challenger as above provided” or “refus[ing] or fail[ing] to provide such challenger with conveniences for the performance of the duties expected of him.”

Rule 168.206(6)

77. Rule 168.206(6) provides that “[i]f a challenger leaves a location where the challenger is credentialed to serve, the organization that credentialed that challenger is allowed to replace that challenger with a new challenger credentialed by that organization so long as the replacement process does not disrupt the work of election inspectors or clerk staff present at the location.”

78. This conflicts with MCL 168.730(1), which provides that a challenger-credentialing organization like the Michigan Republican Party has the right to “designate not more than 2 challengers to serve in a precinct at any 1 time” and to “designate not more than 1 challenger to serve at each counting board.”

79. Further, Rule 168.206(6) yet again prioritizes the convenience of the clerk staff and election inspectors at the expense of the rights of challengers and their credentialing organization. It thus conflicts with MCL 168.733(1)’s mandate that “[t]he board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” as well as MCL 168.733(2)’s mandate that “The board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of

the ballots.” (emphasis added); see also MCL 168.733(3) (“The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.”). It likewise conflicts with MCL 168.734’s prohibition on “prevent[ing] the presence of any such challenger as above provided” or “refus[ing] or fail[ing] to provide such challenger with conveniences for the performance of the duties expected of him.”

Rule 168.214(3)(g)

80. Rule 168.214(3)(g) provides that credentialed challengers have the right to “[o]bserve the election process from a reasonable distance, so long as election inspectors have sufficient room to perform the election inspectors’ duties and voters are not impeded in any way.”

81. The term “reasonable distance” is vague and ambiguous and, by giving significant subjective latitude to election inspectors and clerks’ staff as to the distance from a challenger can be forced to view the information that Michigan law grants challengers the right to see, creates the potential that challengers will be precluded from fulfilling their statutory duties and obstructed from exercising the rights expressly granted to them by the Michigan Election Law.

82. Additionally, Rule 168.214(3)(g) conditions a challenger’s ability to “[o]bserve the election process” on “election inspectors hav[ing] sufficient room to perform the election inspectors’ duties.” Thus, like many of the other rules in the Challenger Regulations, this rule prioritizes the convenience of the clerk staff and election inspectors at the expense of the expressly granted rights of challengers and their credentialing organization.

83. That is the polar opposite of the approach taken by the Michigan Legislature, which repeatedly puts the onus on the clerks’ staff and election inspectors to ensure that challengers have sufficient room to perform their duties and exercise those rights, and, indeed, criminalizes their failure to do so. See MCL 168.733; MCL 168.733.

84. MCL 168.733 does not condition a challenger’s right to “observe the election procedure,” “[o]bserve the manner in which the duties of the election inspectors are being performed,” “[e]xamine without handling each ballot as it is being counted,” or “[o]bserve the recording of absent voter ballots on voting machines”

85. Rather, the statute mandates that “[t]he board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” and that “[t]he board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots.” MCL 168.733(1)-(2) (emphasis added); see also MCL 168.733(3) (“The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.”).

86. Rule 168.214(3)(g) thus conflicts with MCL 168.733(1)-(2). It also conflicts with MCL 168.734, which prohibits “prevent[ing] the presence of any such challenger as above provided” or “refus[ing] or fail[ing] to provide such challenger with conveniences for the performance of the duties expected of him.”

Rule 168.214(3)(n)-(o)

87. Rule 168.214(3)(n) provides that “[i]f serving in an early voting site or polling place where ballots are being issued, [challengers have the right to] stand behind the processing table and intermittently move close enough to view the pollbook as ballots are issued to voters and the voters’ names are entered into the pollbook, so long as the challenger does not touch or handle the pollbook or otherwise interfere with the work of the election inspectors.”

88. Similarly Rule 168.214(3)(o) provides that “[i]f serving at an absent voter ballot processing facility, [challengers have the right to] stand in a location where the tabulation of absent

voter ballots can be observed, or stand in a location where the challenger can intermittently move close enough to view the entry of the names of voters whose ballots are being processed into the pollbook, so long as the challenger does not touch or handle any election-related materials.”

89. Both rules restrict challengers to standing in a space there they can “intermittently move close enough” to “view the pollbook as ballots are issued to voters and the voters’ names are entered into the pollbook” (in an early voting site or polling place) or to “view the entry of the names of voters whose ballots are being processed into the pollbook” (in an absent voter ballot processing facility). See Rule 168.214(3)(n)-(o).

90. The term “intermittently” is vague and ambiguous and, by giving significant subjective latitude to election inspectors and clerks’ staff as to when a challenger can view the information that Michigan law otherwise grants challengers the right to see, creates the potential that challengers will be precluded from fulfilling their statutory duties and exercising their rights under Michigan law.

91. Indeed, although Rule 168.214(3)(n)-(o) limit challengers to “intermittently” viewing the pollbook and/or tabulation of ballots (or other election procedures), the Michigan Election Law contains no such limitation. In fact, MCL 168.733 does not place any temporal, frequency-based, or location-based limits on a challenger’s right to “inspect without handling the poll books as ballots are issued to electors and the electors’ names being entered in the poll book.” MCL 168.733(1)(a).¹⁸ Nor does MCL 168.733 limit a challenger’s right to “observe the election procedure,” “[o]bserve the manner in which the duties of the election inspectors are being

¹⁸ The only limit to this right is that a challenger can only inspect the poll books “[u]nder the scrutiny of an election inspector.” MCL 168.733(1)(a).

performed,” “[e]xamine without handling each ballot as it is being counted,” or “[o]bserve the recording of absent voter ballots on voting machines.” MCL 168.733(1).

92. To the contrary, rather than limiting the space within which a challenger can operate, the Michigan Election Law mandates that “[t]he board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” and that “[t]he board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots.” MCL 168.733(1)-(2) (emphasis added). Likewise, MCL 168.733(3) requires that “[t]he election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.” (emphasis added).

93. Rule 168.214(n)-(o)’s attempt to limit a challenger’s right to view the poll book or any other election procedure thus conflicts with MCL 168.733(1)-(2).

94. It also conflicts with MCL 168.734, which prohibits “prevent[ing] the presence of any such challenger as above provided” or “refus[ing] or fail[ing] to provide such challenger with conveniences for the performance of the duties expected of him.”

Rule 168.214(4)(c), (h)

95. Rule 168.214(4)(c) provides that a challenger shall not “[c]ontinuously stand in close proximity to election inspectors in a way a reasonable individual could find intimidating.”

96. Rule 168.214(4)(h) provides that a challenger shall not “[s]tand so close to the pollbook or other materials that the challenger’s proximity to those materials interferes with the election inspectors’ ability to perform the election inspectors’ duties.”

97. By placing limits on whether and for how long a challenger can stand in close proximity to an election inspector—something that is often required to meaningfully observe the

entry of information in a poll book or the processing of a ballot—Rule 168.214(4)(c) and (h) yet again prioritize the convenience of the clerk staff and election inspectors at the expense of the rights of challengers and their credentialing organization.

98. The Michigan Election Law contains no such limitation. Indeed, MCL 168.733 does not place any temporal, frequency-based, or location-based limits on a challenger’s right to “inspect without handling the poll books as ballots are issued to electors and the electors’ names being entered in the poll book.” MCL 168.733(1)(a).¹⁹ Nor does MCL 168.733 limit a challenger’s right to “observe the election procedure,” “[o]bserve the manner in which the duties of the election inspectors are being performed,” “[e]xamine without handling each ballot as it is being counted,” or “[o]bserve the recording of absent voter ballots on voting machines.” MCL 168.733(1).

99. Further, Rule 168.214(4)(c) and (h) represent the exact opposite of the approach taken by the Legislature. Rather than limiting the space within which a challenger can operate, the Michigan Election Law mandates that “[t]he board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” and that “[t]he board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots.” MCL 168.733(1)-(2) (emphasis added). Likewise, MCL 168.733(3) requires that “[t]he election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.”

¹⁹ The only limit to this right is that a challenger can only inspect the poll books “[u]nder the scrutiny of an election inspector.” MCL 168.733(1)(a).

100. Rule 168.214(4)(c) and (h)'s attempt to limit a challenger's right to view the poll book or any other election procedure and to prevent challengers from closely scrutinizing election inspectors in the performance of their duties thus conflicts with MCL 168.733(1)-(2).

101. It also conflicts with MCL 168.734, which prohibits "prevent[ing] the presence of any such challenger as above provided" or "refus[ing] or fail[ing] to provide such challenger with conveniences for the performance of the duties expected of him."

Rule 168.214(4)(m) and (5)

102. Rule 168.214(4)(m) provides that a challenger shall not "[s]et up a table or other furniture in the early voting site or polling place."

103. Rule 168.214(5) provides that "A challenger may request and be provided with a chair to use when conducting challenger activities, so long as the provision of the chair does not interfere with the orderly conduct of elections" and that "[t]he placement of the chair is at the discretion of the challenger liaison or clerk."

104. These rules prohibit challengers who cannot stand for long periods of time for whatever reason—age, disability, fatigue, etc.—from bringing their own chairs (or other seating implements). They also give wide latitude to the challenger or liaison or clerk to refuse to provide challengers with a chair.

105. These rules thus conflict with MCL 168.733(4)'s requirement that "[t]he election inspectors and other election officials on duty *shall protect* a challenger in the discharge of his or her duties." MCL 168.733(4).

106. And, by prohibiting challengers from bringing their own seating and allowing clerks and election inspectors to refuse to provide challengers with a chair, Rule 168.214(4)(m) and Rule 168.214 (5) both conflict with MCL 168.734, which prohibits "prevent[ing] the presence

of any such challenger as above provided” or “refus[ing] or fail[ing] to provide such challenger with conveniences for the performance of the duties expected of him.”

Defendants’ Challenger Regulations Violate the Michigan Constitution

107. Under the Constitution, “[n]o person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.” Const 1963, art 3, § 2. Article II, § 4(2) commands “the legislature shall” enact laws “to preserve the purity of elections . . . [and] to guard against abuses of the elective franchise.” To fulfill this command and its role as Michigan’s legislature, see Article IV, § 1 (“the legislative power of the State of Michigan is vested in a senate and a house of representatives”), the Legislature enacted statutes giving challengers the right to observe election processes and requiring election officials to ensure that those challengers have everything they need to perform their duties and exercise their rights as granted under law. See MCL 168.730-734.

108. The Secretary has promulgated regulations contrary to the Michigan Election Law and has thereby violated the statutory rights afforded to challengers and challenger-credentialing organizations. See, e.g., MCL 168.730; MCL 168.732; MCL 168.733; MCL 168.734. By enacting instructions contrary to the Michigan Election Law, the Secretary has usurped the Legislature’s power for her own, thereby violating Article II, § 4(2).

109. Further, the Secretary’s seizing of the Legislature’s power has also upset the purity of elections clause, which commands the Legislature to “enact laws . . . to preserve the purity of elections.” Const 1963, art 2, § 4(2). The Legislature has enacted laws to safeguard the purity of elections—for example by expressly granting rights to challengers and challenger-credentialing organizations under MCL 168.730, MCL 168.732, MCL 168.733, and MCL 168.734—but the Secretary has undone those laws and, by doing so, injected impurities into our elections. Accordingly, she has violated the Purity of Elections Clause.

110. The Secretary's Challenger Regulations infringe all of the Plaintiffs' right to a fair and constitutional election and also infringe on the Republican Committees (and their associated challengers) statutory rights under the Michigan Election Law. The Challenger Regulations also place Plaintiffs at a crossroads; either they must follow the Michigan Election Law, or they must follow the conflicting requirements of the Secretary's binding administrative rules. Accordingly, Plaintiffs seek a declaration from this Court clarifying the law and holding that the Secretary's Challenger Regulations are contrary to the Michigan Election Law and/or unconstitutional.

**COUNT I: REQUEST FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF
RULE 168.205 CONFLICTS WITH THE MICHIGAN ELECTION LAW**

111. Plaintiffs incorporate the allegations of the foregoing paragraphs as if fully stated herein.

112. Under MCR 2.605(A)(1), "[i]n a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment[.]"

113. MCL 168.733(1)-(2) gives challengers the right to "[b]ring to an election inspector's attention" improper ballot handling, illegal campaigning, or violations of the election laws or procedures. And MCL 168.734 requires election officials to provide challengers with the "conveniences" necessary "for the performance of the duties expected of [them]."

114. Rule 168.205(2) violates these requirements by creating the role of "challenger liaison" and prohibiting challengers from "communicat[ing] with election inspectors other than the challenger liaison or the challenger liaison's designee."

115. Rule 168.205(4) likewise conflicts with the Michigan Election Law by allowing clerks to designate a "single election inspector...as the challenger liaison" where "multiple precincts or absent voter counting boards are included in a single location." Rule 168.205(4).

116. Combined absent voter counting boards (also known as absent voter ballot processing facilities) frequently feature a size or layout that renders it impossible both for a single challenger liaison to effectively communicate with all of the credentialed challengers across multiple precincts, and for the challengers to communicate with anyone else to “[b]ring to an election inspector’s attention” improper ballot handling, illegal campaigning, or violations of the election laws or procedures. MCL 168.733.

117. By allowing large AVCBs to appoint a single challenger liaison to serve as the sole point of contact for every challenger credentialed at that location—which, again, serves multiple precincts—Rule 168.20 thus violates both MCL 168.733(1)-(2) by effectively preventing challengers from “[b]ring[ing] to an election inspector’s attention” improper ballot handling, illegal campaigning, or violations of the election laws or procedures, and MCL 168.734 by denying challengers the “conveniences” necessary “for the performance of the duties expected of [them].”

118. Political Parties like the Republican Committees, local clerks like Clerk Berry, and challengers like McCall—and the Secretary of State—are all required to follow the law, including the provisions of the Michigan Election Law relating to challengers.

119. At the same time, Plaintiffs are also bound to follow the Challenger Regulations, including Rule 168.205. See *True Care Physical Therapy, PLLC v Auto Club Group Ins Co*, 347 Mich App 168, 186; 14 NW3d 456 (2023) (“When an agency adopts a rule in accordance with the APA, it is considered a ‘legislative rule’ and has the force and effect of law.”).

120. In the event of a conflict between Rule 168.205 and the Michigan Election Law, the provisions of the Michigan Election Law control and the conflicting provisions of Rule 168.205 are invalid. *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161,

975 NW2d 52 (2021) (“When an administrative rule conflicts with a statute, the statute controls.”); *Guardian Indus Corp v Dept of Treasury*, 243 Mich App 244, 254; 621 NW2d 450 (2000) (Administrative rules like the Challenger Regulations “are invalid when they conflict with the governing statute, extend or modify the statute.”).

121. The dissonance between Rule 168.205 and the provisions of the Michigan Election Law creates confusion, disorder, and strife because Plaintiffs are subjected to two incompatible legal authorities.

122. Injunctive and declaratory relief under MCR 2.605 are necessary to remedy the confusion. Without declaratory relief from this Court, Plaintiffs will be stuck with the Secretary’s facially illegal Challenger Regulations, denied their rights under the Michigan Election Law, and forced to choose between following the Election Law or the Secretary’s conflicting Challenger Regulations.

123. A current and ripe case or controversy between the parties is therefore clearly present here. And declaratory relief is proper because Plaintiffs lack an adequate remedy at law to enforce the provisions of the Michigan Election Law, which have been and will continue to be violated by the unlawful acts such as are caused by Challenger Regulations.

COUNT II: REQUEST FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF THAT RULE 168.206(4) CONFLICTS WITH THE MICHIGAN ELECTION LAW

124. Plaintiffs incorporate the allegations of the foregoing paragraphs as if fully stated herein.

125. Under MCR 2.605(A)(1), “[i]n a case of actual controversy within its jurisdiction, a Michigan court of record may declare the rights and other legal relations of an interested party seeking a declaratory judgment[.]”

126. MCL 168.730(1) gives challenger-credentialing organizations like the Republican Committees the right to designate “not more than 2 challengers to serve in a precinct at any 1 time” and “not more than 1 challenger to serve at each counting board.” And the only allowable exceptions are “as otherwise provided in this act.” See MCL 168.765a(14) (identifying the number of challengers allowable during pre-Election Day processing and tabulation of absent voter ballots).

127. Rule 168.206(4) conflicts with MCL 168.730(1) by allowing situations in which a challenger-credentialing organization will be prevented from exercising their right to credential 2 challengers for a single location “at any 1 time”—or from credentialing at least one challenger “at each counting board” (including each counting board at a combined absent voter ballot processing facility).

128. Further, by allowing clerks to use facilities as polling places or absent voter ballot processing facilities that “cannot accommodate the total number of challengers contemplated in [MCL 168.730(1)],” Rule 168.206(4) conflicts with not only MCL 168.730(1), but also MCL 168.733(1)’s mandate that “[t]he board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” as well as MCL 168.733(2)’s mandate that “The board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots.” (emphasis added).

129. By infringing on challenger-credentialing organizations’ right to appoint the number of challengers articulated in MCL 168.730(1) and allowing the use of facilities that have insufficient space for those challengers to perform their duties, Rule 168.206(4) also conflicts with MCL 168.733(3) (“The election inspectors and other election officials on duty shall protect

a challenger in the discharge of his or her duties.”) and MCL 168.734 (making it a crime to “prevent the presence of any such challenger as above provided” or to “refuse or fail provide such challenger with conveniences for the performance of the duties expected of him.”).

130. Given the conflicts between Rule 168.206(4) and the Michigan Election Law, the provisions of the Michigan Election Law control and the conflicting provisions of Rule 168.206(4) are invalid. *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161, 975 NW2d 52 (2021) (“When an administrative rule conflicts with a statute, the statute controls.”); *Guardian Indus Corp v Dept of Treasury*, 243 Mich App 244, 254; 621 NW2d 450 (2000) (Administrative rules like the Challenger Regulations “are invalid when they conflict with the governing statute, extend or modify the statute.”).

131. The dissonance between Rule 168.206(4) and the provisions of the Michigan Election Law creates confusion, disorder, and strife because Plaintiffs are subjected to two incompatible legal authorities.

132. Injunctive and declaratory relief under MCR 2.605 are necessary to remedy the confusion. Without declaratory relief from this Court, Plaintiffs will be stuck with the Secretary’s facially illegal Challenger Regulations and Plaintiffs will be denied their rights under the Michigan Election Law and forced to choose between following the Election Law or the Secretary’s conflicting Challenger Regulations.

133. A current and ripe case or controversy between the parties is therefore clearly present here. And declaratory relief is proper because Plaintiffs lack an adequate remedy at law to enforce the provisions of the Michigan Election Law, which have been and will continue to be violated by the unlawful acts such as are caused by the Challenger Regulations.

**COUNT III: REQUEST FOR DECLARATORY JUDGMENT AND INJUNCTIVE
RELIEF THAT RULE 168.206(5) CONFLICTS WITH THE MICHIGAN ELECTION
LAW**

134. Plaintiffs incorporate the allegations of the foregoing paragraphs as if fully stated herein.

135. MCL 168.730(1) gives challenger-credentialing organizations like the Republican Committees the right to designate “not more than 1 challenger to serve at each counting board” at a combined AVCB or absent voter processing facility. The only statutory exception is for absent voter ballot processing and tabulation occurring before election day, in which case a credentialing organization can appoint one challenger for every 8 election inspectors (and, if there are fewer than 8 election inspectors, at least one challenger).

136. To the extent Rule 168.206(5) allows a clerk to permit less than 1 challenger to be credentialed per organization at an absent voter ballot processing facility on Election Day, it conflicts with MCL 168.730(1) by allowing situations in which a challenger-credentialing organization will be prevented from exercising their right to credential “1 challenger to serve at each counting board” at an absent voter ballot processing facility.

137. Rule 168.206(5) also conflicts with MCL 168.765a(14) because it allows clerks to reduce the number of challengers that a credentialing organization is entitled to appoint below the statutory threshold set by MCL 168.765a, and because it could give rise to situations where a credentialing organization is prohibited from having any challengers in a facility tabulating absent voter ballots before election day because there are more challenger credentialing organizations than challengers allowed by the clerk pursuant to Rule 168.206(5).

138. Further, by allowing clerks to use facilities as absent voter ballot processing facilities that “cannot accommodate the total number of challengers contemplated in [MCL

168.730(1) or MCL 168.765a(14)],” Rule 168.206(5) conflicts with not only those statutes, but also MCL 168.733(1)’s mandate that “[t]he board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” as well as MCL 168.733(2)’s mandate that “[t]he board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots.” (emphasis added).

139. By infringing on challenger-credentialing organizations’ right to appoint the number of challengers articulated in MCL 168.730(1) and MCL 168.765a(14) and allowing the use of facilities that have insufficient space for those statutorily authorized challengers to perform their duties, Rule 168.206(5) also conflicts with MCL 168.733(3) (“The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.”) and MCL 168.734 (making it a crime to “prevent the presence of any such challenger as above provided” or to “refuse or fail provide such challenger with conveniences for the performance of the duties expected of him.”)

140. Given the conflicts between Rule 168.206(5) and the Michigan Election Law, the provisions of the Michigan Election Law control and the conflicting provisions of Rule 168.206(5) are invalid. *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161, 975 NW2d 52 (2021) (“When an administrative rule conflicts with a statute, the statute controls.”); *Guardian Indus Corp v Dept of Treasury*, 243 Mich App 244, 254; 621 NW2d 450 (2000) (Administrative rules like the Challenger Regulations “are invalid when they conflict with the governing statute, extend or modify the statute.”).

141. The dissonance between Rule 168.206(5) and the provisions of the Michigan Election Law creates confusion, disorder, and strife because Plaintiffs are subjected to two incompatible legal authorities.

142. Injunctive and declaratory relief under MCR 2.605 are necessary to remedy the confusion. Without declaratory relief from this Court, Plaintiffs will be stuck with the Secretary's facially illegal Challenger Regulations and Plaintiffs will be denied their rights under the Michigan Election Law and forced to choose between following the Election Law or the Secretary's conflicting Challenger Regulations.

143. A current and ripe case or controversy between the parties is therefore clearly present here. And declaratory relief is proper because Plaintiffs lack an adequate remedy at law to enforce the provisions of the Michigan Election Law, which have been and will continue to be violated by the unlawful acts such as are caused by the Challenger Regulations.

COUNT IV: REQUEST FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF THAT RULE 168.206(5) CONFLICTS WITH THE MICHIGAN ELECTION LAW

144. Plaintiffs incorporate the allegations of the foregoing paragraphs as if fully stated herein.

145. MCL 168.730(1) gives challenger-credentialing organizations like the Republican Committees the right to "designate not more than 2 challengers to serve in a precinct at any 1 time" and to "designate not more than 1 challenger to serve at each counting board."

146. Rule 168.206(6) conflicts with that requirement by giving the clerk's office staff and election inspectors discretion to prevent challenger-credentialing organizations like the Republican Committees from replacing challengers who "leave[] a location where the challenger is credentialed to serve."

147. The ability to replace—or switch out—challengers is crucial to the election integrity efforts of the Republican Committees. For example, the polls are open on Election Day from 7:00am to 8:00pm, and challengers have the right to be present during that time, as well as during the opening and closing of the polls. So, the time that challengers need to be present can extend far beyond 12 hours. For example, during the November 2024 election, at least one absent voter ballot processing facility was still tabulating ballots 24 hours after processing and tabulation began on Election Day. The need to replace challengers can arise because a challenger needs to leave for personal or health reasons, because there is a situation that requires the presence of an experienced challenger (or a challenger who is a licensed attorney), because of challenger misconduct, or even just because the processing and tabulation can run long periods of time.

148. By giving clerk’s office staff or election inspectors discretion to prevent challenger-credentialing organizations from replacing or switching-out challengers, Rule 168.206(6) conflicts with MCL 168.730(1), which provides that a challenger-credentialing organization like the Michigan Republican Party has the right to “designate not more than 2 challengers to serve in a precinct at any 1 time” and to “designate not more than 1 challenger to serve at each counting board.”

149. Further, Rule 168.206(6) conflicts with MCL 168.733(1)’s mandate that “[t]he board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” as well as MCL 168.733(2)’s mandate that “The board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots.” (emphasis added).

150. By infringing on challenger-credentialing organizations' right to appoint replacement challengers as contemplated in MCL 168.730(1) and MCL 168.765a(14), Rule 168.206(6) also conflicts with MCL 168.733(3) ("The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.") and MCL 168.734 (making it a crime to "prevent the presence of any such challenger as above provided" or to "refuse or fail provide such challenger with conveniences for the performance of the duties expected of him.").

151. Given the conflicts between Rule 168.206(6) and the Michigan Election Law, the provisions of the Michigan Election Law control and the conflicting provisions of Rule 168.206(6) are invalid. *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161, 975 NW2d 52 (2021) ("When an administrative rule conflicts with a statute, the statute controls."); *Guardian Indus Corp v Dept of Treasury*, 243 Mich App 244, 254; 621 NW2d 450 (2000) (Administrative rules like the Challenger Regulations "are invalid when they conflict with the governing statute, extend or modify the statute.").

152. The dissonance between Rule 168.206(6) and the provisions of the Michigan Election Law creates confusion, disorder, and strife because Plaintiffs are subjected to two incompatible legal authorities.

153. Injunctive and declaratory relief under MCR 2.605 are necessary to remedy the confusion. Without declaratory relief from this Court, Plaintiffs will be stuck with the Secretary's facially illegal Challenger Regulations and Plaintiffs will be denied their rights under the Michigan Election Law and forced to choose between following the Election Law or the Secretary's conflicting Challenger Regulations.

154. A current and ripe case or controversy between the parties is therefore clearly present here. And declaratory relief is proper because Plaintiffs lack an adequate remedy at law to enforce the provisions of the Michigan Election Law, which have been and will continue to be violated by the unlawful acts such as are caused by the Challenger Regulations.

COUNT V: REQUEST FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF THAT RULE 168.214(3)(G) CONFLICTS WITH THE MICHIGAN ELECTION LAW

155. Plaintiffs incorporate the allegations of the foregoing paragraphs as if fully stated herein.

156. MCL 168.733 gives challengers the right to “observe the election procedure,” “[o]bserve the manner in which the duties of the election inspectors are being performed,” “[e]xamine without handling each ballot as it is being counted,” or “[o]bserve the recording of absent voter ballots on voting machines” MCL 168.733(1).

157. MCL 168.733 does not place any conditions or restrictions on the challengers to perform those duties. Rather, the statute mandates that “[t]he board of election inspectors ***shall provide space*** for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” and that “[t]he board of election inspectors ***shall provide space*** for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots.” MCL 168.733(1)-(2) (emphasis added). Further, the Legislature requires that “election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.” MCL 168.733(3).

158. Rule 168.214(3)(g) conflicts with the provisions of MCL 168.733 by limiting a credentialed challengers right to “[o]bserve the election process” to being able to do so from “a

reasonable distance” and conditioning a challenger’s ability to observe on the “election inspectors hav[ing] sufficient room to perform the election inspectors’ duties.”

159. The term “reasonable distance” is vague and ambiguous and, by giving significant subjective latitude to election inspectors and clerks’ staff as to the distance from a challenger can be forced to view the information that Michigan law grants challengers the right to see, creates the potential that challengers will be precluded from fulfilling their statutory duties and exercising their rights under Michigan law. That is especially true where the performance of a challenger’s duties requires the challenger to be in close proximity such that they are able to read the text on a ballot—e.g., if observing election inspectors duplicating a ballot at an AVCB—or the text on a computer screen—e.g., if observing election inspectors handle the electronic pollbook while issuing ballots to voters at a polling location or early voting facility.

160. By cabining a challenger’s observational rights to a “reasonable distance,” Rule 168.214(3)(g) conflicts with MCL 168.733.

161. Rule 168.214(3)(g) also conflicts with the board of election inspector’s obligation to “provide space” that enables each challenger at a polling location or AVCB to perform their statutory duties. See MCL 168.733(1)-(2).

162. Further, by prioritizing the convenience of the clerk staff and election inspectors at the expense of the rights of challengers and their credentialing organization, Rule 168.214(3)(g) also conflicts with MCL 168.733(3) (“The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.”) and MCL 168.734 (making it a crime to “prevent the presence of any such challenger as above provided” or to “refuse or fail provide such challenger with conveniences for the performance of the duties expected of him.”).

163. Given the conflicts between Rule 168.214(3)(g) and the Michigan Election Law, the provisions of the Michigan Election Law control and the conflicting provisions of Rule 168.206(6) are invalid. *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161, 975 NW2d 52 (2021) (“When an administrative rule conflicts with a statute, the statute controls.”); *Guardian Indus Corp v Dept of Treasury*, 243 Mich App 244, 254; 621 NW2d 450 (2000) (Administrative rules like the Challenger Regulations “are invalid when they conflict with the governing statute, extend or modify the statute.”).

164. The dissonance between Rule 168.214(3)(g) and the provisions of the Michigan Election Law creates confusion, disorder, and strife because Plaintiffs are subjected to two incompatible legal authorities.

165. Injunctive and declaratory relief under MCR 2.605 are necessary to remedy the confusion. Without declaratory relief from this Court, Plaintiffs will be stuck with the Secretary’s facially illegal Challenger Regulations and Plaintiffs will be denied their rights under the Michigan Election Law and forced to choose between following the Election Law or the Secretary’s conflicting Challenger Regulations.

166. A current and ripe case or controversy between the parties is therefore clearly present here. And declaratory relief is proper because Plaintiffs lack an adequate remedy at law to enforce the provisions of the Michigan Election Law, which have been and will continue to be violated by the unlawful acts such as are caused by the Challenger Regulations.

COUNT VI: REQUEST FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF THAT RULE 168.214(3)(N)-(O) CONFLICTS WITH THE MICHIGAN ELECTION LAW

167. Plaintiffs incorporate the allegations of the foregoing paragraphs as if fully stated herein.

168. MCL 168.733 gives challengers the right to “inspect without handling the poll books as ballots are issued to electors and the electors' names being entered in the poll book.” MCL 168.733(1)(a). It also gives challengers the right to “observe the election procedure,” “[o]bserve the manner in which the duties of the election inspectors are being performed,” “[e]xamine without handling each ballot as it is being counted,” or “[o]bserve the recording of absent voter ballots on voting machines” MCL 168.733(1).

169. MCL 168.733 does not place any temporal, frequency-based, or location-based restrictions on the challengers’ ability to perform those duties. Rather, the statute mandates that “[t]he board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” and that “[t]he board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots.” MCL 168.733(1)-(2) (emphasis added). Further, the Legislature requires that “election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.” MCL 168.733(3).

170. Rule 168.214(3)(n) conflicts with the provisions of MCL 168.733 by only allowing challengers at polling places to “intermittently move close enough to view the pollbook as ballots are issued to voters and the voters’ names are entered into the pollbook.” Similarly, Rule 168.214(3)(o) conflicts with the provisions of MCL 168.733 by only allowing challengers at an absent voter ballot processing facility to “intermittently move close enough to view the entry of the names of voters whose ballots are being processed into the pollbook” or observe “the observe the tabulation of absent voter ballots.”

171. The term “intermittently” is vague and ambiguous and, by giving significant subjective latitude to election inspectors and clerks’ staff as to when a challenger can view the information that Michigan law otherwise grants challengers the right to see, creates the potential that challengers will be precluded from fulfilling their statutory duties and exercising their rights under Michigan law. That is especially true where the performance of a challenger’s duties requires the challenger to be in close proximity for enough time that they are able to read the text on a ballot—e.g., if observing election inspectors duplicating a ballot at an AVCB—or the text on a computer screen—e.g., if observing election inspectors handle the electronic pollbook while issuing ballots to voters at a polling location or early voting facility.

172. By only allowing challengers to “intermittently” stand close enough to view the poll book or absent voter ballots being tabulated, Rule 168.214(3)(n) and (o) conflict with MCL 168.733. Again, MCL 168.733 does not say that challengers can only view some ballots as they’re tabulated, or that challengers may only view a select number of names being entered into the poll book. Rather, the statute gives challengers the right to “[e]xamine...each ballot as it is being counted” and “inspect...the poll books as ballots are issued to electors and the electors’ names being entered in the poll book.” MCL 168.733(1)(a), (g).

173. Rule 168.214(3)(n)-(o) also conflicts with the board of election inspector’s obligation to “provide space” that enables each challenger at a polling location or AVCB to perform their statutory duties. See MCL 168.733(1)-(2).

174. Further, by prioritizing the convenience of the clerk staff and election inspectors at the expense of the rights of challengers and their credentialing organization, Rule 168.214(3)(n)-(o) also conflict with MCL 168.733(3) (“The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.”) and MCL 168.734 (making

it a crime to “prevent the presence of any such challenger as above provided” or to “refuse or fail provide such challenger with conveniences for the performance of the duties expected of him.”).

175. Given the conflicts between Rule 168.214(3)(n)-(o) and the Michigan Election Law, the provisions of the Michigan Election Law control and the conflicting provisions of Rule 168.214(3)(n)-(o) are invalid. *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161, 975 NW2d 52 (2021) (“When an administrative rule conflicts with a statute, the statute controls.”); *Guardian Indus Corp v Dept of Treasury*, 243 Mich App 244, 254; 621 NW2d 450 (2000) (Administrative rules like the Challenger Regulations “are invalid when they conflict with the governing statute, extend or modify the statute.”).

176. The dissonance between Rule 168.214(3)(n)-(o) and the provisions of the Michigan Election Law creates confusion, disorder, and strife because Plaintiffs are subjected to two incompatible legal authorities.

177. Injunctive and declaratory relief under MCR 2.605 are necessary to remedy the confusion. Without declaratory relief from this Court, Plaintiffs will be stuck with the Secretary’s facially illegal Challenger Regulations and Plaintiffs will be denied their rights under the Michigan Election Law and forced to choose between following the Election Law or the Secretary’s conflicting Challenger Regulations.

178. A current and ripe case or controversy between the parties is therefore clearly present here. And declaratory relief is proper because Plaintiffs lack an adequate remedy at law to enforce the provisions of the Michigan Election Law, which have been and will continue to be violated by the unlawful acts such as are caused by the Challenger Regulations.

**COUNT VII: REQUEST FOR DECLARATORY JUDGMENT AND INJUNCTIVE
RELIEF THAT RULE 168.214(4)(C) AND (H) CONFLICTS WITH THE MICHIGAN
ELECTION LAW**

179. Plaintiffs incorporate the allegations of the foregoing paragraphs as if fully stated herein.

180. MCL 168.733 gives challengers the right to “inspect without handling the poll books as ballots are issued to electors and the electors' names being entered in the poll book.” MCL 168.733(1)(a). It also gives challengers the right to “observe the election procedure,” “[o]bserve the manner in which the duties of the election inspectors are being performed,” “[e]xamine without handling each ballot as it is being counted,” or “[o]bserve the recording of absent voter ballots on voting machines” MCL 168.733(1).

181. MCL 168.733 does not place any temporal, frequency-based, or location-based restrictions on the challengers’ ability to perform those duties. Rather, the statute mandates that “[t]he board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” and that “[t]he board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots.” MCL 168.733(1)-(2) (emphasis added). Further, the Legislature requires that “election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.” MCL 168.733(3).

182. Rule 168.214(4)(c) conflicts with the provisions of MCL 168.733 by prohibiting challengers from “[c]ontinuously stand[ing] in close proximity to election inspectors in a way a reasonable individual could find intimidating.” Similarly, Rule 168.214(4)(h) conflicts with the provisions of MCL 168.733 by prohibiting challengers from “[s]tand[ing] so close to the pollbook

or other materials that the challenger’s proximity to those materials interferes with the election inspectors’ ability to perform the election inspectors’ duties.”

183. The term “continuously” is vague and ambiguous and, by giving significant subjective latitude to election inspectors and clerks’ staff as to when a challenger can view the information that Michigan law otherwise grants challengers the right to see, creates the potential that challengers will be precluded from fulfilling their statutory duties and exercising their rights under Michigan law. That is especially true where the performance of a challenger’s duties requires the challenger to be in close proximity for enough time that they are able to read the text on a ballot—e.g., if observing election inspectors duplicating a ballot at an AVCB—or the text on a computer screen—e.g., if observing election inspectors handle the electronic pollbook while issuing ballots to voters at a polling location or early voting facility.

184. To be clear, challengers should never threaten, intimidate, or interfere with an election official. But limiting a challenger’s rights to observe the election procedure, observe the poll book, observe each person applying to vote, or observe the counting of the ballots based on the subjective *feeling* of an election inspector in the absence of any objective threat, intimidation, or interference violates the rights granted to challengers under Michigan law by the Legislature. If an election inspector is intimidated by the mere presence of a challenger exercising the rights expressly granted to them under Michigan law, then the problem lies with the election inspector—not the challenger.

185. By prohibiting challengers from “continuously” standing close enough to view the poll book or absent voter ballots being tabulated and otherwise limiting whether and for how long a challenger can stand in close proximity to an election inspector—something that is often required to meaningfully observe the entry of information in a poll book or the processing of a ballot—Rule

168.214(4)(c) and (h) conflict with MCL 168.733. Again, MCL 168.733 does not say that challengers can only periodically swoop in to view some (but not all) ballots as they're tabulated, or that challengers may only view a select number of names being entered into the poll book. Rather, the statute gives challengers the right to "[e]xamine...each ballot as it is being counted" and "inspect...the poll books as ballots are issued to electors and the electors' names being entered in the poll book." MCL 168.733(1)(a), (g).

186. Rule 168.214(4)(c) and (h) also conflict with the board of election inspector's obligation to "provide space" that enables each challenger at a polling location or AVCB to perform their statutory duties. See MCL 168.733(1)-(2).

187. Further, by prioritizing the convenience of the clerk staff and election inspectors at the expense of the rights of challengers and their credentialing organization, Rule 168.214(4)(c) and (h) also conflict with MCL 168.733(3) ("The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.") and MCL 168.734 (making it a crime to "prevent the presence of any such challenger as above provided" or to "refuse or fail provide such challenger with conveniences for the performance of the duties expected of him.").

188. Given the conflicts between Rule 168.214(4)(c) and (h) and the Michigan Election Law, the provisions of the Michigan Election Law control and the conflicting provisions of Rule 168.214(4)(c) and (h) are invalid. *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161, 975 NW2d 52 (2021) ("When an administrative rule conflicts with a statute, the statute controls."); *Guardian Indus Corp v Dept of Treasury*, 243 Mich App 244, 254; 621 NW2d 450 (2000) (Administrative rules like the Challenger Regulations "are invalid when they conflict with the governing statute, extend or modify the statute.").

189. The dissonance between Rule 168.214(4)(c) and (h) and the provisions of the Michigan Election Law creates confusion, disorder, and strife because Plaintiffs are subjected to two incompatible legal authorities.

190. Injunctive and declaratory relief under MCR 2.605 are necessary to remedy the confusion. Without declaratory relief from this Court, Plaintiffs will be stuck with the Secretary's facially illegal Challenger Regulations and Plaintiffs will be denied their rights under the Michigan Election Law and forced to choose between following the Election Law or the Secretary's conflicting Challenger Regulations.

191. A current and ripe case or controversy between the parties is therefore clearly present here. And declaratory relief is proper because Plaintiffs lack an adequate remedy at law to enforce the provisions of the Michigan Election Law, which have been and will continue to be violated by the unlawful acts such as are caused by the Challenger Regulations.

COUNT VIII: REQUEST FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF THAT RULE 168.214(4)(M) AND RULE 168.214(5) CONFLICT WITH THE MICHIGAN ELECTION LAW

192. Plaintiffs incorporate the allegations of the foregoing paragraphs as if fully stated herein.

193. MCL 168.733 mandates that “[t]he board of election inspectors shall provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote,” and that “[t]he board of election inspectors shall provide space for each challenger, if any, at each counting board that enables the challengers to observe the counting of the ballots.” MCL 168.733(1)-(2) (emphasis added).

194. The Legislature requires that “election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties.” MCL 168.733(3).

195. Further, Michigan Election Law makes it a crime to “prevent the presence of any such challenger as above provided” and to “refuse or fail to provide such challenger with conveniences for the performance of the duties expected of him.” MCL 168.734.

196. By preventing challengers from bringing their seating while simultaneously giving clerks and challenger liaisons discretionary latitude to refuse to provide challengers with a chair, Rule 168.214(4)(m) and (5) conflict with MCL 168.733(4)’s requirement that “[t]he election inspectors and other election officials on duty *shall protect* a challenger in the discharge of his or her duties.” MCL 168.733(4).

197. Rule 168.214(4)(m) and (5) also conflict MCL 168.734’s prohibition on “refus[ing] or fail[ing] to provide such challenger with conveniences for the performance of the duties expected of him.”

198. Given the conflicts between Rule 168.214(4)(m) and (5) and the Michigan Election Law, the provisions of the Michigan Election Law control and the conflicting provisions of Rule 168.214(4)(m) and (5) are invalid. *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161, 975 NW2d 52 (2021) (“When an administrative rule conflicts with a statute, the statute controls.”); *Guardian Indus Corp v Dept of Treasury*, 243 Mich App 244, 254; 621 NW2d 450 (2000) (Administrative rules like the Challenger Regulations “are invalid when they conflict with the governing statute, extend or modify the statute.”).

199. The dissonance between Rule 168.214(4)(m) and (5) and the provisions of the Michigan Election Law creates confusion, disorder, and strife because Plaintiffs are subjected to two incompatible legal authorities.

200. Injunctive and declaratory relief under MCR 2.605 are necessary to remedy the confusion. Without declaratory relief from this Court, Plaintiffs will be stuck with the Secretary’s

facially illegal Challenger Regulations and Plaintiffs will be denied their rights under the Michigan Election Law and forced to choose between following the Election Law or the Secretary's conflicting Challenger Regulations.

201. A current and ripe case or controversy between the parties is therefore clearly present here. And declaratory relief is proper because Plaintiffs lack an adequate remedy at law to enforce the provisions of the Michigan Election Law, which have been and will continue to be violated by the unlawful acts such as are caused by the Challenger Regulations.

**COUNT IX: REQUEST FOR DECLARATORY
RELIEF THAT THE CHALLENGER REGULATIONS ARE
ULTRA VIRES BECAUSE THEY GOES BEYOND MICHIGAN ELECTION LAW**

202. Plaintiffs incorporate the allegations of the foregoing paragraphs as if fully stated herein.

203. The Michigan Election Law gives political parties the right to appoint and credential up to 2 challengers at polling locations at any 1 time, as well as the right to appoint 1 challenger per absent voter ballot counting board. See MCL 168.730(1); MCL 168.732.

204. The Michigan Election Law also expressly grants challengers a series of rights under the Michigan Election Law, including the right to “[o]bserve the manner in which the duties of the election inspectors are being performed,” the right to “[c]hallenge the voting rights of a person who the challenger has good reason to believe is not a registered elector,” and the right to “[c]hallenge an election procedure that is not being properly performed.” MCL 168.733(1)-(2).

205. To safeguard these rights, the Michigan Election Law expressly requires election inspectors to “provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote” and to protect a challenger in the discharge of his or her duties.” MCL 168.733(1)-(2), (4).

206. The Michigan Election Law also ensures that election officials and election inspectors help (rather than hinder) challengers in the exercise of their rights and performance of their duties by criminalizing “prevent[ing] the presence of any such challenger as above provided” and “refus[ing] or fail[ing] to provide such challenger with conveniences for the performance of the duties expected of him.” MCL 168.734.

207. The Challenger Regulations conflict with and/or modify these provisions, including by infringing on the rights they accord to challengers (and challenger-credentialing organizations) and by undermining the obligations that clerks and election inspectors owe to challengers.

208. So, they are “invalid.” *Guardian Indus Corp v Dep’t of Treasury*, 243 Mich App 244, 254; 621 NW2d 450 (2000).

209. As shown in detail above, the Challenger Regulations limit challengers’ abilities to observe election procedures and perform their other duties in contravention of MCL 168.733 and/or give clerk’s office staff or election inspectors the ability and authority to do so.

210. The Challenger Regulations also infringe on challengers’ right to be “provide[d] space” in polling locations and absent voter counting boards in contravention of MCL 168.733 and/or give clerk’s office staff or election inspectors the ability and authority to do so.

211. The Challenger Regulations allow clerks to limit the number of challengers present in a given polling place or absent voter ballot processing facility in contravention of both the statutory thresholds set by MCL 168.730(1) and MCL 168.765a(14), and of a challenger’s right to be “provide[d] space” under MCL 168.733(1)-(2).

212. The Challenger Regulations also directly deprive and/or give clerk’s office staff or election inspectors the ability and authority to do deprive challengers of the “conveniences” necessary “for the performance of the duties expected of him” as required by MCL 168.734. At

the very least, the Challenger Regulations give clerks the authority and ability to decline to provide challengers with the “conveniences” for the performance of their duties. *Id.*

213. MCL 168.31(1)(a) provides “The secretary of state shall do all of the following: . . . issue instructions . . . for the conduct of elections and registrations in accordance with the laws of this state.”

214. To the extent they conflict with the Michigan Election Law as set forth above, the Secretary’s Challenger Regulations are not “in accordance with the laws of this state,” and thus exceed the scope of the Secretary’s authority under MCL 168.31(1)(a).

215. Likewise, to the extent the Challenger Regulations conflict with the Michigan Election Law as set forth above, they are *ultra vires* and must be rescinded.

216. Plaintiffs request a declaratory judgment that the Challenger Regulations are *ultra vires* and not in accordance with the laws of this state. Plaintiffs further request injunctive relief directing the Secretary to rescind her unlawful rules and regulations and enjoining her from promulgating similarly flawed rules.

217. The dissonance between the Challenger Regulations and the provisions of the Michigan Election Law creates confusion, disorder, and strife because Plaintiffs are subjected to two incompatible legal authorities. Because the two are thus in conflict, declaratory and injunctive relief from this Court is warranted and necessary.

COUNT X: REQUEST FOR DECLARATORY RELIEF THAT THE CHALLENGER REGULATIONS GO BEYOND MICHIGAN ELECTION LAW AND THUS VIOLATE SEPARATION OF POWERS AND THE PURITY OF ELECTIONS CLAUSE.

218. Under the Constitution, “[n]o person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.” Const 1963, art 3, § 2.

219. The “legislative power” of the State of Michigan is vested in the Legislature.²⁰ This includes the power to “make law for the benefit and welfare of the state.”²¹

220. As part of this authority, Article II, § 4(2) commands “the legislature shall” enact laws “to preserve the purity of elections . . . [and] to guard against abuses of the elective franchise.” To fulfill this command and its role as Michigan’s legislature, *see* Article IV, § 1 (“the legislative power of the State of Michigan is vested in a senate and a house of representatives”), the Legislature enacted the provisions of the Michigan Election Law granting rights to challengers and mandating clerks and election inspectors to respect (and protect) those rights.

221. As shown above, Michigan Election Law expressly grants challengers a series of rights, including the right to “[o]bserve the manner in which the duties of the election inspectors are being performed,” the right to “[c]hallenge the voting rights of a person who the challenger has good reason to believe is not a registered elector,” and the right to “[c]hallenge an election procedure that is not being properly performed.” MCL 168.733(1)-(2).

222. The Legislature took steps to safeguard those rights by expressly requiring clerks and election inspectors to “provide space for the challengers within the polling place that enables the challengers to observe the election procedure and each person applying to vote” and to protect a challenger in the discharge of his or her duties.” MCL 168.733(1)-(2), (4).

223. As if that weren’t clear enough, the Legislature went even further by making it a ***crime*** for clerks or election inspectors to “prevent the presence of any such challenger as above

²⁰ Const. 1963, Art 4, § 1 (“[T]he legislative power of the State of Michigan is vested in a senate and a house of representatives.”).

²¹ *In re Certified Questions from United States District Court, Western District of Michigan, Southern Division*, 506 Mich 332, 357-358; 958 NW2d 1 (2020), quoting *46th Circuit Trial Court v Crawford Co*, 476 Mich 131, 141; 719 NW2d 553 (2006) (internal citations omitted).

provided” or to “refuse or fail to provide such challenger with conveniences for the performance of the duties expected of him.” MCL 168.734.

224. In contrast to these statutory authorities, the Challenger Regulations: (1) infringe on challengers’ (and challenger-credentialing organizations’) and/or give clerk’s office staff or election inspectors the ability and authority to do so; (2) infringe on challengers’ right to be “provide[d] space” in polling locations and absent voter counting boards in contravention of MCL 168.733 and/or give clerk’s office staff or election inspectors the ability and authority to do so; (3) allow clerks to limit the number of challengers present in a given polling place or absent voter ballot processing facility in contravention of both the statutory thresholds set by the Legislature; and (4) directly deprive and/or give clerk’s office staff or election inspectors the ability and authority to deprive challengers of the “conveniences” necessary “for the performance of the duties expected of him.” See MCL 168.730(1); MCL 168.733; MCL 168.734; MCL 168.765a(14).

225. The commands of the Michigan Election Law and the Challenger Regulations are incompatible. And, as noted above, “[w]hen an administrative rule conflicts with a statute, the statute controls.” *Brightmoore Gardens, LLC v Marijuana Regulatory Agency*, 337 Mich App 149, 161, 975 NW2d 52 (2021).

226. The Secretary’s instructions thus violate the Separation of Powers by limiting or eliminating the rights granted to challengers by Michigan Election Law, and by limiting or eliminating the obligations imposed on clerks and election officials that are intended to protect the rights of challengers and the organizations that appoint them.

227. Seizing the Legislature’s power, the Secretary has also upset the Purity of Elections Clause, which commands the Legislature to “enact laws . . . to preserve the purity of elections.” Const 1963, art 2, § 4(2). The Legislature granted rights to challengers and created protections

designed to safeguard those rights. But the Secretary has disregarded those rights and obligations and enacted an entirely new, contrary administrative framework that erodes the purity of elections. Thus, the Secretary has violated the separation of powers by taking the Legislature's power and using it in a manner inconsistent with the Legislature's duty to preserve the purity of elections.

228. Plaintiffs request a declaratory judgment that the Secretary's Challenger Regulations violate the Separation of Powers Clause and the Purity of Elections Clause.

229. Plaintiffs further request injunctive relief ordering the Secretary to rescind her illegal rules and regulations and enjoining her from promulgating similarly unlawful rules.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests that this Honorable Court

A. Declare that the following provisions of the Challenger Regulations conflict with the Michigan Election:

- a. Rule 168.205
- b. Rule 168.206(4)
- c. Rule 168.206(5)
- d. Rule 168.206(6)
- e. Rule 168.214(3)(g)
- f. Rule 168.214(3)(n)-(o)
- g. Rule 168.214(4)(c) and (h)
- h. Rule 168.214(4)(m) and Rule 168.214(5);

B. Declare the Challenger Regulations are unlawful and *ultra vires* to the extent they conflict with the Michigan Election Law, MCL 168.730-734; MCL 168.765a;

C. Declare the Challenger Regulations are unconstitutional to the extent they conflict

with or go beyond the scope of the Michigan Election Law, thus violating the Separation of Powers Clause and the Purity of Elections Clause;

D. Enjoin application of the unlawful portions of the Challenger Regulations;

E. Enjoin Defendants from promulgating similarly unlawful rules, guidance, or instructions.

F. Award Plaintiffs their costs, expenses, and attorney fees incurred in this action; and

G. Award any other relief this Honorable Court deems just and equitable.

Dated: June 23, 2026

Respectfully submitted,

/s/ Jonathan B. Koch

Jonathan B. Koch (P80408)
Dickinson Wright PLLC
200 Ottawa Ave., N.W. Ste 900
Grand Rapids, MI 49503
(616) 336-1076
jkoch@dickinsonwright.com

Charles R. Spies (P83260)
Dickinson Wright PLLC
1825 Eye Street N.W., Ste 900
Washington, D.C. 20006
(202) 466-5964
cspies@dickinsonwright.com

Robert L. Avers (P75396)
Daniel C. Ziegler (P86312)
Dickinson Wright PLLC
350 S. Main Street, Ste 300
Ann Arbor, MI 48104
(734) 436-7363
ravers@dickinsonwright.com
dziegler@dickinsonwright.com
Attorneys for Plaintiffs

VERIFICATION

I, Michael Ambrosini, a representative of the Republican National Committee (the "RNC"), being duly sworn and being authorized to give this Verification on behalf of the RNC in support of the allegations contained in the foregoing Verified Complaint, do hereby declare pursuant to MCR 1.109 and under the penalties of perjury, that the facts and allegations contained in this Verified Complaint are true to the best of my information, knowledge, and belief.



By: Michael Ambrosini
Its: RNC Chief of Staff

Subscribed and sworn to before me this 22 day of June, 2026.

Elizabeth Pretzman
_____, Notary Public

washington, D.C. County, State of N/A

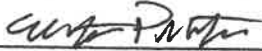
My commission expires: 11/14/30

4901-0768-9141 v1 [99168-16]

DISTRICT OF COLUMBIA

Signed and sworn to (or affirmed) before me on

6/22/26 by Elizabeth Pretzman
Date Name of



Signature of Notarial Officer

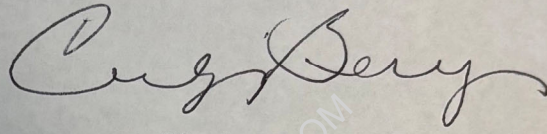
Notary Public

My commission expires: 11/14/30



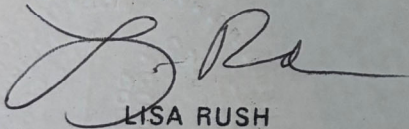
VERIFICATION

I, Cindy Berry, being first duly sworn, depose and declare that I am a resident of the state of Michigan and am a duly qualified as a voter in this state. While I may not have personal knowledge of all of the facts recited in this Verified Complaint, the information contained therein has been collected and made available to me by others, and I declare, pursuant to MCR 1.109 and under the penalties of perjury, that the facts and allegations contained in this Verified Complaint are true to the best of my information, knowledge, and belief.



Cindy Berry

Subscribed and sworn to before me this 22 day of JUNE, 2026.



LISA RUSH

Notary Public, State of Michigan
County of Macomb

My Commission Expires 12-26-2031

Acting in the County of Macomb

, Notary Public

Macomb County, State MI of

My commission expires:

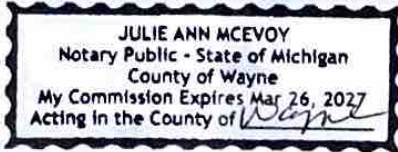
12-26-2031

VERIFICATION

I, Edward McCall, being first duly sworn, depose and declare that I am a resident of the state of Michigan and am a duly qualified as a voter in this state. While I may not have personal knowledge of all of the facts recited in this Verified Complaint, the information contained therein has been collected and made available to me by others, and I declare, pursuant to MCR 1.109 and under the penalties of perjury, that the facts and allegations contained in this Verified Complaint are true to the best of my information, knowledge, and belief.

Edward McCall
Edward McCall

Subscribed and sworn to before me this 19th day of June, 2026.

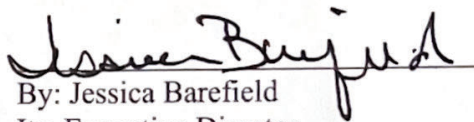


Julie Ann Mcevoy
_____, Notary Public,
Wayne County, State of Michigan
My commission expires: 3-26-2027

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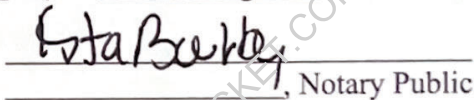
VERIFICATION

I, Jessica Barefield, a representative of the Michigan Republican Party (the "MRP"), being duly sworn and being authorized to give this Verification on behalf of the MRP in support of the allegations contained in the foregoing Verified Complaint, do hereby declare pursuant to MCR 1.109 and under the penalties of perjury, that the facts and allegations contained in this Verified Complaint are true to the best of my information, knowledge, and belief.



By: Jessica Barefield
Its: Executive Director

Subscribed and sworn to before me this 17 day of June, 2026.


_____, Notary Public

Krista Bauby
Notary Public
Livingston County, Michigan
Commission Expires 3/28/2032
Acting in Livingston County

_____, County, State of _____

My commission expires: _____

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Exhibit A

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DEPARTMENT OF STATE

BUREAU OF ELECTIONS

ELECTION CHALLENGERS AND POLL WATCHERS

(By authority conferred on the secretary of state by section 31 of the Michigan election law, 1954 PA 116, MCL 168.31)

R 168.201 Definitions.

Rule 1. (1) As used in these rules:

(a) “Absent voter ballot processing facility” means the location where a single absent voter counting board, multiple absent voter counting boards, a single combined absent voter counting board, or multiple combined absent voter counting boards are conducted. Absent voter ballot processing facilities do not include a clerk’s office or other locations where absent voter ballots are stored, signatures appearing on absent voter ballot envelopes are checked, or other election-related activities are conducted before absent voter ballots being removed from absent voter ballot envelopes and prepared for tabulation.

(b) “Act” means the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(c) “Challenge” means a challenge made by a challenger credentialed by a credentialing organization. For the purposes of these rules, a challenged ballot issued to a voter for a reason other than a challenge made by a challenger is not a challenge and does not require any of the reporting or other requirements created by a challenge made by a credentialed challenger.

(d) “Challenger” means an individual credentialed as the representative of a credentialing organization to observe election-related activities at an early voting site, a polling place on Election Day, an absent voter ballot processing facility, or a clerk’s office at any time the applicable location is open to the public. An individual shall not serve as a challenger if the individual is serving as an election inspector or individual is running for nomination or election at the same election, except that candidates for precinct delegate can serve as challengers so long as the candidates do not serve at the precinct where the candidates are running for office.

(e) “Clerk’s office” means any location where a clerk or an employee of the clerk is issuing absent voter ballots to voters who appear in person and accepting completed absent voter ballots from voters who appear in person. This definition includes satellite offices or other locations established on a temporary or permanent basis to issue absent voter ballots to voters appearing in person or receive absent voter ballots from voters appearing in person.

(f) “Combined absent voter counting board” is an absent voter counting board established under section 764d(1) of the act, MCL 168.764d, or an absent voter counting board established to process each ballot form containing identical offices and names in a jurisdiction with more than 250 precincts under section 569a(2) of the act, MCL 168.569a.

(g) “Credential card” is the card required to be included in an application to become a credentialing organization under section 731(1) of the act, MCL 168.731, and the authority required to be signed by the individual identified under section 732 of the act,

MCL 168.732. The authority must be in a form prescribed by the secretary of state and be known as the Michigan challenger credential card.

(h) “Credentialing organization” means an organization that is eligible to appoint and credential challengers in this state. A credentialing organization is an entity described in section 730 of the act, MCL 168.730. A credentialing organization other than a political party committee shall have satisfied the requirements of section 731 of the act, MCL 168.731.

(i) “Election staff” includes the clerk of a jurisdiction, employees and authorized assistants of that clerk, the secretary of state, any member of the secretary of state staff, the director of elections, and any member of the bureau of elections staff.

(j) “Pollbook” refers to either a physical or electronic pollbook.

(k) “Poll watcher” is a member of the public who is observing election processes and is not credentialed as a challenger. A candidate shall not serve as a poll watcher at a location where the candidate appears on the ballot.

(l) “Team of election inspectors” refers to the set of election inspectors assigned to process ballots at an individual absent voter count board or a combined absent voter count board.

(2) Unless otherwise defined in these rules, a term defined in the act has the same meaning when used in these rules.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.202 Pollbook records.

Rule 2. (1) If both a physical and an electronic pollbook are utilized at an Election Day polling place, early voting site, or absent voter ballot counting facility, the clerk of the jurisdiction shall direct the records required by these rules to be recorded in the physical pollbook, the electronic pollbook, or both.

(2) Regardless of the form of pollbook used at an Election Day polling place, early voting site, or absent voter ballot counting facility, any challenge forms completed under R 168.213(2) must be stored by the local clerk in the same manner as the physical pollbook is stored.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.203 Record of individuals serving as challengers; organizational training.

Rule 3. (1) For each challenger to whom a credentialing organization provides credentials, the credentialing organization shall keep the following records:

(a) The challenger’s name.

(b) The challenger’s mobile phone number, if the challenger has a mobile phone.

(c) Other contact information that may be used to contact the challenger during the performance of the challenger’s duties.

(d) The city or township where the challenger is registered to vote.

(e) Each Election Day polling place, early voting site, and absent voter ballot processing facility where the challenger is designated to serve.

(2) Before the beginning of service by any challenger, the credentialing organization shall designate a member of the credentialing organization to be a point of contact between the credentialing organization and election officials. Except for political parties appointing challengers, the credentialing organization shall make the point of contact known to the secretary of state and the clerk of each jurisdiction where the credentialing organization is appointing challengers, using a form prescribed by the secretary of state. Political parties appointing challengers shall make the point of contact known to the secretary of state, using a form prescribed by the secretary of state. The individual serving as a point of contact shall be available to be contacted by election officials at any time when a challenger credentialed by the credentialing organization is serving as a challenger. The point of contact shall have the records described in subrule (1) of this rule readily available for reference if contacted by an election official.

(3) The records described in subrule (1) of this rule must be retained by the credentialing organization for 1 year after the date of the challenger's service.

(4) Before issuing credentials to any challengers, each individual issuing credentials on behalf of the credentialing organization shall complete training created by the secretary of state for credentialing organizations. This training must include information about permissible and impermissible challenges, and the rights and duties of challengers. The training may include certification that the individual has reviewed written materials designated by the secretary of state or may include virtual or in-person training.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.204 Credential card.

Rule 4. (1) The authority required under section 732 of the act, MCL 168.732, shall be in a form prescribed by the secretary of state, and be known as the Michigan challenger credential card.

(2) A credential card may be digital and presented on a phone or other electronic device. If a challenger uses a digital credential, the credential must mirror the physical template credential form promulgated by the secretary of state and must not include any information or graphics that are not included or requested on the physical template credential form.

(3) No county, city, or township clerk shall approve an organization's application to credential challengers under section 731(1) of the act, MCL 168.731, unless the facsimile of the credential card submitted by the organization is in a form prescribed by the secretary of state.

(4) If any field required on the credential card is blank, the credential is invalid and the individual presenting the form cannot serve as a challenger.

(5) The credential card shall not be displayed or shown to voters.

(6) Clerks may allow or require challengers serving at a polling place on Election Day, at an early voting site during the early voting period, or at a clerk's office at any time that voters are present, to wear a reasonably sized nametag or badge. The nametag or badge cannot include any text or graphics aside from the challenger's name and the words "election challenger". The nametag must be printed on white paper, and the words "election challenger" must be printed in black ink.

(7) Clerks may allow or require challengers present at absent voter ballot processing facilities to display the challenger's credential card or wear nametags or badges that identify challengers and the organization represented by the challenger.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.205 Challenger liaison.

Rule 5. (1) Each clerk shall designate 1 or more election inspectors per Election Day polling place, early voting site, or absent voter ballot processing facility as a challenger liaison. Unless otherwise specified, the challenger liaison at election related sites is the following:

- (a) At an Election Day polling place, the precinct chairperson.
- (b) At an early voting site, the early voting site chairperson.
- (c) At the clerk's office, the most senior member of the clerk's election staff present.

(2) Challengers shall not communicate with election inspectors other than the challenger liaison or the challenger liaison's designee unless otherwise instructed by the challenger liaison or a member of the clerk's staff.

(3) The challenger liaison is responsible for answering challenger questions and addressing challenger concerns. The challenger liaison is made known to challengers on the challenger's arrival at the Election Day polling place, early voting site, absent voter ballot processing facility, or clerk's office.

(4) If multiple precincts or absent voter counting boards are included in a single location, a single election inspector may serve as the challenger liaison for multiple precincts or absent voter counting boards.

(5) Challenger liaisons are responsible for maintaining an orderly election process in the location where the challenger liaisons serve. Challenger liaisons may issue directions to challengers to ensure compliance with the act; with the election inspector's duty to maintain the peace, regularity, and order at the location where the challenger liaisons are serving under section 678 of the act, MCL 168.678; with these rules; or with the requirement of maintaining an orderly election process.

(6) Challengers are required to follow the directions of the challenger liaison. If the challenger objects to the direction, the objection shall be treated as a challenge to an election process described in R 168.209. The challenger may contact the clerk responsible for the jurisdiction to appeal directions that the challenger believes are prohibited by the act or these rules.

(7) A challenger liaison may delegate any of their duties under these rules to another election inspector serving in the same location.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.206 Total number of challengers; challengers at Election Day polling places, early voting sites, or absent voter ballot processing facilities.

Rule 6. (1) The maximum number of challengers that a credentialing organization may field at a location is determined as follows:

(a) If the challengers are serving at an Election Day polling place, the total number of challengers allowed to each credentialing organization at a precinct must not exceed the total number allowed under section 730(1) of the act, MCL 168.730.

(b) If the challengers are serving at an early voting site, the total number of challengers allowed to each credentialing organization at a site is the total number allowed under section 730(1) of the act, MCL 168.730, as an early voting site is subject to the same requirements as an Election Day precinct pursuant to section 4(1)(m) of article II of the state constitution of 1963.

(c) If the challengers are serving at a single absent voter counting board, 1 challenger, as provided in section 730(1) of the act, MCL 168.730.

(d) If the challengers are serving at an absent voter ballot processing facility where more than 1 absent voter counting board is located, 1 challenger for each board, as provided in section 730(1) of the act, MCL 168.730.

(e) During processing and tabulation of absent voter ballots before Election Day, the total number of challengers allowed to each credentialing organization at the location must not exceed the total number allowed under section 765a(14) of the act, MCL 168.765a.

(f) If the challengers are serving at a local clerk's office or a satellite location maintained by a clerk, each credentialing organization is limited to 1 challenger at that office.

(g) If the challengers are serving at an Election Day vote center, the total number of challengers allowed to each credentialing organization at the location must not exceed the total number allowed under section 523b(2) of the act, MCL 168.523b.

(2) At no point shall more than 1 challenger from any single credentialing organization observe the activities of any single team of election inspectors processing ballots at an absent voter ballot processing facility.

(3) Clerks shall make reasonable efforts to accommodate the number of challengers equal to the number of credentialing organizations approved to credential challengers in the clerk's jurisdiction multiplied by the maximum number of challengers allowed in the location as calculated under subrule (1) of this rule.

(4) If an Election Day polling place, early voting site, or absent voter ballot processing facility cannot accommodate the total number of challengers contemplated in subrule (1) of this rule, the maximum number of challengers each credentialing organization is allowed to have present in that location as calculated in subrule (1) of this rule is decreased by an equal number for all credentialing organizations.

(5) If the absent voter ballot processing facility cannot accommodate 1 challenger for each credentialing organization, the clerk's notice under section 765a(12) of the act, MCL 168.765a, shall provide notice of the number of challengers that can be accommodated, and 1 challenger per organization is admitted until that number is met.

(6) If a challenger leaves a location where the challenger is credentialed to serve, the organization that credentialed that challenger is allowed to replace that challenger with a new challenger credentialed by that organization so long as the replacement process does not disrupt the work of election inspectors or clerk staff present at the location. A replacement challenger shall comply with the provisions of these rules.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.207 Challenger training.

Rule 7. (1) Each credentialing organization shall provide each challenger credentialed by that organization with the manual created by the secretary of state governing challengers and poll watchers and other materials designated by the secretary of state.

(2) A credentialing organization is responsible for training each challenger credentialed by that organization regarding all of the following:

(a) Election Day polling place operation, if the challenger is designated to serve at an Election Day polling place.

(b) Early voting site operation, if the challenger is designated to serve at an early voting site.

(c) Absent voter counting board operation, if the challenger is designated to serve at an absent voter ballot processing facility.

(d) Voter registration and the issuance and acceptance of absent voter ballots at a clerk's office, if the challenger is designated to serve at a clerk's office.

(3) If the challenger is designated to serve at multiple categories of locations described in subrule (2) of this rule, the credentialing organization shall train the challenger on operations of all of the categories applicable at the location where the challenger is credentialed to serve.

(4) The challenger training must include, but is not limited to, an explanation of the processes and procedures during the category of location where the challenger is credentialed and the powers, rights, and duties of election challengers.

(5) Each challenger shall sign or electronically sign a written statement certifying that the challenger completed the required training and has a working knowledge of the material presented at training. The credentialing organization shall retain this statement for 2 years after the last date that the challenger served.

(6) An individual must not serve as a challenger unless the individual has completed challenger training as required under this rule within the last 2 calendar years. If a change in the election law, a change in election regulations, a court order, or another event substantially alters or abrogates information contained in the training, the secretary of state may require individuals wishing to serve as challengers to complete a supplemental training before serving as a challenger, even if that individual has completed the required challenger training within the 2 calendar years before the date the individual serves as a challenger.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.208 Challenge to a voter's eligibility; challenge to an elector's ability to cast a ballot at an Election Day polling place or early voting site after receiving an absent voter ballot.

Rule 8. (1) A challenger may make a challenge to a voter's eligibility at an Election Day polling place or early voting site if the challenger has a good reason to believe that the individual is not a registered elector.

(2) The following are the only permissible reasons that a challenger may challenge a voter's eligibility:

(a) The individual is not registered to vote.

(b) The individual is less than 18 years of age on Election Day.

- (c) The individual is not a United States citizen.
- (d) The individual has not resided in the city or township where the individual is attempting to vote for 30 or more days before the election.
- (3) The following are impermissible challenges to a voter's eligibility because they are improper reasons for challenge:
 - (a) The individual's race or ethnic background.
 - (b) The individual's sexual orientation or gender identity.
 - (c) The individual's physical or mental disability.
 - (d) The individual's inability to read, write, or speak English.
 - (e) The individual's need for assistance in the voting process.
 - (f) The individual's manner of dress.
 - (g) The individual's support for or opposition to a candidate, political party, or ballot question.
 - (h) The appearance or the challenger's impression of any of the preceding traits.
 - (i) Another characteristic or appearance of a characteristic that is not relevant to an individual's qualification to cast a ballot.
- (4) A permissible challenge to a voter's eligibility triggers the process laid out in section 729 of the act, MCL 168.729.
- (5) A challenge to a voter's eligibility must be made to the challenger liaison or to an election inspector designated by the challenger liaison.
- (6) If a challenge to a voter's eligibility is properly made under subrule (2) of this rule, the challenger liaison or election inspector to whom the challenge is made shall ask the challenger to state with specificity which of the voter eligibility criteria the challenger believes the individual whose eligibility is challenged does not meet, and why the challenger believes the individual whose eligibility is challenged does not meet that criteria.
- (7) A challenge determined to be made for reasons other than the reasons allowed under subrule (2) of this rule must be rejected as an impermissible challenge.
- (8) Voter eligibility challenges are not permissible at an absent voter ballot processing facility.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.209 Challenges to an election process.

Rule 9. (1) A challenger may challenge an election 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. The challenge must state the specific element or elements of the process that the challenger believes are being improperly performed.

(2) An explanation for a challenge to an election process must include an explanation of the proper performance of the element or elements in question but need not take the form of a direct citation to statute or election administration materials.

(3) A challenge to an election process is impermissible and must not be recorded by the election inspectors in either or both of the following circumstances:

(a) If the challenger cannot identify a specific element or multiple elements of the process that the challenger believes are improper if performed.

(b) If the challenger cannot adequately explain why the process is being performed in a manner prohibited by state law.

(4) A permissible challenge to an election process is rejected if the challenger liaison determines that the specific element or elements of the election process are being carried out in accordance with state law.

(5) If a challenger wishes to challenge recurring elements of an election process under subrule (1) of this rule, the challenger shall make a blanket challenge. A blanket challenge is recorded in the same manner as other challenges made under subrule (1) of this rule. The challenger shall not challenge subsequent repetitions of the process.

(6) A challenge to an election process must be made to the challenger liaison.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.210 Impermissible challenges.

Rule 10. (1) Impermissible challenges are challenges that are made on improper grounds.

(2) Subject to R 168.209(3), a challenge determined to be impermissible is not accepted or rejected but is noted in the pollbook as impermissible if it is possible to do so without slowing the voting or absent voter ballot tabulation process.

(3) Repeated impermissible challenges may result in a challenger's removal from the polling place, early voting site, or absent voter ballot processing facility.

(4) Impermissible challenges include the following:

(a) Challenges made to something other than a voter's eligibility or an election process.

(b) Challenges made with no explanation for the challenge.

(c) Challenges made alleging lack of photo identification against a voter who signs an Affidavit of Voter Not in Possession of Picture ID.

(d) Challenges made for an improper reason as described in R 168.208(3).

(5) A challenger shall not make a challenge indiscriminately or without good cause. A challenge is made indiscriminately and without good cause if the challenger does not know or has a reasonable belief that the challenged individual is ineligible or that the election process is being improperly performed.

(6) A challenger shall not make challenges for the purpose of harassing an elector, an election inspector, or another individual, or interfering with election processes.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.211 Rejected challenges.

Rule 11. (1) Rejected challenges are challenges that are permissible that the challenger liaison does not accept. Whether a challenge is permissible but rejected is a context-specific determination that depends on the type of challenge being made.

(2) If a challenge is permissible but rejected, the following information must be recorded in the pollbook:

(a) The challenger's name.

(b) The name of the credentialing organization that credentialed the challenger.

- (c) The time of the challenge.
- (d) The substance of the challenge.
- (e) The reason why the challenge was rejected.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.212 Accepted challenges.

Rule 12. (1) Accepted challenges are challenges that are permissible and the challenger liaison determines are correct.

(2) If a challenge is accepted, the following information must be recorded in the pollbook:

- (a) The challenger's name.
- (b) The time of the challenge.
- (c) The substance of the challenge.
- (d) The actions taken by the challenger liaison in response to the challenge.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.213 Recording of challenges.

Rule 13. (1) If a challenger makes a challenge known to a challenger liaison without identifying the election process challenged as required by these rules, or otherwise fails to provide information required to support a challenge under the act or these rules, the challenger liaison shall ask the challenger to state the missing information necessary to support the challenge. If the challenger cannot state the information supporting the challenge, the challenge does not have a sufficient basis and is impermissible.

(2) A challenger making a challenge determined to have sufficient basis under subrule (1) of this rule shall be provided with a challenge recording form prescribed by the secretary of state. The challenger shall complete the form and return the form to the challenger liaison or election inspector designated by the challenger liaison in order for the challenge to be recorded. The challenge recording form must include fields specifying the time that the challenge is made, the name of the challenger making the challenge, the organization the challenger represents, the type of challenge being made, and other information determined necessary or appropriate by the secretary of state.

(3) Permissible challenges to a voter's eligibility properly made under these rules must be recorded in the physical pollbook and, if it is being used at that location, in the electronic pollbook. The record included in the pollbook must contain a short description of the challenge and the resolution of the challenge.

(4) If a challenge is properly made but ultimately rejected, the record of the challenge in the pollbook must note in the pollbook the reason that the challenge was rejected.

(5) After the close of polls or after ballot processing is completed, challenge recording forms must be maintained with the physical pollbook.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.214 Rights and duties of challengers.

Rule 14. (1) When entering an Election Day polling place, early voting site, or absent voter ballot processing facility, a challenger shall make the challenger's presence known to the challenger liaison and complete the oath set out in R 168.215 before making any challenges or enjoying any of the rights accorded to a challenger. The challenger's name, credentialing organization, and time of arrival must be recorded in a pollbook. If the challenger is credentialed in more than 1 precinct or counting board at a location, the challenger liaison may allow the challenger to complete the oath only once and be recorded in only one pollbook.

(2) If the challenger leaves an Election Day polling place, early voting site, or absent voter ballot processing facility before the end of tabulation, the challenger shall notify the challenger liaison. On notification, the time that the challenger leaves must be recorded in the pollbook.

(3) Properly credentialed challengers who made the challenger's presence known to the challenger liaison and have signed the oath set out in R 168.215 have the right to the following:

(a) Be present in the polling place, early voting site, absent voter ballot processing facility, or Election Day vote center.

(b) Make challenges to the challenger liaison or the challenger liaison's designee as provided in R 168.208 and R 168.209.

(c) Be treated with respect by election inspectors.

(d) Be provided with reasonable assistance in performing the duties of a challenger.

(e) Inspect applications to vote, registration lists, and other printed materials used to conduct elections that are available at the location, so long as the challenger does not touch or handle any of those materials and so long as the inspection does not interfere with the voting process.

(f) 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 interfere with the election inspectors in completion of the election inspectors' duties.

(g) Observe the election process from a reasonable distance, so long as election inspectors have sufficient room to perform the election inspectors' duties and voters are not impeded in any way.

(h) 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 photograph or make video or audio recordings of the polling place or early voting site except for posted election results.

(i) If serving in an absent voter ballot processing facility, to use electronic devices, so long as the device is not disruptive and so long as the device is not used to photograph or make video or audio recordings except for posted election results.

(j) 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 before the opening of polls or after the closing of polls.

(k) Take notes about the election process.

(l) Notify the challenger liaison of perceived violations of election laws by third-parties, including electioneering within 100 feet of an entrance to the building where a polling place or early voting site is located, improper handling of a ballot by a voter, or other issues.

(m) Remain in the Election Day polling place, early voting site, or absent voter ballot processing facility after the close of polls or the end of tabulation and until the election inspectors complete the election inspectors' duties.

(n) If serving in an early voting site or polling place where ballots are being issued, stand behind the processing table and intermittently move close enough to view the pollbook as ballots are issued to voters and the voters' names are entered into the pollbook, so long as the challenger does not touch or handle the pollbook or otherwise interfere with the work of the election inspectors.

(o) If serving at an absent voter ballot processing facility, stand in a location where the tabulation of absent voter ballots can be observed, or stand in a location where the challenger can intermittently move close enough to view the entry of the names of voters whose ballots are being processed into the pollbook, so long as the challenger does not touch or handle any election-related materials.

(4) Challengers shall not:

(a) Speak with or interact in any way with voters.

(b) Threaten or intimidate voters, other challengers, or election inspectors, or attempt to threaten or intimidate voters, other challengers, or election inspectors at any stage of the voting process.

(c) Continuously stand in close proximity to election inspectors in a way a reasonable individual could find intimidating.

(d) 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.

(e) Make repeated impermissible challenges.

(f) Make a challenge indiscriminately or without good cause, or for the purpose of harassing, delaying, or annoying voters, election inspectors, or another individual.

(g) Physically touch or interact with ballots, absent voter ballot envelopes, electronic pollbooks, physical pollbooks, or other election materials.

(h) Stand so close to the pollbook or other materials that the challenger's proximity to those materials interferes with the election inspectors' ability to perform the election inspectors' duties.

(i) Use a device to photograph or 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.

(j) Provide or offer to provide assistance to voters.

(k) Wear any clothing or other apparel relating to any party, candidate, or proposition on the ballot or that 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 an identifier by an election official.

(l) 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.

(m) Set up a table or other furniture in the early voting site or polling place.

(n) Take any actions to disrupt or interfere with voting, ballot tabulation, or other election processes.

(5) A challenger may request and be provided with a chair to use when conducting challenger activities, so long as the provision of the chair does not interfere with the orderly conduct of elections. The placement of the chair is at the discretion of the challenger liaison or clerk.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.215 Challenger oath.

Rule 15. (1) After making the challenger's presence known to the challenger liaison, a challenger who is not completing the oath in section 765a of the act, MCL 168.765a, shall complete the following oath:

"I (name of individual taking oath) do solemnly swear (or affirm) that I have reviewed the written materials designated by the Secretary of State for my training and will comply with the provisions in those materials. I will follow the directions of the election inspectors operating the (description of applicable location). Further, I shall not photograph, or audio or video record, within the (description of applicable location), except for posted election results."

(2) The oaths administered under subrule (1) of this rule must be placed in an envelope provided for this purpose and sealed with the red state seal. Following the election, the oaths must be delivered to the city or township clerk.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.216 Challenger conduct; challenger liaison management of election locations.

Rule 16. (1) If a challenger is serving at a location with multiple precincts or absent voter counting boards, and if the credentialing organization whom the challenger represents has fewer challengers present than the number of precincts or absent voter counting boards in the location, the credentialing organization may designate a challenger to serve at multiple precincts or absent voter counting boards within the location, subject to reasonable limits by the clerk.

(2) Challengers enjoy the rights enumerated in R 168.214(3) only at the Election Day polling places, early voting sites, or absent voter ballot processing facilities where the challengers are designated to serve.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.217 Prohibited challenger conduct; ejection of challengers.

Rule 17. (1) The right of a challenger to be present is conditional on the challenger's compliance with election inspectors' lawful commands under section 678 of the act, MCL 168.678. Any failure to comply with the lawful command of an election inspector may

result in expulsion from the Election Day polling place, early voting site, absent voter ballot processing facility, Election Day vote center, or clerk's office.

(2) If a challenger liaison has a reasonable belief that a challenger is making challenges that do not comply with the requirements of R 168.208 or R 168.209, that the challenger is making impermissible challenges as described in R 168.210, or that the challenger is violating any of the prohibitions in R 168.214(4), the challenger liaison shall warn the challenger of the challenger's noncompliant challenges or impermissible behavior.

(3) If a challenger liaison has a reasonable belief that a challenger who was warned under subrule (2) of this rule is continuing to make challenges that do not comply with the requirements of R 168.208 or R 168.209, that the challenger is making impermissible challenges as described in R 168.210, or that the challenger is violating any of the prohibitions in R 168.214(4), the challenger liaison may eject the challenger from the Election Day polling place, early voting site, absent voter ballot processing facility, Election Day vote center, or clerk's office.

(4) If a challenger photographs, or audio or video records, within an Election Day polling place, early voting site, or absent voter ballot processing facility other than as allowed by the act, the election inspector shall eject the individual from the location.

(5) Any warning or ejection, and the reason for that warning or ejection, must be recorded in the physical pollbook and, if it is being used at that location, in the electronic pollbook.

(6) A challenger who is ejected may appeal that ejection by contacting the clerk of the jurisdiction where the challenger is serving, after the challenger has left the polling place, early voting site, or absent voter ballot processing facility.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.218 Challengers serving in clerk offices.

Rule 18. (1) Challengers may be present at a clerk's office only if the clerk's office is open for business and during the period before an election when voters may request or return an absent voter ballot at the office.

(2) A challenger serving at a clerk's office shall make the challenger's presence known to the clerk as provided in R 168.214(1).

(3) A challenger serving at a clerk's office may be present only in areas of the clerk's office where an absent voter ballot may be requested. Nothing in these rules allows a challenger to be present in areas of the clerk's office reserved for the clerk or employees of the clerk.

(4) A challenger present at a clerk's office shall not view the qualified voter file.

(5) A challenger serving at a clerk's office shall follow directions given to the challenger by election staff.

(6) A challenger serving at a clerk's office shall not observe the selections a voter makes on the voter's absent voter ballot if that voter chooses to complete the absent voter ballot in the clerk's office.

(7) A challenger serving at a clerk's office is bound by the same duties as a challenger serving at an Election Day polling place, early voting site, or absent voter ballot processing facility.

(8) If a challenger photographs, or audio or video records at a clerk's office other than as allowed by the act, the election inspector shall eject the individual from the location.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.219 Poll watcher.

Rule 19. (1) Poll watchers have the right to do the following:

(a) Be present at an Election Day polling place, early voting site, or absent voter ballot processing facility, if there is sufficient space.

(b) Observe the electoral process from a public viewing area designated by the clerk, which must be placed in a location that does not interfere in any way with the work of election inspectors present in the location, or with participation in the voting process if voters are present. If the public viewing area for a particular election location is full and cannot accommodate more poll watchers, and if the public viewing area cannot be enlarged without disrupting election processes, the clerk or challenger liaison must deny entry to additional poll watchers.

(c) Request to view the pollbook without handling it, but the challenger liaison may decline that request. A poll watcher shall never handle the pollbook or other election equipment or materials.

(2) Poll watchers are subject to all of the same restrictions as credentialed challengers, including the prohibitions against speaking with voters and against speaking with election inspectors other than the challenger liaison without the challenger liaison's permission.

(3) In addition to the restrictions in subrule (2) of this rule, poll watchers shall not do the following:

(a) Issue challenges.

(b) Sit or stand behind the processing table at an Election Day polling place or early voting site.

(c) Be present in any part of the polling place, early voting site, clerk's office, or absent voter ballot processing facility, except the designated public viewing area.

(4) If an election inspector has a reasonable belief that a poll watcher is in violation of subrule (2) or (3) of this rule, the election inspector shall warn the individual of the poll watcher's nonallowed behavior.

(5) If an election inspector reasonably believes that a poll watcher who was warned under subrule (4) of this rule is continuing to violate this rule, the election inspector must eject that poll watcher from the Election Day polling place, early voting site, or absent voter ballot processing facility. If the poll watcher refuses to leave after being informed of the ejection by an election inspector, the election inspector may request law enforcement remove the poll watcher from the polling place, early voting site, or absent voter ballot processing facility.

(6) If a poll watcher photographs, or audio or video records, within an Election Day polling place, early voting site, or absent voter ballot processing facility, the election inspector shall expel the individual from the location.

History: 2026 MR 9, Eff. May 6, 2026.

R 168.220 Challenger appeal of challenger liaison or election inspector determinations.

Rule 20. (1) A challenger may appeal to the city or township clerk of the jurisdiction where the challenger is serving a decision by the challenger liaison or other election inspectors relating to any of the following:

- (a) The validity of a challenge.
- (b) A challenger's conduct.
- (c) A challenger's ejection.

(2) The following apply to a challenger appeal:

- (a) The appeal must be made outside the hearing of voters.

(b) If the challenger is appealing the ejection, the appeal must be made 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.

(c) At the request of a challenger, the challenger liaison shall provide the contact information of the city or township clerk.

(3) The challenger may appeal the decision of the local clerk to the bureau of elections.

(4) A challenger shall not appeal to the city or township clerk an election inspector's resolution of a challenge to a voter's eligibility to vote. Appeals of an election inspector's resolution of an eligibility challenge can only be adjudicated through the judicial process after Election Day.

History: 2026 MR 9, Eff. May 6, 2026.

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Exhibit B

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

The Election Challengers and Poll Watchers administrative rules became effective on May 6, 2026. To find a copy of the rules, visit Michigan.gov/Elections and follow the link under the "current administrative rules" dropdown menu. An updated manual incorporating the rules will be posted before the August Primary Election.

October 2024

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(800)292-5973

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Introduction

This publication is designed to familiarize election challengers, poll watchers, election inspectors, and members of the public with the rights and duties of election challengers and poll watchers in Michigan. Election challengers and poll watchers play a constructive role in ensuring elections are conducted in an open, fair, and orderly manner by following these instructions.

Challengers and poll watchers should familiarize themselves with the instructions and directions in this publication governing their conduct, rights, and responsibilities. Election inspectors should likewise familiarize themselves with the instructions and directions in this publication, including their duties to record challenges and their powers to maintain order at the polls.

Any questions or concerns about the procedures laid out in this document may be sent to BOERegulatory@Michigan.gov.¹

Challengers

Challenger-credentialing organizations

Credentialing organizations are organizations eligible to appoint and credential challengers in Michigan. Credentialing organizations must be one of the following:

- A political party eligible to appear on the ballot in Michigan;
- An organized group of citizens interested in the passage or defeat of a ballot proposal being voted on at that election;
- An organized group of citizens interested in preserving the purity of elections and guarding against the abuse of the elective franchise; or
- An incorporated organization.

A credentialing organization appoints a challenger by giving a person a credential indicating that the person is serving as a challenger on behalf of the organization. This process is known as credentialing. The credential must conform to the standards set out later in this publication.

¹ This document was updated consistent with the Michigan Supreme Court's ruling upholding the Secretary's authority to issue these instructions. [O'Halloran v. Sec'y of State, Mich ; NW2d \(2024\)\(Docket No. 166424\)](#); [De Visser v Sec'y of State, Mich ; NW2d \(2024\)\(Docket No. 166425\)](#).

Candidates, candidate committees, or organizations formed to support or oppose candidates are not eligible to appoint or credential challengers.

Challenger credentialing by political parties

Political parties eligible to appear on the ballot may appoint or credential challengers at any time through Election Day. A challenger is appointed when they are given a credential by a representative of the political party. Political parties do not need to apply for approval by local election officials in the same way that other challenger-credentialing organizations must be approved; however, political parties should notify local clerks of their intention to appoint or credential challengers prior to Election Day.

Challenger credentialing by other qualified organizations

All other qualified organizations wishing to appoint or credential challengers must file an application to field challengers with the clerk of each county, city, or township in which the organization intends to field challengers. The application must be filed no less than 20 and no more than 30 calendar days prior to Election Day. The application consists of a written statement indicating the organization's intent to field challengers in that jurisdiction, the reason that the organization believes itself to be an organization qualified to field challengers under the criteria set out above, and a copy of a completed *Michigan Challenger Credential Card* form that the organization will distribute to its challengers. The statement must be signed and sworn by an officer of the organization.

Within two business days of receiving an application from an organization wishing to appoint challengers, the clerk must approve or deny the application and notify the group of the approval or denial. The clerk may deny the application if the group or organization fails to demonstrate that it is qualified to appoint challengers under the criteria explained above or if the application is not timely filed. If the application is denied, the organization may appeal the denial to the Secretary of State within two business days of receiving notice of the clerk's decision. Within two business days of receiving the appeal, the Secretary of State will render a decision on the appeal and notify the organization and the local clerk of that decision.

An organization wishing to appoint or credential challengers whose application is approved by a county clerk is qualified to appoint or credential challengers in any jurisdiction within that county, even if the organization has not filed an application with each specific city or township in the county.

Each county clerk must notify the clerk of every city and township within their county of all political parties and other organizations who have been approved to appoint challengers within their county. Each municipal clerk must notify election inspectors at all precincts in the clerk's jurisdiction of all political parties and other organizations qualified to appoint and credential challengers within that jurisdiction prior to the opening of the polls on Election Day.

Eligibility to serve as a challenger

A person may serve as a challenger only if the person is registered to vote in Michigan and only if the person is provided a challenger credential by a credentialing organization. The credential must be specific to the election at which the person is serving as a challenger; a credential issued for a prior election does not entitle a person to serve as a challenger at a future election. A person cannot serve as a challenger if the person is serving as an election inspector during the same election. Additionally, a person cannot serve as a challenger if the person is running for nomination or for office during the same election, with the exception that precinct delegate candidates can serve as challengers so long as they do not serve at the precinct in which they are running for office.

Training of challengers

Credentialing organizations are responsible for the behavior and actions of challengers that they credential. As such, credentialing organizations are strongly encouraged to provide challengers with training on both the basic aspects of election administration in Michigan and the rights and duties of challengers in Michigan. Providing challengers with a basic understanding of election administration will allow challengers to fully participate in the election process and to make informed challenges without disrupting or delaying election-related activities. Providing challengers with an explanation of their rights and duties will allow them to realize the full benefit of their status without violating the law.

Challengers should be provided training that is specific to the type of election-related location at which the challenger will be serving. For example, a challenger who will be serving at an absent voter ballot processing facility should be trained in how absent voter ballots are processed, while a challenger serving at an early voting site or polling place where voters are casting ballots on Election Day should be trained on in-person voting processes. Failure to tailor challenger training about which procedures should be followed in different types of locations may lead to confusion, ineffective observation, and impermissible challenges.



Rights and duties of challengers when observing election-related procedures

Challengers' obligation to follow election inspector directions

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; and
- 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.

Form of challenger credential

Under Michigan law, each challenger present at a polling place, early voting site, or an absent voter ballot processing facility must possess an authority signed by the chairman or presiding officer of the organization sponsoring the challenger. This authority, also known as the *Michigan Challenger Credential Card*, must be on a form promulgated by the Secretary of State. The blank template credential form is available on the Secretary of State's website. The entire credential form, including the challenger's name, the date of the election at which the challenger is credentialed to serve, and the signature of the chairman or presiding officer of the organization appointing

the challenger, must be completed. If the entire form is not completed, the credential is invalid and the individual presenting the form cannot serve as a challenger. The credential may not be displayed or shown to voters.

A credential form may be digital and may be presented on a phone or other electronic device. If a challenger uses a digital credential, the credential must include all of the information required on the template credential form promulgated by the Secretary of State. A digital credential should not include any information or graphics that are not included or requested on the template credential form. If a challenger using a digital credential is serving in an absent voter ballot processing facility on Election Day, the challenger must display the credential to the appropriate election official.

Clerks may allow or require challengers serving at a polling place on Election Day, at an early voting site during the early voting period, or at a clerk's office at any time that voters are present, to wear a reasonably sized nametag or badge. The nametag or badge cannot include any text or graphics aside from the challenger's name and the words "election challenger". The nametag must be printed on white paper, and the words "election challenger" must be printed in black ink.

Clerks may allow or require challengers serving in absent voter ballot processing facilities where voters are not present to wear nametags or badges that identify challengers and the organization represented by the challenger.

Challenger liaison

Every polling place, early voting site, or absent voter ballot processing facility should have an election inspector designated as the challenger liaison. Unless otherwise specified by the local clerk, the challenger liaison at a polling place is the precinct chairperson. The challenger liaison or precinct chairperson may designate one or more additional election inspectors to serve as challenger liaison, or as the challenger liaison's designees, at any time. The local clerk should designate an election inspector to serve as challenger liaison at an absent voter ballot processing facility or early voting site. Unless otherwise specified by the local clerk, the challenger liaison at the clerk's office 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 unless otherwise instructed by the challenger liaison or a member of the clerk's staff.

Challenger identification upon entering polling place, early voting site, absent voter ballot processing facility, or clerk's office

Upon arriving at a polling place, an early voting site, an absent voter ballot processing facility, 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.

If the challenger leaves a polling place prior to the close of polls, the challenger shall inform the challenger liaison of their departure. The challenger's departure and time of departure should be noted in the poll book.

Communication with election inspectors and election officials

Challengers must communicate only with the challenger liaison unless otherwise instructed by the challenger liaison or a member of the clerk's staff. Challengers must not communicate with election inspectors who are not the challenger liaison unless otherwise instructed by the challenger liaison or a member of the clerk's staff. Challengers may not communicate with voters.

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.

Challengers at clerks' offices

Each credentialing organization may assign one challenger to observe the issuance and receipt of absent voter ballots at a clerk's office or a satellite location maintained by the clerk, including an Election Day Vote Center. 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.

Challengers at polling places and early voting sites

Only two challengers from any political party or other credentialing organization may be present at a precinct conducting in-person voting on Election Day or at an early voting site during the early voting period. 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.

Challengers at absent voter ballot processing facilities

Challengers have a right to be present at locations where absent voter ballots are removed from envelopes and tabulated. These locations are referred to as absent voter ballot processing facilities in this publication. Absent voter ballot processing facilities do not include a clerk's office or other locations where absent voter ballots are stored, signatures appearing on absent voter ballot envelopes are checked, or other activities are conducted prior to absent voter ballots being removed from absent voter ballot envelopes and prepared for tabulation.

An absent voter ballot processing facility may contain a single absent voter counting board, multiple absent voter counting boards, a single combined absent voter counting board, or multiple combined absent voter counting boards. The Michigan Election Law uses the term "absent voter counting board" simultaneously to refer to a single absent voter counting board corresponding to an individual in-person precinct; a station within a facility processing absent voter ballots for multiple in-person precincts; the entire facility at which all absent voter ballots are processed for a jurisdiction; and an entire facility at which combined absent voter ballots are processed for multiple jurisdictions in a county. During processing and tabulation prior to Election Day, credentialing organizations are allowed 1 challenger per 8 election inspectors; if there are fewer than 8 election inspectors at a facility, each credentialing organization may designate 1 challenger. The Michigan Election Law does not expressly state how many challengers may be present



at an absent voter counting board or combined absent voter counting board on Election Day.

When determining how many challengers each credentialing organization is allowed to have in an absent voter ballot processing facility, clerks must balance the rights of challengers to meaningfully observe the absent voter ballot counting process and the clerk's responsibility to ensure safety and maintain orderly movement within the facility. Clerk considerations in setting the number of challengers each credentialing organization may field in the absent voter ballot processing facility should include:

- The number of processing teams and the number of election inspectors;
- The number of tables or discrete stations at which ballots are processed;
- The physical size and layout of the facility; and
- The number of rooms and areas used to process absent voter ballots within the facility.

The clerk must make publicly available the number of challengers each credentialing organization will be allowed to field in the absent voter ballot processing facility at least seven calendar days prior to the election.

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."

This oath may be administered by the clerk, a member of the clerk's staff, or the chairperson or a member of the absent voter counting board or combined absent voter counting board. 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.

If absent voter ballot processing or tabulation continues after the close of polls, 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.

By law, a challenger may not photograph, or audio or video record, within a facility, with the exception of posted election results. A county, city, or township clerk, or a clerk's assistant, must remove an individual who violates this prohibition from the absent voter ballot processing facility. An individual who violates this law is guilty of a misdemeanor.

Excess challengers at an election-related location

A credentialing organization may field no more than the number of challengers set out in the above sections at any clerk's office, in-person precinct, early voting site, or absent voter ballot processing facility. If the credentialing organization already has the total number of challengers allowed present in a particular location, additional challengers credentialed by that organization cannot act as challengers in that location. At the clerk or challenger liaison's discretion, additional challengers seeking access to the location may be given the option to serve as poll watchers in that location. Challengers who agree to act as poll watchers have none of the rights specifically afforded to challengers and must adhere to the same standard of conduct and observe the same restrictions as any other poll watcher. The rights and duties of poll watchers are set out at the end of this document.

Generally, a credentialing organization will be allowed to replace challengers credentialed by that organization with other challengers credentialed by that organization so long as the replacement process does not disrupt the work of election inspectors or clerk staff present in the location. In no case during the replacement process may a credentialing organization have more challengers present in a particular location than would be allowed by the other provisions of this document.

Making challenges

A challenge must be made to a challenger liaison. The challenger liaison will determine if the challenge is permissible as explained below. Assuming 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.

An impermissible challenge, as explained below, need not be noted in the poll book.

Adjudicating and recording challenges

There are three categories of challenges: impermissible challenges, rejected challenges, and accepted challenges. The challenger liaison is responsible for adjudicating each challenge by categorizing each challenge and determining what, if any, action should be taken in response to the challenge.

Impermissible challenges

Impermissible challenges are challenges that are made on improper grounds. Because the challenge is impermissible, the challenger liaison does not evaluate the challenge to accept it or reject it. Impermissible challenges are:

- Challenges made to something other than a voter's eligibility or an election process;
- Challenges made without a sufficient basis, as explained below; and
- Challenges made for a prohibited reason.

Challenger liaisons are not required to record an impermissible challenge. If it is possible to make a note without slowing down the voting or absent voter ballot tabulation process, the challenger liaison is encouraged to note the content of an impermissible challenge, as well as any warning given to the challenger making that impermissible challenge. If the challenger makes multiple impermissible challenges, the challenger liaison is likewise encouraged to note the general basis of those challenges and the approximate number of challenges, if the challenger liaison can make that note without slowing down the election process. In all circumstances, however, the challenger liaison should prioritize the orderly and regular administration of the election process over noting an impermissible challenge.

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

Rejected challenges

Rejected challenges are challenges that are not impermissible, but which the challenger liaison does not accept. Whether a challenge is permissible but rejected is a context-specific determination that depends on the type of challenge being made. The process for determining whether a challenge to an election process or a voter's eligibility is rejected is set out below in the

relevant sections. If a challenge is permissible but rejected, the following information must be recorded:

- The challenger's name;
- The time of the challenge;
- The substance of the challenge; and
- The reason why the challenge was rejected.

Accepted challenges

Accepted challenges are challenges that are permissible and which the challenger liaison deems correct. If a challenge is accepted, the following information must be recorded:

- The challenger's name;
- The time of the challenge;
- The substance of the challenge; and
- The actions taken by the challenger liaison in response to the challenge.

Challenges to a voter's eligibility in a polling place or early voting site

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**. The four permissible reasons to challenge a voter's eligibility are:

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; or
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.

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**. If the challenger does not cite one of the four permitted reasons to challenge this voter's eligibility, or cannot provide support for the challenge, the challenge is impermissible.

A challenger may challenge a voter's eligibility only by making a challenge to the challenger liaison or the challenger liaison's designee. **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.** A challenger liaison will warn a challenger who violates any of these prohibitions; if a challenger repeatedly violates any of these prohibitions, the challenger may be ejected from the polling place or early voting site.

Impermissible challenge to voter's eligibility: improper reason for challenge

A challenger may not challenge a voter's eligibility for any reason other than the four reasons listed above. Any challenge made for a reason other than those four reasons is impermissible and should not be considered by the challenger liaison or recorded by the liaison. Improper reasons for making a challenge to a voter's eligibility include, but are not limited to, the following:

- the voter's race or ethnic background;
- the voter's sexual orientation or gender identity;
- the voter's physical or mental disability;
- the voter's inability to read, write, or speak English;
- the voter's need for assistance in the voting process;
- the voter's manner of dress;
- the voter's support for or opposition to a candidate, political party, or ballot question;
- the appearance or the challenger's impression of any of the above traits; or
- any other characteristic or appearance of a characteristic that is not relevant to a person's qualification to cast a ballot.

Impermissible challenge to voter's eligibility: non-specific challenge

A challenge to a voter's eligibility is impermissible and should not be recorded by the challenger liaison if the challenger cannot specify under which of the four permissible reasons the challenger believes the voter to be ineligible to vote, or if the challenger refuses to provide a reason for the challenge to the voter's eligibility.

Impermissible challenge to voter's eligibility: no explanation for challenge

A challenge to a voter's eligibility is impermissible and should not be recorded by the challenger liaison if the challenger cannot provide a reason for their belief that the voter is ineligible to vote. For example, a challenger cannot simply state that they believe a voter to be ineligible because of their age or citizenship status; the challenger must explain why they believe the voter to be underage or why they believe the voter is not a United States citizen.

Impermissible challenge to voter's eligibility: lack of photo ID

A voter who signs an Affidavit of Voter Not In Possession of Picture ID cannot be challenged on the grounds that the voter is not in possession of photo identification. Any challenge on these grounds must be deemed an impermissible challenge, should not be recorded, and the challenger must be warned that no such challenge is allowed.

Processing challenges to a voter's eligibility

If a challenge to a voter's eligibility made at an in-person polling location is determined to be permissible, the challenge must be handled using the following process:

1. The voter is sworn in by the precinct chairperson or another election inspector 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; the election inspector may not ask the voter any other questions.
3. If, after questioning under oath, 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. **The voter then completes the ballot and casts the ballot by feeding the ballot into the tabulator in the same manner as an unchallenged voter.**

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.

The election inspector should take the challenged voter aside to administer the oath and ask the required questions. Election inspectors should administer the oath and ask the required questions in a manner that does not humiliate, degrade, or embarrass the challenged voter. The oath and questioning process should be carried out in a manner that does not unduly delay the challenged voter.

If a voter whose eligibility is permissibly challenged refuses to take the above 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.

Recording a challenge to a voter's eligibility

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; and either
- 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.

Challenges by an election inspector to a voter's eligibility

An election inspector shall make a challenge to a voter's eligibility if the election inspector knows or has good reason to suspect that the voter is not eligible to cast a ballot. Such a challenge is treated identically to a challenge made by a credentialed challenger as explained above – the election inspector must provide a specific and permissible reason that the election inspector believes the voter is ineligible to cast a ballot, and there must be some explanation for the election inspector's belief. If an election inspector wishes to challenge a voter's eligibility, the election inspector must make that challenge to the challenger liaison. If the election inspector making the challenge is the challenger liaison, the challenger liaison must make the challenge to another election inspector and the local clerk must be notified of the challenge. A challenge made to a voter's eligibility by an election inspector is recorded and resolved using the same process as a challenge made to a voter's eligibility by a credentialed challenger.

Challenges by a voter to another voter's eligibility

A registered voter of a precinct who is present at that precinct on Election Day may challenge the eligibility of another person to vote in that precinct if the challenging voter either knows or has good reason to suspect that the challenged person is not eligible to cast a ballot in that precinct.

Such a challenge is treated and resolved identically to a challenge made by a credentialed challenger as explained above. If a voter wishes to challenge a person's eligibility to vote under this mechanism, the challenging voter must make that challenge to the challenger liaison.

A voter who is not credentialed as a challenger may only challenge the eligibility of persons attempting to vote in the precinct in which the challenging voter is registered to vote. A voter who is not credentialed as a challenger cannot challenge persons attempting to vote in any other precinct, nor can they challenge the conduct of election processes. A voter making challenges to the eligibility of other voters in their own precinct may not make challenges designed to harass, annoy, or delay voters. A voter making challenges to the eligibility of other voters in their own precinct, like all persons present in the precinct, must follow the directions of the election inspectors assigned to the precinct.

Challenges to absent voters in polling places

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. In some situations, these voters may be subject to challenge as an absent voter in the polling place or early voting site. **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.**

Voters who surrender their absent voter ballot at the precinct on Election Day or at an early voting site

A voter who received an absent voter ballot but who surrenders that absent voter ballot to election inspectors at the polling place on Election Day or at an early voting site during the early voting period may vote a regular ballot. **Such a voter is not subject to challenge as an absent voter in the polling place or early voting site and a challenge on those grounds is impermissible.**

Voters who do not surrender their absent voter ballot at the precinct on Election Day or at an early voting site

A voter for whom the poll book indicates an absent voter ballot was sent may not have received the ballot, may have lost or destroyed the ballot, or may have mailed the ballot back to the clerk too close to Election Day that the ballot may not arrive in time to be counted. **In these situations, 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. Absent a challenger issuing a challenge against that voter, the voter is then permitted to cast a regular ballot.

A voter for whom the poll book indicates an absent voter ballot was mailed may be challenged as an absent voter in the polling place or early voting site even after the clerk verifies the absent voter ballot has not been returned and after the voter signs the affidavit stating that the voter did not return the ballot; if such a voter is challenged, that voter is permitted to cast a challenged ballot. **So long as the clerk confirms that they have not received the voter's absent voter ballot, the voter is permitted to vote in the polling place on Election Day or at an early voting site during the early voting period.** A challenged ballot is prepared by writing the voter's ballot number on the ballot, then covering the number with tape

or a slip of paper. The voter then completes the ballot and casts the ballot by feeding the ballot into the tabulator in the same manner as an unchallenged voter.

Voter eligibility challenges are not permissible at an absent voter ballot processing facility

Challengers at absent voter ballot processing facilities may make challenges to election processes as described below. Permissible challenges at absent voter ballot processing facilities include challenges to ensure that the review of any portion of the absent voter ballot envelope reviewed at the absent voter ballot processing facility is properly completed. City and township clerks review the portion of the absent voter ballot envelope containing the absent voter's signature prior to Election Day, or when the ballot envelope is received by the clerk on Election Day, to ensure that the signature is genuine and the absent voter is eligible to cast a ballot. If the clerk has verified the signature and the absent voter's eligibility prior to the ballot envelope being transmitted to the absent voter ballot processing facility, a challenge may not be made on the same issue at the absent voter processing facility or during processing and tabulation period before Election Day.

Because an absent voter's eligibility is verified by the clerk prior to the absent voter ballot envelope being processed at the absent voter ballot processing facility, election inspectors serving at the absent voter ballot processing facility are not responsible for verifying voter eligibility at the facility. Instead, election inspectors serving at the absent voter ballot processing facility confirm that the clerk has verified the absent voter's eligibility to cast a ballot by confirming that the clerk has reviewed the signature section of the absent voter ballot envelope. Additionally, because the voters are not present at the absent voter ballot processing facility, the oath administration and questioning process set out in the Michigan Election Law and explained above cannot be carried out at an absent voter ballot processing facility and a challenged voter would have no chance to refute the challenge leveled against them. For these reasons, challenges to voter eligibility at absent voter ballot processing facilities are not permissible and need not be recorded.

Individuals who wish to contest the eligibility of an absent voter should raise those concerns with the clerk of the city or township in which the voter is registered to vote prior to Election Day as prescribed by the Michigan Election Law; no information about a particular voter's eligibility would be



available to a challenger serving in an absent voter ballot processing facility that would not have also been available to the challenger prior to Election Day.

Challenges to an 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.**

Impermissible challenge to an election process

A challenge to an election process is impermissible and should not be recorded by the election inspectors if the challenger cannot identify a specific element or multiple elements of the process the performance of which the challenger believes improper. A challenge to an election process is also impermissible if the challenger cannot adequately explain why the election process is being performed in a manner prohibited by state law. An explanation for a challenge to an election process must include an explanation of the proper performance of the element or elements in question but need not take the form of a direct citation to statute or election administration materials.

Rejecting a challenge to an election process

A permissible challenge to an election process will be rejected if the challenger liaison determines that the specific element or elements of the election process being challenged are being carried out in accordance with state law. A challenger liaison’s determination that a challenge to an election process is rejected may be appealed using the process laid out at the end of this publication.

Accepting a Challenge to an Election Process

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.

Recording a challenge to an election process

A permissible challenge to an election process should be recorded in both the remarks section of the electronic poll book and on the “Challenged Procedures” section of the physical poll book. The record should include:

- The challenger’s name;
- The time of the challenge;
- The substance of the challenge; and either
- If the challenge was rejected, the reason why the challenge was rejected; **or**
- If the challenge was accepted, the reason the challenge was accepted, and any remedial actions taken in response to the challenge.

Challenges to recurring election processes: blanket challenges

If a challenger wishes to challenge recurring elements of the election process, the challenger must make a blanket challenge in order 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. **A challenger may only challenge recurring processes through a blanket challenge; a challenger may not challenge every occurrence of a recurring process in lieu of making a blanket challenge.**

Rights of challengers

A challenger who has made themselves known to the challenger liaison and who is in possession of a valid credential has the right to:

- Be present in the polling place, early voting site, absent voter ballot processing facility, or Election Day vote center;
- Make challenges to the challenger liaison or the challenger liaison’s designee as provided in these instructions;
- 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;

- 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;
- 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; and
- If serving at an absent voter ballot processing facility, stand in a location where the tabulation of absent voter ballots can be observed, or 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.

Restrictions on challengers

Challengers may not:

- 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;
- 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; or
- Take any actions to disrupt or interfere with voting, ballot tabulation, or any other election process.

Warning and ejecting challengers

If a challenger acts in a way prohibited by this instruction set or 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 prohibited action and of their responsibility to adhere to the instructions in this publication and to directions 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.

A challenger who repeatedly fails to follow any of the instructions or directions set out in this publication or issued by election inspectors may be ejected by any election inspector. A challenger who acts in a manner that disrupts the peace or order of the polling place, early voting site, or absent voter 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 by any election inspector. 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 from the polling place, early voting site, or absent voter ballot processing facility.

If a challenger photographs, or audio or video records, anything other than election results within an absent voter ballot processing facility, the clerk must expel the individual from the absent voter ballot processing facility.

Challenger appeal of challenger liaison or election inspector determinations

A challenger may appeal a decision by the challenger liaison or any other election inspector relating to the validity of a challenge, to a challenger's conduct, or 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. If the challenger is appealing their ejection, the appeal must be made 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.

A challenger may not appeal to the city or township clerk an election inspector's resolution of a challenge to a voter's eligibility to vote. Appeals of an election inspector's resolution of an eligibility challenge can only be adjudicated through the judicial process after Election Day.

Poll watchers

The law has been interpreted to permit members of the public who are not credentialed challengers to observe elections. Members of the public wishing to observe elections, often referred to as poll watchers, do not enjoy the same rights as credentialed challengers. A person does not need to be registered to vote in Michigan to serve as a poll watcher in this state, but a candidate for elective office being voted on in the election cannot serve as a

poll watcher. There is no particular number of poll watchers that must be admitted to any election-related location, but poll watchers must be permitted to observe the electoral process so long as the total number of poll watchers does not cause the process to be disrupted.

Rights of poll watchers

Poll watchers are allowed to be present in a polling place, early voting site, or an absent voter ballot processing facility. Clerks or challenger liaisons must designate a Public Viewing Area from which poll watchers can observe the electoral process. The Public Viewing Area must be placed in a location that does not interfere in any way with the work of election inspectors present in the location. If the location is a polling place or early voting site, the Public Viewing Area must be situated so that the presence of poll watchers does not interfere with voters participating in the voting process. If the Public Viewing Area for a particular election location is full and cannot accommodate more poll watchers, and if the Public Viewing Area cannot be enlarged without disrupting election processes, the clerk or challenger liaison may deny entry to additional poll watchers. If the location is an absent voter ballot processing facility, the poll watcher must take the same oath as a challenger present at such a facility and is bound by all the same restrictions as a challenger present at such a facility.

A poll watcher may request that the challenger liaison allow the poll watcher to view the poll book without handling it, but the challenger liaison may decline that request. A poll watcher may never handle the poll book or other election equipment or materials.

Restrictions on poll watchers

Poll watchers are subject to all of the same restrictions as credentialed challengers, including the prohibitions against speaking with voters and against speaking with election inspectors other than the challenger liaison without the challenger liaison's permission. In addition, poll watchers cannot:

- Issue challenges;
- Stand behind the election inspectors as voters are processed; or
- Be present in any part of the polling place, early voting site, clerk's office, or absent voter ballot processing facility except the designated Public Viewing Area.

Ejection of poll watchers

A poll watcher who repeatedly fails to follow any of the above instructions, who acts in a manner that disrupts the peace or order of the polling place, early voting site, or absent voter 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 be ejected by any election inspector. If the poll watcher refuses to leave after being informed of their ejection by an election inspector, the election inspector may request law enforcement remove the poll watcher from the polling place, early voting site, or absent voter ballot processing facility.

If a poll watcher photographs, or audio or video records, within an absent voter ballot processing facility, the clerk must expel the individual from the absent voter ballot processing facility.

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Exhibit C

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Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)
MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. **Department:**
State
2. **Bureau:**
Elections & Campaign Finance
3. **Promulgation type:**
Full Process
4. **Title of proposed rule set:**
Election Challengers and Poll Watchers
5. **Rule numbers or rule set range of numbers:**
R 168.201 – R 168.249
6. **Estimated time frame:**
6 months

Name of person filling out RFR:
Jenny McInerney

Email of person filling out RFR:
McInerneyJ1@michigan.gov

Phone number of person filling out RFR:
517-331-7825

Address of person filling out RFR:
430 W. Allegan, Lansing, MI 48933
7. **Describe the general purpose of these rules, including any problems the changes are intended to address.**
The purpose of these rules is to clarify required procedures regarding election challengers and poll watchers.
8. **Please cite the specific promulgation authority for the rules (i.e., department director, commission, board, etc.).**
MCL 168.31(1)(a) provides that the secretary of state shall “issue instructions and promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the conduct of elections and registrations in accordance with the laws of this state.”
 - A. **Please list all applicable statutory references (MCLs, Executive Orders, etc.).**
MCL 168.31.
 - B. **Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.**
MCL 168.31(1)(c) requires the Secretary of State to “publish and furnish for the use in each election precinct before each state primary and election a manual of instructions that includes specific instructions on assisting voters in casting their ballots, directions on the location of voting stations in polling places, procedures and forms for processing challenges, and procedures on prohibiting campaigning in the polling places as prescribed in this act.” The Department has historically issued these instructions in the form of a manual but promulgated rules also fall under this section.
9. **Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.**

The rules do not conflict with any similar rules, requirements, or standards. The proposed rules do not explicitly duplicate any similar rules, compliance requirements, or other standards but they do reconcile and clarify certain aspects of the Michigan Election Law regarding challengers, including MCL 168.727, MCL 168.730-734.

- 10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?**
Yes, the subject matter is included in the Bureau of Elections manual, The Appointment, Rights, and Duties of Election Challengers and Poll Watchers, October 2024.
- 11. Are the rules listed on the department's annual regulatory plan as rules to be processed for the current year?**
The rules are not listed on the department's 2024 annual regulatory plan.
- 12. Will the proposed rules be promulgated under Section 44 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.244, or under the full rulemaking process?**
Full Process
- 13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.**
The rules do not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional or federal level.
- 14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.**
Yes. Beginning with the 2020 election, the Department observed an increase in questions surrounding challengers, poll watchers, and credentialing organizations, which led to updates to the challenger manual listed above. The rules will incorporate those requests for smooth processes and minimal disruptions to the challenge process, while also preserving the rights of challengers and poll watchers.
- 15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.**
The proposed rules do not amend existing rules.
- 16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?**
No, there are no changes or developments because the rules do not amend existing rules.
- 17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.**
No

Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Reorganization Order No. 2019-1, MCL 324.99923.

Exhibit D

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Department of State
Elections & Campaign Finance
Administrative Rules for Election Challengers and Poll Watchers
Rule Set 2025-15 ST

NOTICE OF PUBLIC HEARING
Friday, December 12, 2025
10:00 AM

Room 1100 of the Binsfeld Office Building
201 Townsend St. Lansing, MI 48933

The Department of State will hold a public hearing to receive public comments on proposed changes to the Election Challengers and Poll Watchers rule set.

The purpose of these rules is to clarify required procedures, rights, and duties regarding election challengers and poll watchers.

By authority conferred on the Secretary of State by section 31(1)(a) of the Michigan election law, 1954 PA 116, MCL 168.31(1)(a)

The proposed rules will take effect immediately after filing with the Secretary of State. The proposed rules are published on the State of Michigan's website at <http://www.michigan.gov/ARD> and in the 12/1/2025 issue of the Michigan Register. Copies of these proposed rules may also be obtained by mail or email at the following email address: Elections-PublicComment@Michigan.gov.

Comments on these proposed rules may be made at the hearing, by mail, or by email at the following addresses until 12/12/2025 at 05:00 PM:

Bureau of Elections
P.O. Box 20126, Lansing, Michigan 48901-0726
Elections-PublicComment@Michigan.gov

The public hearing will be conducted in compliance with the 1990 Americans with Disabilities Act. If the hearing is held at a physical location, the building will be accessible with handicap parking available. Anyone needing assistance to take part in the hearing due to disability may call 800-292-5973 to make arrangements.

Exhibit E

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From: [Alison Fitzgerald](#)
To: [MDOS-Elections-PublicComment](#)
Cc: [Amy Whipple](#); [Alicia Terrell](#)
Subject: Administrative Rules - Election Challengers & Poll Watchers
Date: Thursday, November 20, 2025 3:55:13 PM
Attachments: [Administrative Rules - Election Challengers and Poll Watchers.docx](#)

**CAUTION: This is an External email. Please send suspicious emails to
abuse@michigan.gov**

Good afternoon,

Please see the attached clerk feedback regarding the election challengers and poll watchers administrative rules that is currently in the promulgation process. Please confirm receipt of this email.

If you have any questions, please feel free to reach out! Have a great day

Respectfully,

Alison Fitzgerald

Election Specialist

Charter Township of Brownstown

21313 Telegraph Road

(734) 675-0910

AlisonF@brownstown-mi.org

Regular Office Hours: Monday – Thursday 7am – 5pm, Closed Fridays

Challengers & Poll Watchers

The following are recommended corrections that would help one better read and understand R168.201-168.220:

Instructions broken down step by step

Rule 1: 168.201 Definitions

- NONE

Rule 2: 168.202 Pollbook Records

- NONE

Rule 3: 168.203 Record of Individuals Serving as Challengers; Organizational Training

- (1) “For each challenger to whom a credentialing organization provides credentials, the credentialing organization shall keep the following records: (a) challenger name, (b) the challenger’s mobile phone number, if the challenger has a mobile phone, (c) other contact information that may be used to contact the challenger during the performance of the challenger’s duties, (d) the city or township where the challenger is registered to vote, (e) each Election Day polling place, early voting site, and absent voter ballot processing facility where the challenger is designated to serve.”
 - Currently, the Clerk’s Office receives a list of challenger credentials that each list the challenger’s name, organization, election date, and signature from the credentialing organization. Why do Clerks not receive information listed in subrule b, c, & d? Detail here.
- (2) Are political party organization challengers required to attend the same level of training as no political organizations? Detail here.
- (4) Challenger must attend training before receiving credentials from credentialing organization.
 - Detail how often the challenger must be recertified. This information is detailed in a later rule but it is crucial to include in this section as well.

Rule 4: 168.204 Credential Card

- (2) “A credential card may be digital and presented on a phone or other electronic device”
 - Why is a digital credential card allowed? In a world of sophisticated AI technology and easy access to manipulate official documents, allowing digital credential cards opens the door to people falsely posing as a trained and certified challenger.
 - Will Clerk’s Office still receive a paper copy of digital credential cards to ensure they are official and accurate? Clarify here.
- (4) “If any field required on the credential card is blank, the credential is invalid and the individual presenting the form cannot serve as a challenger.”
 - Detail what is required to be placed on the credential card.
 - What is the process to rectify the invalid credential card? Clarify.
 - If the credential card is corrected immediately and represents the card to the election official, are they permitted as a challenger? Detail process.

Rule 5: 168.205 Challenger Liaison

- (2) “Challengers shall not communicate with election inspectors other than the challenger liaison or the challenger liaison’s designee unless otherwise instructed by the challenger liaison or a member of the clerk’s office.”
 - A designee backup should be assigned at the same time the challenger liaison is assigned. Detail that process here.

Rule 6: 168.206 Total Number of Challengers; Challengers at Election Day Polling Places, Early Voting Sites, or Absent Voter Ballot Processing Facilities

- (1) (a),(b),(d),(e),(g)
 - The total number of challengers allowed in each election setting (EV, AVCB, polling place, Clerk’s Office/ satellite office) should be listed out in the rule although referenced in another MCL. This should be all encompassing.
- (f) “If challengers are serving at a local clerk’s office or a satellite location maintained by the clerk, each credentialing organization is limited to 1 challenger at that office.”
 - Clarify - is it 1 challenger per clerk’s office location/ satellite office or 1 challenger overall no matter how many Clerk’s locations?

- Detail the penalty if the number of challengers from one credentialing organization is over the maximum amount.
- (6) “If a challenger leaves a location where the challenger is credentialed to serve, the organization that credentialed that challenger is allowed to replace that challenger with a new challenger credentialed by that organization so long as the replacement process does not disrupt the work of election inspectors or clerk staff present at that location.”
 - Will election staff and election inspectors receive notification in advance of a replacement? If so, please detail here the process.

Rule 7: 168.207 Challenger Training

- Is the designated person at the credentialing organization trained to conduct the required challenger training? Please clarify.
 - If so, who certifies the trainer? SOS? Detail here.

Rule 8: 168.208 Challenge to a Voter’s eligibility; Challenge to an Elector’s Ability to Cast a Ballot After Receiving an Absent Voter Ballot

- (6) What qualifies as a “properly made challenge”? What is the basis behind the claim?
 - Is the challenger required to state their reasoning/ proof for said challenge? For example, if a challenger is challenging a voter’s eligibility due to citizenship, are they required to state how they came to that conclusion? This is listed in a later rule but it is crucial to list in this section as well.

Rule 9: 168.209 Challenges to an Election Process

- (4) “A permissible challenge to an election process is rejected if the challenger liaison determines that the specific element or elements of the election process are being carried out in accordance with state law.”
 - What happens if the challenger challenges the liaison’s determination? What proof must they present? Who do they present the challenge to? Is it the Clerk? Verbal? In writing? Detail this process here.

Rule 10: 168.210 Impermissible Challenges

- In Rule 8 subrule 7 it states, “a challenge determined to be made for reasons other than the reasons allowed under subrule (2) of this rule must be **rejected** as an impermissible challenge.” However, in Rule 10 subrule 2 it states “a challenge determined to be impermissible is not accepted or rejected but is noted as impermissible.”
 - Language unclear as two different statements were made qualifies as impermissible/ rejected challenge.
 - There seem to be 2 different types of impermissible challenges, list/ detail together to lessen the confusion.
 - Are there consequences to challengers for making challenges without good cause, besides not being removed from the polling place, EV site, or AVCB?
 - Are they required to attend more extensive training? Re-sign up to serve as a challenger? Banned from serving for a period of time or just that current election?
- (d) Incorrect reference to 168.203(3) – “challenges made for an improper reason as described in R168.203(3).”
 - 168.203(3) states “the records described in subrule (1) of this rule must be retained by the credentialing organization for 1 year after the date of the challenger’s service.”
 - Subrule 1 states “for each challenger to whom a credentialing organization provides credentials, the credentialing organization shall keep the following records: (a) challenger name, (b) the challenger’s mobile phone number, if the challenger has a mobile phone, (c) other contact information that may be used to contact the challenger during the performance of the challenger’s duties, (d) the city or township where the challenger is registered to vote, (e) each Election Day polling place, early voting site, and absent voter ballot processing facility where the challenger is designated to serve.”

Rule 11: 168.211 Rejected Challenges

- Provide an example of a rejected challenge. Difficult to differentiate between a rejected challenge and an impermissible challenge since it is on a context-specific basis.
- When documenting a challenge in the pollbook, the challenger’s organization should be listed as well for accountability and tracking purposes.

Rule 12: 168.212 Accepted Challenges

- Detail process of how to proceed with an accepted challenge.
- What are the actions taken by the challenger liaison and election inspectors?
- When documenting a challenge in the pollbook, the challenger's organization should be listed as well for accountability and tracking purposes.

Rule 13: 168.213 Recording of Challenges

- (1) "If a challenger makes a challenge known to a challenger liaison without identifying the election process challenged as required by these rules, or otherwise fails to provide information required to support a challenge under the act or these rules, the challenger liaison shall ask the challenger to state the missing information necessary to support the challenge."
 - The challenge was determined to not have sufficient basis and is "impermissible", (based on the previous rules regarding "impermissible") does it or does it not get recorded in the pollbook? Why or why not?
 - If recorded in the pollbook, which version? Paper, electronic, or both? Detail here.
- (2) "The challenger shall complete the form and return the form to the challenger liaison or election inspector designated by the challenger liaison in order for the challenge to be recorded."
 - Who provides the challenge recording forms prescribed by the Secretary of State? SOS? Clerk? Challenger?
 - Are challengers required to record all challenges on these forms? And if so, what is the penalty if required duty is not fulfilled? If no, remove from rules. Detail process here.

Rule 14: 168.214 Rights and Duties of Challengers

- (1) Incorrect reference to R168.216 - It states that the challenger must complete the oath set out in Rule 168.216; however, the oath is not in Rule 168.216, it is Rule 168.215 (Challenger Oath).
 - For organizational purposes, the Challenger Oath section should be at the beginning of this rule set to establish the importance and the critical need to complete the oath prior to making any challenge or duty.

- (h) “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 photograph or make video or audio recordings except for posted election results.”
 - Detail what the electronic devices are not allowed to record or take pictures of (i.e. voter info, or any info in the pollbook). It only states that the challenger cannot make video or take pictures of the location.

Rule 15: 168.215 Challenger Oath

- NONE

Rule 16: 168.216 Challenger Conduct; Challenger Liaison Management of Election Locations

- NONE

Rule 17: 168.217 Prohibited Challenger Conduct; Ejection of Challengers

- (3) When a challenger is ejected by a challenger liaison for making repeated impermissible challenges, does the penalty progress beyond the ejection? Will they be removed from serving as a challenger in the future? Detail here.
- (4) if a challenger takes a video or picture within the polling place while voting is occurring/ ballots are being tabulated, are they required to delete the footage before they are removed from the location?
- (5) “Any warning or ejection, and the reason for that warning or ejection, must be recorded in the pollbook.”
 - Should this be recorded in the paper poll book, electronic poll book, or both? Detail here.
- (6) “A challenger who is ejected may appeal that ejection by contacting the clerk of the jurisdiction where the challenger is serving.”
 - What is the process to appeal an ejection to the Clerk? What proof must they present? Is this done verbally or in writing? Detail this process here.

Rule 18: 168.218 Challengers Serving in Clerk's Offices

- Are challengers required to check-in and notify clerk's office staff of their presence upon arrival as they are required to when at an AVCB, EV site, or polling place?
Detail this process.
- (7) if a challenger takes a video or picture within the polling place while voting is occurring/ ballots are being tabulated, are they required to delete the footage before they are removed from the location?

Rule 19: 168.219 Poll Watcher

- (6) if a challenger takes a video or picture within the polling place while voting is occurring/ ballots are being tabulated, are they required to delete the footage before they are removed from the location?

Rule 20: 168.220 Challenger Appeal of Challenger Liaison or Election Inspector Determinations

- NONE

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From: [Rozell, Joseph](#)
To: [MDOS-Elections-PublicComment](#)
Cc: [Bill Zaagman](#)
Subject: 2025-15 ST Challengers
Date: Wednesday, December 10, 2025 4:17:24 PM
Attachments: [Outlook-zk2uwvlt.png](#)
[Rozell - Challenger Draft Rule.pdf](#)

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Good afternoon,

Attached please find my comments on the proposed 2025-15 ST Challengers Rule Set. Please confirm receipt.

Thank you,



Joseph Rozell, CERA
Director of Elections
County of Oakland
248-858-0564 office
248-858-1533 fax

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DEPARTMENT OF STATE

BUREAU OF ELECTIONS

ELECTION CHALLENGERS AND POLL WATCHERS

Filed with the secretary of state on

These rules become effective immediately after filing with the secretary of state unless adopted under section 33, 44, or 45a(9) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the secretary of state by section 31 of the Michigan election law, 1954 PA 116, MCL 168.31)

R 168.201, R 169.202, R 168.203, 168.204, R 169.205, R 168.206, R 168.207, R 169.208, R 168.209, R 168.210, R 169.211, R 168.212, R 169.213, R 169.214, R 169.215, R 169.216 R 168.217, R 168.218, R 168.219, and R 168.220 are added to the Michigan Administrative Code, as follows:

R 168.201 Definitions.

Rule 1. (1) As used in these rules:

(a) "Absent voter ballot processing facility" means the location where a single absent voter counting board, multiple absent voter counting boards, a single combined absent voter counting board, or multiple combined absent voter counting boards are conducted. Absent voter ballot processing facilities do not include a clerk's office or other locations where absent voter ballots are stored, signatures appearing on absent voter ballot envelopes are checked, or other election-related activities are conducted before absent voter ballots being removed from absent voter ballot envelopes and prepared for tabulation.

(b) "Act" means the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(c) "Challenge" means a challenge made by a challenger credentialed by a credentialing organization. For the purposes of these rules, a challenged ballot issued to a voter for a reason other than a challenge made by a challenger is not a challenge and does not require any of the reporting or other requirements created by a challenge made by a credentialed challenger.

(d) "Challenger" means an individual credentialed as the representative of a credentialing organization to observe election-related activities at an early voting site, a polling place on Election Day, or an absent voter ballot processing facility at any time the applicable location is open to the public. A candidate shall not serve as a challenger if the individual is serving as an election inspector or individual is running for nomination or election at the same election, except that candidates for precinct delegate can serve as challengers so long as the candidates do not serve at the precinct where the candidates are running for office.

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(e) “Clerk’s office” means any location where a clerk or an employee of the clerk is issuing absent voter ballots to voters who appear in person and accepting completed absent voter ballots from voters who appear in person. This definition includes satellite offices or other locations established on a temporary or permanent basis to issue absent voter ballots to voters appearing in person or receive absent voter ballots from voters appearing in person.

(f) “Combined absent voter counting board” is an absent voter counting board established under section 764d(1) of the act, MCL 168.764d, or an absent voter counting board established to process each ballot form containing identical offices and names in a jurisdiction with more than 250 precincts under section 569a(2) of the act, MCL 168.569a.

(g) “Credential card” is the card required to be included in an application to become a credentialing organization under section 731(1) of the act, MCL 168.731, and the authority required to be signed by the individual identified under section 732 of the act, MCL 168.732. The authority must be in a form prescribed by the secretary of state and be known as the Michigan challenger credential card.

(h) “Credentialing organization” means an organization that is eligible to appoint and credential challengers in this state. A credentialing organization is an entity described in section 730 of the act, MCL 168.730. A credentialing organization other than a political party committee shall have satisfied the requirements of section 731 of the act, MCL 168.731.

(i) “Election staff” includes the clerk of a jurisdiction, employees and authorized assistants of that clerk, the secretary of state, any member of the secretary of state staff, the director of elections, and any member of the bureau of elections staff.

(j) “Pollbook” refers to either a physical or electronic pollbook.

(k) “Poll watcher” is a member of the public who is observing election processes and is not credentialed as a challenger. A candidate shall not serve as a poll watcher at a location where the candidate appears on the ballot.

(l) “Team of election inspectors” refers to the set of election inspectors assigned to process ballots at an individual absent voter count board or a combined absent voter count board. The team of election inspectors typically consists of an electronic pollbook inspector, a precinct chairperson, and additional election inspectors.

(2) Unless otherwise defined in these rules, a term defined in the act has the same meaning when used in these rules.

R 168.202 Pollbook records.

Rule 2. (1) If both a physical and an electronic pollbook are utilized at an Election Day polling place, early voting site, or absent voter ballot counting facility, the clerk of the jurisdiction shall direct the records required by these rules to be recorded in the physical pollbook, the electronic pollbook, or both.

(2) Regardless of the form of pollbook used at an Election Day polling place, early voting site, or absent voter ballot counting facility, any challenge forms completed under R 168.213(2) must be stored by the local clerk in the same manner as the physical pollbook is stored.

R 168.203 Record of individuals serving as challengers; organizational training.

Rule 3. (1) For each challenger to whom a credentialing organization provides credentials, the credentialing organization shall keep the following records:

- (a) The challenger's name.
- (b) The challenger's mobile phone number, if the challenger has a mobile phone.
- (c) Other contact information that may be used to contact the challenger during the performance of the challenger's duties.
- (d) The city or township where the challenger is registered to vote.
- (e) Each Election Day polling place, early voting site, and absent voter ballot processing facility where the challenger is designated to serve.

(2) Before the beginning of service by any challenger, the credentialing organization shall designate a member of the credentialing organization to be a point of contact between the credentialing organization and election officials. Except for political parties appointing challengers, the credentialing organization shall make the point of contact known to the secretary of state and the clerk of each jurisdiction where the credentialing organization is appointing challengers, using a form prescribed by the secretary of state. Political parties appointing challengers shall make the point of contact known to the secretary of state, using a form prescribed by the secretary of state. The individual or individuals serving as a point of contact shall be available to be contacted by election officials at any time when a challenger credentialed by the credentialing organization is serving as a challenger. The point of contact shall have the records described in subrule (1) of this rule readily available for reference if contacted by an election official.

(3) The records described in subrule (1) of this rule must be retained by the credentialing organization for 1 year after the date of the challenger's service.

(4) Before issuing credentials to any challengers, each individual issuing credentials on behalf of the credentialing organization shall complete training created by the secretary of state for credentialing organizations. This training must include information about permissible and impermissible challenges, and the rights and duties of challengers. The training may include certification that the individual has reviewed written materials designated by the secretary of state or may include virtual or in-person training.

R 168.204 Credential card.

Rule 4. (1) The authority required under section 732 of the act, MCL 168.732, must be in a form prescribed by the secretary of state, and be known as the Michigan challenger credential card.

(2) A credential card may be digital and presented on a phone or other electronic device. If a challenger uses a digital credential, the credential must mirror the physical template credential form promulgated by the secretary of state and must not include any information or graphics that are not included or requested on the physical template credential form.

(3) No county, city, or township clerk shall approve an organization's application to credential challengers under section 731(1) of the act, MCL 168.731, unless the facsimile of the credential card submitted by the organization is in a form prescribed by the secretary of state.

(4) If any field required on the credential card is blank, the credential is invalid and the individual presenting the form cannot serve as a challenger.

(5) The credential card shall not be displayed or shown to voters.

Commented [JR1]: Will this be maintained on the BO website for verification? If not, how will County Clerks know if the challenger request they received is valid?

Commented [JR2]: Why not? Without the credential card being worn/displayed, it would seem like a random citizen in interjecting themselves into the processing of votes. Wearing the credential provides a visual to the voter as to why someone is standing where they are standing or inquiring about their qualifications to vote.

(6) Clerks may allow or require challengers serving at a polling place on Election Day, at an early voting site during the early voting period, or at a clerk's office at any time that voters are present, to wear a reasonably sized nametag or badge. The nametag or badge cannot include any text or graphics aside from the challenger's name and the words "election challenger". The nametag must be printed on white paper, and the words "election challenger" must be printed in black ink.

(7) Clerks may allow or require challengers present at absent voter ballot processing facilities to display the challenger's credential card or wear nametags or badges that identify challengers and the organization represented by the challenger.

R 168.205 Challenger liaison.

Rule 5. (1) Each clerk shall designate 1 election inspector per Election Day polling place, early voting site, or absent voter ballot processing facility as the challenger liaison. Unless otherwise specified, the challenger liaison at election related sites is the following:

- (a) At an Election Day polling place, the precinct chairperson.
- (b) At an early voting site, the early voting site chairperson.
- (c) At the clerk's office, the most senior member of the clerk's staff present.

(2) Challengers shall not communicate with election inspectors other than the challenger liaison or the challenger liaison's designee unless otherwise instructed by the challenger liaison or a member of the clerk's staff.

(3) The challenger liaison is responsible for answering challenger questions and addressing challenger concerns. The challenger liaison is made known to challengers on the challenger's arrival at the Election Day polling place, early voting site, absent voter ballot processing facility, or clerk's office.

(4) If multiple precincts or absent voter counting boards are included in a single location, a single election inspector may serve as the challenger liaison for multiple precincts or absent voter counting boards.

(5) Challenger liaisons are responsible for maintaining an orderly election process in the location where the challenger liaisons serve. Challenger liaisons may issue directions to challengers to ensure compliance with the act, with the election inspector's duty to maintain the peace, regularity, and order at the location where the challenger liaisons are serving under section 678 of the act, MCL 168.678; with these rules; or with the requirement of maintaining an orderly election process.

(6) Challengers are required to follow the directions of the challenger liaison. If the challenger objects to the direction, the objection shall be treated as a challenge to an election process described in R 168.209. The challenger may contact the clerk responsible for the jurisdiction to appeal directions that the challenger believes are prohibited by the act or these rules.

(7) A challenger liaison may delegate any of the challenger liaison's duties under these rules to another election inspector serving in the same location.

R 168.206 Total number of challengers; challengers at Election Day polling places, early voting sites, or absent voter ballot processing facilities.

Rule 6. (1) The maximum number of challengers that a credentialing organization may field at a location is determined as follows:

Commented [JR3]: Clarify. This could be someone that works in Vital Records. It should specify clerk's "elections" staff.

(a) If the challengers are serving at an Election Day polling place, the total number of challengers allowed to each credentialing organization at a precinct must not exceed the total number allowed under section 730(1) of the act, MCL 168.730.

(b) If the challengers are serving at an early voting site, the total number of challengers allowed to each credentialing organization at a site is the total number allowed under section 730(1) of the act, MCL 168.730, as an early voting site is subject to the same requirements as an Election Day precinct pursuant to section 4(1)(m) of article II of the state constitution of 1963.

(c) If the challengers are serving at a single absent voter counting board, 1 challenger, as provided in section 730(1) of the act, MCL 168.730.

(d) If the challengers are serving at an absent voter ballot processing facility where more than 1 absent voter counting board is located, the total number of challengers allowed to each credentialing organization at the location must not exceed the total number allowed under section 765a(14) of the act, MCL 168.765a.

(e) During processing and tabulation of absent voter ballots before Election Day, the total number of challengers allowed to each credentialing organization at the location must not exceed the total number allowed under section 765a(14) of the act, MCL 168.765a.

(f) If the challengers are serving at a local clerk's office or a satellite location maintained by a clerk, each credentialing organization is limited to 1 challenger at that office.

(g) If the challengers are serving at an Election Day vote center, the total number of challengers allowed to each credentialing organization at the location must not exceed the total number allowed under section 523b(2) of the act, MCL 168.523b.

(2) At no point shall more than 1 challenger from any single credentialing organization observe the activities of any single team of election inspectors processing ballots at an absent voter ballot processing facility.

(3) Clerks shall make reasonable efforts to accommodate the number of challengers equal to the number of credentialing organizations approved to credential challengers in the clerk's jurisdiction multiplied by the maximum number of challengers allowed in the location as calculated under subrule (1) of this rule.

(4) If an Election Day polling place, early voting site, or absent voter ballot processing facility cannot accommodate the total number of challengers contemplated in subrule (1) of this rule, the maximum number of challengers each credentialing organization is allowed to have present in that location as calculated in subrule (1) of this rule is decreased by an equal number for all credentialing organizations.

(5) If the absent voter ballot processing facility cannot accommodate 1 challenger for each credentialing organization, the clerk's notice under section 765a(12) of the act, MCL 168.765a, shall provide notice of the number of challengers that can be accommodated, and 1 challenger per organization is admitted until that number is met.

(6) If a challenger leaves a location where the challenger is credentialed to serve, the organization that credentialed that challenger is allowed to replace that challenger with a new challenger credentialed by that organization so long as the replacement process does not disrupt the work of election inspectors or clerk staff present at the location.

R 168.207 Challenger training.

Commented [JR4]: This directly conflicts with statute. The law stipulates a different number of challengers that can be present when ballots are being processed before Election Day. MCL 168.730(1) permits one per board on Election Day. This administrative rule cannot override state law or legislative intent.

Rule 7. (1) Each credentialing organization shall provide each challenger credentialed by that organization with the manual created by the secretary of state governing challengers and poll watchers and other materials designated by the secretary of state.

(2) A credentialing organization is responsible for training each challenger credentialed by that organization regarding all of the following:

(a) Election Day polling place operation, if the challenger is designated to serve at an Election Day polling place.

(b) Early voting site operation, if the challenger is designated to serve at an early voting site.

(c) Absent voter counting board operation, if the challenger is designated to serve at an absent voter ballot processing facility.

(d) Voter registration and the issuance and acceptance of absent voter ballots at a clerk's office, if the challenger is designated to serve at a clerk's office.

(3) If the challenger is designated to serve at multiple categories of locations described in subrule (2) of this rule, the credentialing organization shall train the challenger on operations of all of the categories applicable at the location where the challenger is credentialed to serve.

(4) The challenger training must include, but is not limited to, an explanation of the processes and procedures during the category of location where the challenger is credentialed and the powers, rights, and duties of election challengers.

(5) Each challenger shall sign a written statement certifying that the challenger completed the required training and has a working knowledge of the material presented at training. The credentialing organization shall retain this statement for 2 years after the last date that the challenger served.

(6) An individual must not serve as a challenger unless the individual has completed challenger training as required under this rule within the last 2 calendar years. If a change in the election law, a change in election regulations, a court order, or another event substantially alters or abrogates information contained in the training, the secretary of state may require individuals wishing to serve as challengers to complete a supplemental training before serving as a challenger, even if that individual has completed the required challenger training within the 2 calendar years before the date the individual serves as a challenger.

R 168.208 Challenge to a voter's eligibility; challenge to an elector's ability to cast a ballot after receiving an absent voter ballot.

Rule 8. (1) A challenger may make a challenge to a voter's eligibility if the challenger has a good reason to believe that the individual is not a registered elector.

(2) The following are the only permissible reasons that a challenger may challenge a voter's eligibility:

(a) The individual is not registered to vote.

(b) The individual is less than 18 years of age on Election Day.

(c) The individual is not a United States citizen.

(d) The individual has not resided in the city or township where the individual is attempting to vote for 30 or more days before the election.

(3) The following are impermissible challenges to a voter's eligibility because they are improper reasons for challenge:

- (a) The individual's race or ethnic background.
 - (b) The individual's sexual orientation or gender identity.
 - (c) The individual's physical or mental disability.
 - (d) The individual's inability to read, write, or speak English.
 - (e) The individual's need for assistance in the voting process.
 - (f) The individual's manner of dress.
 - (g) The individual's support for or opposition to a candidate, political party, or ballot question.
 - (h) The appearance or the challenger's impression of any of the preceding traits.
 - (i) Another characteristic or appearance of a characteristic that is not relevant to an individual's qualification to cast a ballot.
- (4) A permissible challenge to a voter's eligibility triggers the process laid out in section 729 of the act, MCL 168.729.
- (5) A challenge to a voter's eligibility must be made to the challenger liaison or to an election inspector designated by the challenger liaison.
- (6) If a challenge to a voter's eligibility is properly made under subrule (2) of this rule, the challenger liaison or election inspector to whom the challenge is made shall ask the challenger which of the voter eligibility criteria the challenger believes the individual whose eligibility is challenged does not meet, and why the challenger believes the individual whose eligibility is challenged does not meet that criteria.
- (7) A challenge determined to be made for reasons other than the reasons allowed under subrule (2) of this rule must be rejected as an impermissible challenge.

R 168.209 Challenges to an election process.

- Rule 9. (1) A challenger may challenge an election 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. The challenge must state the specific element or elements of the process that the challenger believes are being improperly performed.
- (2) An explanation for a challenge to an election process must include an explanation of the proper performance of the element or elements in question but need not take the form of a direct citation to statute or election administration materials.
- (3) A challenge to an election process is impermissible and must not be recorded by the election inspectors in either or both of the following circumstances:
- (a) If the challenger cannot identify a specific element or multiple elements of the process that the challenger believes are improper if performed.
 - (b) If the challenger cannot adequately explain why the process is being performed in a manner prohibited by state law.
- (4) A permissible challenge to an election process is rejected if the challenger liaison determines that the specific element or elements of the election process are being carried out in accordance with state law.
- (5) If a challenger wishes to challenge recurring elements of an election process under subrule (1) of this rule, the challenger shall make a blanket challenge. A blanket challenge is recorded in the same manner as other challenges made under subrule (1) of this rule. The challenger shall not challenge each repetition of the process.
- (6) A challenge to an election process must be made to the challenger liaison.

R 168.210 Impermissible challenges.

Rule 10. (1) Impermissible challenges are challenges that are made on improper grounds.

(2) Subject to R 168.209(3), a challenge determined to be impermissible is not accepted or rejected but is noted in the pollbook as impermissible if it is possible to do so without slowing the voting or absent voter ballot tabulation process.

(3) Repeated impermissible challenges may result in a challenger's removal from the polling place, early voting site, or absent voter ballot processing facility.

(4) Impermissible challenges include the following:

(a) Challenges made to something other than a voter's eligibility or an election process.

(b) Challenges made with no explanation for the challenge.

(c) Challenges made alleging lack of photo identification against a voter who signs an Affidavit of Voter Not in Possession of Picture ID.

(d) Challenges made for an improper reason as described in R 168.203(3).

(5) A challenger shall not make a challenge indiscriminately or without good cause. A challenge is made indiscriminately and without good cause if the challenger does not know or has a reasonable belief that the challenged individual is ineligible or that the election process is being improperly performed.

(6) A challenger shall not make challenges for the purpose of harassing an elector, an election inspector, or another individual, or interfering with election processes.

R 168.211 Rejected challenges.

Rule 11. (1) Rejected challenges are challenges that are permissible that the challenger liaison does not accept. Whether a challenge is permissible but rejected is a context-specific determination that depends on the type of challenge being made.

(2) If a challenge is permissible but rejected, the following information must be recorded in the pollbook:

(a) The challenger's name.

(b) The time of the challenge.

(c) The substance of the challenge.

(d) The reason why the challenge was rejected.

R 168.212 Accepted challenges.

Rule 12. (1) Accepted challenges are challenges that are permissible and the challenger liaison determines are correct.

(2) If a challenge is accepted, the following information must be recorded in the pollbook:

(a) The challenger's name.

(b) The time of the challenge.

(c) The substance of the challenge.

(d) The actions taken by the challenger liaison in response to the challenge.

R 168.213 Recording of challenges.

Rule 13. (1) If a challenger makes a challenge known to a challenger liaison without identifying the election process challenged as required by these rules, or otherwise fails to

provide information required to support a challenge under the act or these rules, the challenger liaison shall ask the challenger to state the missing information necessary to support the challenge. If the challenger cannot state the information supporting the challenge, the challenge does not have a sufficient basis and is impermissible.

(2) A challenger making a challenge determined to have sufficient basis under subrule (1) of this rule shall be provided with a challenge recording form prescribed by the secretary of state. The challenger shall complete the form and return the form to the challenger liaison or election inspector designated by the challenger liaison in order for the challenge to be recorded. The challenge recording form includes fields specifying the time that the challenge is made, the name of the challenger making the challenge, the organization the challenger represents, the type of challenge being made, and other information determined necessary by the secretary of state.

(3) Permissible challenges to a voter's eligibility properly made under these rules must be recorded in both the electronic pollbook and the physical pollbook. The record included in the pollbook must contain a short description of the challenge and the resolution of the challenge.

(4) If a challenge is properly made but ultimately rejected, the record of the challenge in the pollbook must note in the pollbook the reason that the challenge was rejected.

(5) After the close of polls or after ballot processing is completed, challenge recording forms must be maintained with the physical pollbook.

R 168.214 Rights and duties of challengers.

Rule 14. (1) When entering an Election Day polling place, early voting site, or absent voter ballot processing facility, a challenger shall make the challenger's presence known to the challenger liaison and complete the oath set out in R 168.216 before making any challenges or enjoying any of the rights accorded to a challenger. The challenger's name, credentialing organization, and time of arrival must be recorded in the pollbook.

(2) If the challenger leaves an Election Day polling place, early voting site, or absent voter ballot processing facility before the end of tabulation, the challenger shall notify the challenger liaison. On notification, the time that the challenger leaves must be recorded in the pollbook.

(3) Properly credentialed challengers who made the challenger's presence known to the challenger liaison and have signed the oath set out in R 168.216 have the right to the following:

(a) Be present in the polling place, early voting site, absent voter ballot processing facility, or Election Day vote center.

(b) Make challenges to the challenger liaison or the challenger liaison's designee as provided in R 168.208 and R 168.209.

(c) Be treated with respect by election inspectors.

(d) Be provided with reasonable assistance in performing the duties of a challenger.

(e) Inspect applications to vote, registration lists, and other printed materials used to conduct elections that are available at the location, so long as the challenger does not touch or handle any of those materials and so long as the inspection does not interfere with the voting process.

(f) 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

Commented [JR5]: Absent Voter Counting places do not use an electronic poll book so this isn't possible.

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 interfere with the election inspectors in completion of the election inspectors' duties.

(g) Observe the election process from a reasonable distance, so long as election inspectors have sufficient room to perform the election inspectors' duties and voters are not impeded in any way.

(h) 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 photograph or make video or audio recordings of the polling place or early voting site except for posted election results.

(i) If serving in an absent voter ballot processing facility, to use electronic devices, so long as the device is not disruptive and so long as the device is not used to photograph or make video or audio recordings except for posted election results.

(j) 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 before the opening of polls or after the closing of polls.

(k) Take notes about the election process.

(l) Notify the challenger liaison of perceived violations of election laws by third parties, including electioneering within 100 feet of an entrance to the building where a polling place or early voting site is located, improper handling of a ballot by a voter, or other issues.

(m) Remain in the Election Day polling place, early voting site, or absent voter ballot processing facility after the close of polls or the end of tabulation and until the election inspectors complete the election inspectors' duties.

(n) If serving in an early voting site or polling place where ballots are being issued, stand behind the processing table and intermittently move close enough to view the pollbook as ballots are issued to voters and the voters' names are entered into the pollbook, so long as the challenger does not touch or handle the pollbook or otherwise interfere with the work of the election inspectors.

(o) If serving at an absent voter ballot processing facility, stand in a location where the tabulation of absent voter ballots can be observed, or stand in a location where the challenger can intermittently move close enough to view the entry of the names of voters whose ballots are being processed into the pollbook, so long as the challenger does not touch or handle any election-related materials.

(4) Challengers shall not:

(a) Speak with or interact in any way with voters.

(b) Threaten or intimidate voters or election inspectors, or attempt to threaten or intimidate voters or election inspectors at any stage of the voting process.

(c) Continuously stand in close proximity to election inspectors in a way a reasonable individual could find intimidating.

(d) 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.

(e) Make repeated impermissible challenges.

(f) Make a challenge indiscriminately or without good cause, or for the purpose of harassing, delaying, or annoying voters, election inspectors, or another individual.

(g) Physically touch or interact with ballots, absent voter ballot envelopes, electronic pollbooks, physical pollbooks, or other election materials.

(h) Stand so close to the pollbook or other materials that the challenger's proximity to those materials interferes with the election inspectors' ability to perform the election inspectors' duties.

(i) Use a device to photograph or 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.

(j) Provide or offer to provide assistance to voters.

(k) Wear any clothing or other apparel relating to any party, candidate, or proposition on the ballot or that 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 an identifier by an election official.

(l) 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.

(m) Set up a table or other furniture in the early voting site or polling place.

(n) Take any actions to disrupt or interfere with voting, ballot tabulation, or other election processes.

R 168.215 Challenger oath.

Rule 15. (1) After making the challenger's presence known to the challenger liaison, a challenger who is not completing the oath in section 765a of the act, MCL 168.765a, shall complete the following oath:

"I (name of individual taking oath) do solemnly swear (or affirm) that I have reviewed the written materials designated by the Secretary of State for my training and will comply with the provisions in those materials. I will follow the directions of the election inspectors operating the (description of applicable location). Further, I shall not photograph, or audio or video record, within the counting place, except for posted election results."

(2) The oaths administered under subrule (1) of this rule must be placed in an envelope provided for this purpose and sealed with the red state seal. Following the election, the oaths must be delivered to the city or township clerk.

R 168.216 Challenger conduct; challenger liaison management of election locations.

Rule 16. (1) If a challenger is serving at a location with multiple precincts or absent voter ballot processing facilities, and if the credentialing organization whom the challenger represents has fewer challengers present than the number of precincts or absent voter ballot processing facilities in the location, the credentialing organization may designate a challenger to serve at multiple precincts or absent voter ballot processing facilities within the location.

(2) Challengers enjoy the rights enumerated in R 168.214(3) only at the Election Day polling places, early voting sites, or absent voter ballot processing facilities where the challengers are designated to serve.

R 168.217 Prohibited challenger conduct; ejection of challengers.

Rule 17. (1) The right of a challenger to be present is conditional on the challenger's compliance with election inspectors' lawful commands under section 678 of the act, MCL 168.678. Any failure to comply with the lawful command of an election inspector may result in expulsion from the Election Day polling place, early voting site, absent voter ballot processing facility, Election Day vote center, or clerk's office.

(2) If a challenger liaison has a reasonable belief that a challenger is making challenges that do not comply with the requirements of R 168.208 or R 168.209, that the challenger is making impermissible challenges as described in R 168.210, or that the challenger is violating any of the prohibitions in R 168.214(4), the challenger liaison shall warn the challenger of the challenger's noncompliant challenges or impermissible behavior.

(3) If a challenger liaison has a reasonable belief that a challenger who was warned under subrule (2) of this rule is continuing to make challenges that do not comply with the requirements of R 168.208 or R 168.209, that the challenger is making impermissible challenges as described in R 168.210, or that the challenger is violating any of the prohibitions in R 168.214(4), the challenger liaison may eject the challenger from the Election Day polling place, early voting site, absent voter ballot processing facility, Election Day vote center, or clerk's office.

(4) If a challenger photographs, or audio or video records, within an Election Day polling place, early voting site, or absent voter ballot processing facility other than as allowed by the act, the election inspector shall eject the individual from the location.

(5) Any warning or ejection, and the reason for that warning or ejection, must be recorded in the pollbook.

(6) A challenger who is ejected may appeal that ejection by contacting the clerk of the jurisdiction where the challenger is serving.

R 168.218 Challengers serving in clerk offices.

Rule 18. (1) Challengers may be present at a clerk's office only if the clerk's office is open for business and during the period before an election when voters may request or return an absent voter ballot at the office.

(2) A challenger serving at a clerk's office may be present only in areas of the clerk's office where an absent voter ballot may be requested. Nothing in these rules allows a challenger to be present in areas of the clerk's office reserved for the clerk or employees of the clerk.

(3) A challenger present at a clerk's office shall not view the qualified voter file.

(4) A challenger serving at a clerk's office shall follow directions given to the challenger by election staff.

(5) A challenger serving at a clerk's office shall not observe the selections a voter makes on the voter's absent voter ballot if that voter chooses to complete the absent voter ballot in the clerk's office.

(6) A challenger serving at a clerk's office is bound by the same duties as a challenger serving at an Election Day polling place, early voting site, or absent voter ballot processing facility.

(7) If a challenger photographs, or audio or video records at a clerk's office other than as allowed by the act, the election inspector shall eject the individual from the location.

R 168.219 Poll watcher.

Rule 19. (1) Poll watchers have the right to do the following:

(a) Be present at an Election Day polling place, early voting site, or absent voter ballot processing facility, if there is sufficient space.

(b) Observe the electoral process from a public viewing area designated by the clerk, which must be placed in a location that does not interfere in any way with the work of election inspectors present in the location, or with participation in the voting process if voters are present. If the public viewing area for a particular election location is full and cannot accommodate more poll watchers, and if the public viewing area cannot be enlarged without disrupting election processes, the clerk or challenger liaison must deny entry to additional poll watchers.

(c) Request to view the pollbook without handling it, but the challenger liaison may decline that request. A poll watcher shall never handle the pollbook or other election equipment or materials.

(2) Poll watchers are subject to all of the same restrictions as credentialed challengers, including the prohibitions against speaking with voters and against speaking with election inspectors other than the challenger liaison without the challenger liaison's permission.

(3) In addition to the restrictions in subrule (2) of this rule, poll watchers shall not do the following:

(a) Issue challenges.

(b) Sit or stand behind the processing table at an Election Day polling place or early voting site.

(c) Be present in any part of the polling place, early voting site, clerk's office, or absent voter ballot processing facility, except the designated public viewing area.

(4) If an election inspector has a reasonable belief that a poll watcher is in violation of subrule (2) or (3) of this rule, the election inspector shall warn the individual of the poll watcher's nonallowed behavior.

(5) If an election inspector reasonably believes that a poll watcher who was warned under subrule (4) of this rule is continuing to violate this rule, the election inspector must eject that poll watcher from the Election Day polling place, early voting site, or absent voter ballot processing facility. If the poll watcher refuses to leave after being informed of the ejection by an election inspector, the election inspector may request law enforcement remove the poll watcher from the polling place, early voting site, or absent voter ballot processing facility.

(6) If a poll watcher photographs, or audio or video records, within an Election Day polling place, early voting site, or absent voter ballot processing facility, the election inspector shall expel the individual from the location.

R 168.220 Challenger appeal of challenger liaison or election inspector determinations.

Rule 20. (1) A challenger may appeal to the city or township clerk of the jurisdiction where the challenger is serving a decision by the challenger liaison or other election inspectors relating to any of the following:

(a) The validity of a challenge.

(b) A challenger's conduct.

(c) A challenger's ejection.

(2) The following apply to a challenger appeal:

Commented [JR6]: Interesting. So if our county absent voter ballot processing facility is physically located in Pontiac Waterford is that where the challenger would drive to appeal to the local clerk?

- (a) The appeal must be made outside the hearing of voters.
- (b) If the challenger is appealing the ejection, the appeal must be made 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.
- (c) At the request of a challenger, the challenger liaison shall provide the contact information of the city or township clerk.
- (3) The challenger may appeal the decision of the local clerk to the bureau of elections.
- (4) A challenger shall not appeal to the city or township clerk an election inspector's resolution of a challenge to a voter's eligibility to vote. Appeals of an election inspector's resolution of an eligibility challenge can only be adjudicated through the judicial process after Election Day.

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SENT VIA EMAIL to Elections-PublicComment@Michigan.gov

December 11, 2025

Bureau of Elections
P.O. Box 20126
Lansing, Michigan 48901-0726

Re: Comments on Proposed Rule Set 2025-15 ST

Dear Director Brater and Colleagues:

Promote the Vote, drawing on years of experience credentialing nonpartisan, pro-voter challengers, strongly supports the proposed challenger rules and offers some recommendations.

Overall, we believe the rules will be beneficial for election administrators, election workers, voters, and challengers and help maintain orderly elections. These rules clearly delineate the role of challengers—leaving no questions to election workers or challengers about what behavior is and isn't allowed—and reaffirm clerks' authority to maintain order and remove challengers who disrupt election operations. Moreover, requiring a state provided training and having a standard set of rules across the state offer transparency and stability for election workers and Michiganders.

Our recommendations are:

Add clerks' offices to the definition of challenger service locations. The definition of "challenger" in Rule 1(1)(d) lists three locations where the challenger can observe election-related activities—an early voting site, a polling place, or an absent voter ballot processing facility. However, the rules also reference serving in clerks' offices (i.e., Rule 4(6) and Rule 6(1)(f) and most notably at Rule 18). We recommend adding clerks' offices to the list of locations where challengers can observe election-related activities in the definition of "challenger" under Rule 1(1)(d). This addition is important for many reasons, including that it would clearly require challengers in clerks' offices to take the oath in Rule 15 and give challengers the rights they have in other locations, most notably to notify election workers of electioneering and other violation of election laws by third parties.

Align record retention timelines. Rule 3(3) requires credentialing organizations to keep records on their challengers for one year after the date of the challenger's service, but Rule 7(1) requires credentialing organizations to retain challengers' signatures for two years after the date of the challenger's service. Is there a reason to have credentialing organizations retain challengers' signatures longer than their contact information? Not seeing a compelling reason for the discrepancy, we recommend requiring maintenance of both these records for a single year.

Allow electronic signatures for challenger certification. Rule 7(1) requires that “each challenger sign a written statement certifying” that they completed the training and had a working knowledge of the material. Most credentialing organizations, including PTV, are not based in a single municipality or area of the state. Requiring physical signatures would be an unnecessary logistical hurdle for PTV and other credentialing organizations. For this reason, we recommend allowing electronic signatures.

Clarify language about challenging a voter who received an absentee ballot. The heading of Rule 8 reads “challenge to an elector’s ability to cast a ballot after receiving an absent voter ballot.” Per MCL 168.727, a voter can only be challenged if they applied for an absentee ballot and state that they “never received the absent voter ballot or have lost or destroyed the absent voter ballot.” Additional language should be added to Rule 8 so that it reflects election law.

Add language to Rule 8(6) to specify the standards for challenging a voter’s eligibility. We propose that the language in Rule 8(6) should be amended to clarify that a challenger must state the specific reason for challenging a voter’s eligibility in order to make a voter eligibility challenge. As currently written, it is not clear that specifying the reason for challenging a voter’s eligibility is necessary to make the challenge.

Clarify the language in Rule 8(7) about how election inspectors must respond to voter eligibility challenges. Similar to Rule 9(3), Rule 8(7) should be reworded to emphasize that a challenge to a voter’s eligibility is impermissible and need not be recorded by the election inspectors if the challenger does not state a valid voter eligibility criterion under Rule 8(2) and/or if the challenger cannot adequately explain why they believe the individual whose eligibility is challenged does not meet the stated eligibility criterion.

Add language to Rule 14 to address locations where there are multiple precincts and challenger liaisons. Rule 14 should address that some Election Day polling places and absent voter ballot processing facilities have multiple precincts and multiple challenger liaisons. To prevent challengers from having to take the same oath multiple times at a single polling place and absent voter ballot processing facility, which would be onerous for election workers and challengers, the rule should outline a process for challengers to take a single oath at an Election Day polling place and absent voter ballot processing facility. The rule should also clarify which poll book or poll books must note the arrival and departure of challengers.

Amend the oath so it is appropriate for challengers in Election Day polling places, early voting sites, and clerk’s offices. The last sentence of the oath in Rule 15 contains the phrase “within the counting place.” We recommend deleting that phrase so the oath applies to challengers at polling places, early voting sites, and clerk’s offices, in addition to counting places.

Add a right for challengers to request a chair if needed. We recommend adding a right to Rule 16 so that if challengers need a chair for an injury, disability, or other physical need, the

challenger may request a chair from the challenger liaison and receive it. Adding this right will allow differently abled challengers to participate fully.

Address clerical errors. First, the last sentence of Rule 1(1)(d) reads a “candidate shall not serve as a challenger if the individual is serving as an election inspector or if the individual is running for nomination or election at the same election...” Based on our understanding of the rule and MCL 168.677, we believe the word “candidate” should be replaced with “individual.” Second, Rule 14 contains multiple references to the oath in Rule 16, but the oath is in Rule 15.

Thank you for your consideration of our comments. We are available to discuss them further if you would like. You may contact Melanie Macey at 734-277-1311.

Sincerely,

/s/Melanie Macey
Melanie Macey
PTV Policy & Government Affairs Director
melanie@promotethevotemi.com

/s/Bailey Rechler
Bailey Rechler
PTV Voting Rights Counsel
bailey@promotethevotemi.com

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DAVID B. JAFFE
1240 DORCHESTER ROAD
BIRMINGHAM, MICHIGAN 48009
248 231-9337 – JAFFEDB@GMAIL.COM

December 11, 2024

By Email to: Elections-PublicComment@Michigan.gov

Bureau of Elections
Michigan Department of State
P.O. Box 20126
Lansing, Michigan 48901-0726

Ladies and Gentlemen:

As provided in your Notice of Public Hearing, I am writing with comments on the proposed changes to the Election Challengers and Poll Watchers rule set. Thank you for the opportunity to submit comments. I plan to attend the hearing tomorrow and to make brief oral comments.

I support the proposed rules, which will strengthen the administration of Michigan's elections, and will support challengers who wish to perform their statutorily assigned functions while reducing inappropriate actions against or by challengers.

I. Introduction and Overall Support for the Rules

I have served as a poll challenger since 2018. I have served as the team leader of the challengers credentialed by the Michigan Democratic Party at the Detroit absent voter ballot processing facility at Huntington Place at every election, including municipal elections, since August 2020. I have also served at precincts in several jurisdictions before August 2020 and at early voting sites in 2024 and 2025. I have trained challengers for the Detroit absent voter ballot tabulation and assisted in the training of other challengers.*

I have seen challengers from numerous organizations work responsibly to perform their duties and treat election inspectors and one another with respect. I have also seen challenger, abuse their position to interfere with the counting process, to make patently invalid challenges and claims of election fraud, and to intimidate and even abuse election inspectors and other challengers. I myself have been physically threatened by a challenger.

* Although I have served in volunteer roles in the Michigan Democratic Party's voter protection program, I am not an official – or even a member – of the party, and these comments reflect entirely my own views. No employee or official of the Democratic Party has had any input into this document, and I am solely responsible for it.

Many challengers arrive at polling places and counting facilities with no real knowledge of election law or procedure, but with only a generalized notion that they wanted to stop whatever seemed to them to be inappropriate or bad. They are not aware of the activities that the Michigan Election Law assigns to challengers, of election law and procedures, or of the grounds for a challenge. Before the Secretary of State issued guidance on the rights and duties of challengers, some of these challengers disrupted proper election activities, harassed and intimidated election workers, and delayed the tabulation of ballots and reporting of results by outrageous and lawless behavior.

I have testified before the Senate Oversight and Elections Committees with respect to this behavior and attach copies of my written testimony so that the record for this rulemaking will include evidence of the lack of training and malign behavior that these rules seek to responsibly control.

After the Secretary issued the guidance, harassment and disruption were reduced significantly, and a more orderly environment made it easier for challengers who were serious about their role to detect mistakes by election inspectors and call them to the attention of a liaison in a way that caused actual mistakes to be corrected. I and members of my team have pointed out mistakes, and election officials and liaisons to have overwhelmingly been welcoming to our legitimate points and have been quick to correct mistakes.

These proposed rules are fully in accordance with the Michigan Election Law and will be helpful to election officials and all legitimate challengers.

II. Specific Suggestions for Clarifications and Improvements to the Draft Rules

I believe that the proposed rules can be even more helpful with several clarifications and changes, which I outline below. In this section, my specific suggestions for alternative or added language are shown in ***bold italics***.

Rule 1.(1)(i) It would be helpful to mention election inspectors specifically in this paragraph. Some inspectors may be contractors rather than employees, and in any case the clarity would make the rules easier to understand and apply. ***Add “, election inspectors” after the word “employees” in line 1.***

Rule 1.(1)(l) ***In the first line, change the word “the” to “a.”*** At any combined absent voter count board there will be more than one team.

Rule 1.(1)(l) The second sentence, about typical teams of election inspectors, does not reflect the makeup of the teams at the Detroit absent voter ballot processing facility. There is no electronic pollbook inspector at the Detroit Absent Voter Ballot Processing Facility. Each team

in Detroit includes four inspectors, one of whom inserts ballots into the tabulator. Currently, the inspector who inserts ballots into the tabulator (in Detroit) is a supervisor. ***This could be corrected by saying that it refers to the team of election inspectors at a polling place or early voting site.***

Rule 3.1(1)(e) ***Add “or facilities” after the word “facility” in the second line.*** It should be possible to refer to groups of locations. For example, “all precincts in Bloomfield Hills,” or “the absent voter ballot processing facility and all early voting sites in Detroit.”

Rule 3.1(2) ***Consider changing either “individual or individuals” in lines 8 and 9 to “individual” OR changing “a member” to “one or more members” or “one or two members” in line 2.*** The number of points of contact allowed should be consistent to avoid confusion. It may be desirable to have more than one point of contact, especially for organizations that are credentialing large numbers of challengers across the entire state. This would enable election officials to reach someone promptly. It may be desirable to limit the number to two or three in order to avoid confusion.

Rule 5.(1) At multi-precinct polling places and at absent voter ballot processing facilities such as Detroit, where there may be 50 counting boards, the clerk should be allowed to designate more than one liaison. At multi-precinct polling places, a single liaison may not be enough. It will be much easier to give clear instructions to challengers if each person to whom they can speak is called a liaison, rather than having “designees.” ***Change “1” in line 1 to “1 or more,” and change “the to “a” / line 2. Add the following sentence: “Each clerk may designate additional liaisons for individual precincts or absent voter ballot counting boards.”***

Rule 6.(2) This is a salutary and important rule because groups of challengers have swarmed teams of election inspectors in the past, which has led to harassment and interference with the tabulation process. However, at an absent voter ballot processing facility with multiple counting boards, each credentialing organization is allowed one or two “managers” who are allowed to move about the facility. One of those managers should be allowed to observe a team of inspectors with one of the challengers who they manage. This will often speed the process because the managers are usually knowledgeable and able to instruct the challenger. I have seen situations in which managers for different organizations, including both the Democratic and Republican parties, have been able to resolve an issue promptly and ease the concerns of election inspectors by speaking with their challenger. ***Add at the end of the sentence, “except that 1 person who has been accepted by election officials as a manager of challengers from that organization may also observe.”***

This practice is also desirable because managers engage in “on the job” training with their challengers. I provide a very detailed training session with extensive written materials to the challengers I lead. But inevitably they have questions during the tabulation process. It is

efficient and effective for me to be able to observe with them and explain what is happening and the applicable rules without having to involve a liaison.

Rule 8. This Rule fails to make it clear when a challenger is permitted to challenge an absent voter's ability to cast a ballot. Under the current guidance, "[v]oter eligibility challenges are not permissible at an absent voter ballot processing facility."[†] This restriction should be included in the new rules. The Election Law itself makes it clear why challenges to eligibility cannot be allowed at an absent voter ballot processing facility. When there is a challenge to a voter's eligibility, whether by an election inspector or a challenger, Section 729 of the Election Law requires that the person attempting to vote be questioned by an election inspector and, "if the answer to such questions show that said person is a qualified elector in that precinct, he shall be entitled to receive a ballot and to vote." It is the person's answers to the questions that determine whether he is entitled to vote – if "any one of his answers concerning a material matter shall not be true, he shall, upon conviction, be deemed guilty of perjury.

There is a provision of the law for challenging a person who has received an absentee ballot and the appears at a polling place to vote. Of course, challenges are permitted as to such a voter, but subject to the limitations stated in the current guidance.

Accordingly, the Bureau should: Insert the words "at a polling place" in the title to Rule 8 after the word "ballot" and in Rule 8.(1) after the word "eligibility." Then add a new subsection (8) to the Rule, stating: "Voter eligibility challenges are not permissible at an absent voter ballot processing facility."

Consider adding additional language from the existing guidance at pages 16 and 17.

Rule 8.(6) This rule should explicitly require the challenger to state the required elements of the challenge with specificity. I have often seen challengers make rambling statements about eligibility that may use one or two words from the statues but that, taken as a whole, do not state a legally recognized ground for ineligibility.

Insert the words "to state with specificity" after the first use of the word "challenger" in line 3.

In addition, add a new paragraph at the end of or after paragraph (6), modeled on Rule 9.(3) below that states:

A challenge to a voter's eligibility is impermissible and must not be recorded by the election inspectors in either or both of the following circumstances:

(a) If the challenger cannot identify a specific criterion for voter eligibility that the challenger believes the prospective voter does not satisfy.

[†] The Appointment, Rights, and Duties of Challengers and Poll Watchers, September 2024, page 17.

(b) If the challenger cannot explain with specificity why the challenger believes that the prospective voter does not satisfy that criterion.

The Rule appears to contemplate that an eligibility challenge may be made to an inspector who is not a liaison, even though the rules make it clear that challengers must communicate and make challenges only with liaisons. **Delete the words “or election inspector” in line 2.**

Rule 8.(7) This language leaves unclear who makes the determination as to whether the challenge is made for reasons other than those allowed. The challenger liaison is assigned that task under the rules, and this should be clarified.

Change (7) to read: “If the liaison determines that the challenge is made for reasons other than the reasons allowed under subrule (2) of this rule, the liaison must reject the challenge as an impermissible challenge.”

Rule 9.(5) The term “each repetition” is perhaps imprecise. **Change “each repetition” in line 3 to “any subsequent” repetition.”** This would avoid the argument that a challenger could challenge some repetitions if the challenger did not challenge each and every repetition. Although this comment may seem farfetched to people who have not spent time in an absent voter ballot processing facility, I can assure you that challengers have often made similarly farfetched arguments in an effort to delay or obstruct the tabulation process or to disqualify legitimate voters.

Rule 10.(2) This Rule changes current guidance, which says that impermissible challenges will not be recorded in the poll book. The use of the word “possible” opens the election inspectors and officials to more scrutiny than is appropriate. They election officials on the spot should be entitled to use their reasonable judgement to determine when to note impermissible challenges in the poll book. **Change “possible” in line 2 to “in the judgment of the liaison, practicable”.**

Rule 10.3 This rule gives no guidance to clerks and election officials as to when a challenger should be removed. It should specify who can make the determination that a challenger will be removed and a standard for making that determination. The standard should come from the statute and these Rules. **Change this provision to: “If a challenger makes repeated impermissible challenges, then the senior election official present or the designee of that official may cause the challenger to be removed if in their judgment the impermissible challenges are made indiscriminately or without good cause, or are either intended to or have the effect of slowing or interfering with the voting or tabulation process, or harassing an elector, election inspector, or another individual (including another challenger).”**

Rule 10.(5) **Change “has” in line 3 to “have.”** This is simply a grammatical point.

Rule 13.(2) **Change “includes” to “shall include” in line 5. Change “necessary” in line 8 to “necessary or appropriate.”** These changes are proposed for clarity.

Rule 13.(3) **Change “pollbook” in line 3 to “pollbooks”** because the previous sentence says that the challenge must be recorded in two pollbooks -- electronic and physical.

Rule 14.1 At a location with more than one precinct or more than one counting board, there will be multiple pollbooks. It should be possible to enter this information in any one pollbook. It seems unnecessary and wasteful to enter all of this information in each physical and electronic pollbook at the location. **Possibly change “the” to “a” in line 5.**

Rule 14.(3)(o) In some absent voter ballot processing facilities the names of voters are not entered individually into the pollbook. In Detroit, for example, the list of voters in each batch of ballots, called the “absent voter list” is prepared in advance and delivered to the facility. The rule should address Detroit's practice to avoid creating an implication that names must be entered individually as ballots are being processed. **Perhaps add after “pollbook” in line 4 “or the absent voter list”.**

Rule 14.(4)(b) This rule should be expanded to cover threatening or intimidating other challengers. I have been physically threatened by another challenger in the Detroit absent voter counting facilities, and I have seen examples of challengers attempting to intimidate other challengers. The statutory basis for this expansion is Section 733(4) of the Election Law, which states: “A person shall not threaten or intimidate a challenger while performing an activity allowed under subsection (1).” **In line 2, insert “, other challengers,” after “voters”.**

Rule 14.(4)(d) In my experience, election inspectors want to say “good morning” or the like to challengers who arrive at their station, and challengers who do not wish to appear aloof or impolite wish to do the same. This has been the informal practice in Detroit without any adverse effects. **Please consider an exception for one brief greeting on arrival at the polling place or counting board.**

Rule 14.(4) This rule does not cover the prohibition in Section 733(3) of the Election Law, which provides that “[a]ny evidence of drinking alcoholic beverages or disorderly conduct is sufficient cause for the expulsion of a challenger.” **In order to follow the law, add a new subsection 14.(4)(o), reading: “Show any evidence of drinking alcoholic beverages or engage in disorderly conduct.”**

Rule 16.(1) First, the reference to “multiple absent voter ballot processing facilities in the location” seems to be incorrect. The absent voter ballot processing facility is the entire location, and there may be multiple counting boards or teams of inspectors at that location.

Second, the Detroit absent voter ballot counting facility has rules in place to restrict the number of counting boards to which a challenger may be assigned. This is an essential provision which prevents challengers from rushing around the room creating disturbances. The Rule should permit this kind of restriction.

Change “absent voter ballot processing facilities” to “teams of inspectors” or “counting boards” in lines 2 and 5-6 and “if and to the extent permitted by the clerk” after “location” at the end of the rule.

Rule 17. This rule should also cover, for the sake of completeness, the provisions of Section 733(3), which provide for expulsion where there is “any evidence of drinking of alcoholic beverages or disorderly conduct.” This will be accomplished by adding the provision that I suggest as Rule 14.(4)(o) above.

Rule 17.(6) This provision should clarify, as the existing guidance does that the ejected challenger may contact the clerk after leaving the location, as provided in rule 20.1(b) below. ***Add the language currently in Rule 20.2(b) or clarify that it applies to this rule.***

III. Conclusion

The proposed rules will be beneficial for the conduct of elections in Michigan, support the rights and effectiveness of any challengers who are working in good faith and in accordance with the Michigan Election Law. They should be adopted, and the Bureau should adopt the modest changes that I have proposed above.

Respectfully submitted,



David B. Jaffe

Attachments:

- Exhibit A: Testimony Before the Senate Oversight Committee, December 9, 2020
- Exhibit B: Testimony Before the Senate Elections Committee, February 23, 2022
- Exhibit C: Testimony Before the Senate Elections Committee, November 13, 2024

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Testimony of David B. Jaffe
For the Michigan Senate Committee on Oversight
December 9, 2020

My name is David Jaffe. I was the volunteer team leader for the Democratic challengers at TCF Center at the August primary and the November general election. I am pleased to provide this written testimony as discussed with Chairman McBroom during my oral testimony before the Committee yesterday, December 8, 2020.

Statutory Provisions.

As a preliminary matter, I will mention some relevant provisions of Michigan statutes, where I did not have section numbers at hand when Senator Lucido was asking questions.

1. Only One Basis to Challenge a Ballot.

MCL 168.727(1) and 168.733(1)(c) provide only one basis for challenging a ballot – that the challenger “has good reason to believe” the voter is not eligible to cast that ballot because the voter is not registered to vote in that precinct*.

MCL 168.733(1)(d) permits a challenger to “Challenge an election procedure that is not being properly performed.”

2. No Indiscriminate Challenge; No Interference.

MCL 168.727(3) provides:

- “A challenger shall not make a challenge indiscriminately and without good cause.”
- “A challenger shall not interfere with or unduly delay the work of the election inspectors.”
- “A challenger shall not handle the poll books ... or the ballots”

3. Challenger Not to Interfere or Delay the Work.

MCL 168.727(3) also provides: “A challenger shall not interfere with or unduly delay the work of the election inspectors.”

4. Challenges to Election Procedures are Not Required to Be Recorded.

MCL 168.727(2) provides that: “Upon a challenge being made under subsection (1), an election

* In a polling place, a ballot can also be challenged on the basis that the voter has already voted an absentee ballot. MCL 168.727(1), but there is no similar right in an absentee counting board.

inspector shall” record the challenge in the election record. Subsection (1) covers challenges where “the inspector knows or has good reason to suspect that the applicant is not a qualified or registered elector of the precinct, or if a challenge appears in connection with the applicant’s name in the registration book,” or to voters in polling places who have previously applied for absentee ballots. The requirement of recording applies only to challenges made under subsection (1), and subsection (1) does not include challenges to election procedures.

MCL 168.733, which does permit challenges to election procedures, does not require that challenges be recorded.

(Note that MCL 168.727(3), prohibiting challenges made indiscriminately and without good cause, is different from subsection (2). Subsection (3) applies to any challenge, not just to a challenge made under subsection (1).)

There is nothing in the statute that allows a voter to be disqualified or a ballot not to be counted because of a process or other error by an election inspector.

#

My Background

I grew up in Huntington Woods and received my law degree with honors from The University of Chicago, where I worked for Professor Edward Levi, Attorney General of the United States under President Ford. I served as a law clerk to the Chief Judge James Browning of the U.S. Court of Appeals for the Ninth Circuit and to then-Associate Justice William Rehnquist at the Supreme Court of the United States. I was a partner at the Honigman law firm in Detroit before spending 24 years at Bill Davidson’s Guardian Industries, where I was Vice President, General Counsel and Secretary. I now have my own law practice in Birmingham.

My Testimony

I was trained for my role by the Michigan Democratic Party’s Voter Protection Program. I also attended the walk-through that election officials conducted on the Thursday before election day to explain the layout and the procedures that would be followed, and helped conduct additional training for our team based on that walk-through. The training included extensive training sessions with slides, and additional reading, including Michigan statutes, the Secretary of State’s manuals and other materials. I brought with me a binder containing those materials, tabbed for ready reference.

In August there were approximately 35 Republican and six Democratic challengers at TCF Center. We cooperated and worked together reasonably well, and often went to the elections officials together with questions or concerns. We Democratic challengers were much better trained than the Republican challengers, who told me that they had received only cursory training and the instruction to “look for fraud,” and they occasionally asked us to explain the law and procedures. The Republican and Democratic challengers brought different perspectives to our work, but we were generally able to work respectfully and without significant incidents.

One of the Republican challengers commented to me that the Inspectors were overworked and

that she wanted to sign up as an Inspector for the General Election.

Sure enough, early on November 3 this woman came over to me in the counting room. She remembered our conversation, and wanted me to know that she and her husband had signed up and were proudly serving as Election Inspectors at TCF Center.

* * *

Unfortunately, the approach of most of the Republican and EIF challengers in the Absent Voter Counting Board for the general elections was very different from the primary. (In this testimony I will often refer to Republican and EIF challengers, who coordinated their efforts, together as Republican challengers.) The most significant facts, which I will describe in more detail, are:

1. The Republican challengers did not understand Michigan law and procedures for counting absentee ballots. They often claimed that the election workers broke the law or cheated when in fact things were being done correctly.
2. Republican challengers and their leaders aggressively and systematically violated the laws and rules that govern challengers.
3. Republican challengers and their leaders aggressively harassed election workers and obstructed their work in an effort to disrupt and slow the count, and to make false claims of misconduct and fraud.
4. Republican challengers were allowed into the counting room in very large numbers and had full access and opportunity to observe.
5. If the Republican challengers had really been looking for actual misconduct or fraud, they would have behaved very differently.

I will explain each of these in turn.

1. Ignorance of Law and Procedures.

Here are some examples of Republican challengers not knowing, or perhaps ignoring, the laws and rules:

- They believed that ballots that were returned without the secrecy sleeve were invalid. This is not Michigan law.
- They complained vociferously that voters' signatures were not being checked at TCF Center. But the law requires signatures to be checked at the Clerk's office before they are delivered to the AVCB.
- They were evidently not aware of what happens to a challenged ballot under Michigan law, MCL 745-749. For example, even at the hearing yesterday, Mr. Driscoll complained that when he challenged a ballot, the election inspector wrote the ballot number of the

ballot and then put it in the pile of ballots to be counted. This is exactly what the statute requires. If there is a court proceeding later, the judge can order that a challenged ballot be retrieved. Mr. Driscoll, and many other Republican and EIF challengers, evidently thought that a challenge meant that the ballot should be set aside and not counted. But that is not the law.

- They did not understand the balancing process or what balancing means.
- They did not know that challenges to election procedures are not required to be recorded in the poll book – or anywhere else. (In all my years as an election challenger, in precincts and in counting boards, I have never seen anyone ask that a challenge to a process be recorded in the poll book until this general election.)
- They did not know that the election inspectors in the AVCB did not have access to Qualified Voter File. They did not know that the electronic list on the computer screens was an Electronic Poll Book.
- They believed that there was a legal requirement that absentee ballots be recorded in the QVF by 9:00 pm on Election Day. There is no such rule.
- At least one challenger complained that the name on the ballot should have been compared with the name in the Electronic Poll Book. Of course there are no names on ballots. It's beyond ludicrous.
- They did not understand the duplication process for ballots that could not be read by the tabulators.
- They did not know that, under the law, birth dates are not used for verification at AVCBs. When election inspectors followed the established practice of entering January 1, 1900 when the birth date was missing, which is done so that the file is flagged to be updated after the election, they complained. Chris Thomas repeatedly explained the rules and the process to challengers.
- At least one Republican challenger has complained in an affidavit that we Democrats did not wear credentials that identified us as Democrats. This is supposedly evidence of cheating. But challengers are not allowed to wear any partisan identification, as election officials had reminded both parties before Election Day. This is not a new rule. The Democrats followed the law; the Republicans ignored it. The election officials did not enforce the rule against the Republicans. It was not the only time officials bent over backwards to accommodate the Republican challengers.

2. Violation of Laws and Procedures.

Here are some examples of misconduct and harassment:

- Republican challengers began violating Michigan law as soon as pre-processing began on Monday. Whenever an envelope contained a ballot that wasn't in a secrecy sleeve, a challenger "challenged" the ballot, and demanded that Election Inspectors stop and write down each challenge. But voters in Michigan are not required to use secrecy sleeves, and these ballots were perfectly legitimate. Election officials explained the law. Republican challengers continued these baseless challenges anyway, violating the Michigan statute (MCL 168.727) that prohibits making challenges "indiscriminately and without good cause."
- At one point a large group of Republican challengers huddled with some of their leaders.

One of these leaders shouted, loud enough for several of our volunteers to hear, “You’ve got to be more aggressive.” From that point onward, the shouting, the abuse and the disruption increased. Many Republican challengers began challenging every ballot (again indiscriminately and without good cause), and demanding that the election inspectors stop and write down the challenge.

- Under the law, there is only one valid basis for challenging a ballot: that the challenger has a good reason to believe that the voter is not eligible to vote. Our team never heard any challenger articulate such a basis. The challenges were nothing more than an attempt to slow down the process and harass the workers. Our team repeatedly pointed out that the challenges were invalid and that the inspectors could continue their work. This was repeatedly confirmed by supervisors, by their supervisors, and by the senior elections officials in the room.

The conduct of many of the Republican and EIF challengers followed this pattern throughout the counting. They were not looking to see whether there was fraud. They had already decided that there was fraud, and were bound and determined to find it, even if they had to make it up.

- Misconduct by the Republican challengers accelerated through the counting process. Tim Griffin, a Virginia lawyer who was a leader of the Republican/Election Integrity Fund effort, presented himself as a challenger for EIF. But Michigan law clearly says that challengers must be registered to vote in Michigan. Mr. Griffin was caught by election officials, allowed him to be a “poll watcher,” which meant that he had to observe from an area at the front of the room, where the press was allowed.
- On Election Day, while the polls were open, a steady stream of Republican challengers went to the talk with Mr. Griffin in the poll watcher area and return to the room. Then Mr. Griffin took out his phone and made a call.

Phones and recording devices are strictly prohibited anywhere in the room while the polls are open. It’s against the law to communicate anything about the counting to anyone outside the room. Anyone with a phone can be ejected.

Election officials told Mr. Griffin to stop using his phone. A while later, Mr. Griffin used his phone in the bathroom. Election officials again told him to stop. The man was obviously illegally coordinating the Republican and EIF efforts with people outside the room. Mr. Griffin also abused his rights as a poll observer and broke the law by communicating with the press about activities in the counting room

I left my phone in my car as the law requires while the polls were open. But many Republican challengers were caught using phones while the polls were open. I would certainly have liked to have the same ability to communicate with our team’s lawyers and with others.

- Phones were allowed after the polls closed Tuesday evening, but filming and recording were not. The Republicans knew this rule and flouted it intentionally and repeatedly. More than a few Republican challengers were caught filming; most were given warnings. But at least one flagrant repeat offender was escorted from the room by the Detroit

Police.

3. Harassment and Disruption.

Senators, please imagine yourself as a woman working as an election inspector and having a challenger snarl at you, out of the blue, “I’ll bet you aborted your babies!”

This is one of many examples of harassment of election inspectors by Republican challengers. They pressed in close and yelled accusations. Some came face to face with election inspectors and removed their masks to taunt the inspectors about COVID-19. They were intentionally intimidating and abusive; I could see the fear on election workers’ faces, and saw more than one reduced to tears. My colleagues have provided additional examples in their written testimony to the Committee.

When ballots were being duplicated at counting boards, Republican and Democratic challengers naturally wanted to observe. Challengers were asked to stay well back from the election inspectors to reduce the risk of transmission of COVID-19. This meant we all had to be a little creative to see the duplication. It wasn’t hard to find a spot from which to watch. In many cases, the inspectors showed both the original and duplicate to the challengers after they were finished so that there was full opportunity to confirm that the ballot had been copied correctly. At each table, one Republican, one Democrat and one challenger from another group (like EIF) was permitted to observe, and other challengers were asked to step back.

Many Republican challengers, however, began yelling and immediately if they were not allowed to stand in precisely the spot they wanted. A group of their colleagues would rush at the table, most of them yelling. They screamed accusations at the elections inspectors, and at supervisors who came to find a solution. They demanded that two, or often more, Republicans be permitted to crowd around the table, even though this only made it harder to see what was going on. They were abusive to the election workers and to our volunteers.

Republican challengers repeatedly tried to stop the work at Counting Boards to interrogate each inspector about his or her party affiliation, falsely claiming – often by yelling -- that there has to be a Republican inspector at each counting Board. Supervisors repeatedly had to intervene to stop these improper challenges and the hostile and aggressive conduct of Republican challengers.

Scores of challengers would keep repeating the same invalid challenges across the room for hours. The senior election officials would explain the law; sometimes Republican leaders would advise their challengers to tone it down, or even move them to another location in the room. But the same challenges, hostility, and aggression would be repeated, again and again. These were not ever good faith challenges. They were a blatant attempt to disrupt the process.

Our challengers spoke up often to defend proper election processes – and the election workers – from these attacks. At one point a Republican challenger was aggressively asking an election supervisor questions about the Secretary of State mailing absentee ballots last summer (which of

course is not what happened; The Secretary of State mailed applications for absentee ballots, not ballots.) But in any event these election workers had nothing to do with whatever the Secretary of State mailed, and the question had nothing to do with counting absentee ballots. He was demanding answers to his questions, to which is said he was entitled as a taxpayer. He was shouting at this election inspector. I joined the conversation to correct his facts and to tell the Republican challenger that he was interfering with the work of the inspectors by raising issues unrelated to absentee ballot processing.

This gentleman told me that he knows who I am, and that “we will be coming after you.” This was just one of the threats made to our challengers during the day. One Republican challenger asked one of my colleagues, “do you want to get hurt?” It took the head of security and a Detroit Police captain to talk him down.

* * *

Some Republicans, including Mr. Griffin in his oral testimony, have claimed that elections officials showed favoritism to the Democratic challengers. He said that the elections spoke with us in a friendly manner. I can assure the Committee that we did not feel any favoritism. On the contrary, Mr. Griffin was not ejected from the room, nor was his phone confiscated, after he repeatedly violated the Election Day rules against phone use. Republican and EIF challengers were not ejected from the room after disorderly conduct, which is cause for ejection under MCL 168.733(3). The enforcement of the rules in the face of Republican violations seemed quite lax to us.

Neither I, nor anyone in the leadership of the voter protection effort coordinated with election officials. There were several occasions on which I made requests of the election officials that were rejected. They certainly did not show me any “deference” (Mr. Griffin’s word) when they did so.

If Mr. Griffin observed the election officials being polite to Democratic challengers, I would suggest that this is because we were polite and respectful to them. When we had a challenge to an election procedure, we made it quietly and respectfully. If we weren’t satisfied with the response of the supervisor, we would quietly and respectfully escalate the matter to a team leader or one of the senior election officials. We did not scream at election workers. We did not call them names. We found ways to see the process within the COVID guidelines. We objected when Republican and EIF challengers interfered with or unduly delayed the work of the election inspectors in violation of MCL 168.727(3).

If many of our procedural challenges were accepted and acted upon, perhaps that is because we had a better understanding of the law and the rules than did our Republican and EIF counterparts.

The election officials and workers treated us with the same respect with which we treated them. It is my opinion that the election officials and workers treated the Republican and EIF challengers with substantially more respect than most of those challengers showed them.

* * *

There were some serious Republican challengers who tried to do their work in the right way. My colleagues and I spoke with several of them. They all affirmed that they had seen no serious problems and that the errors they had seen were promptly corrected by elections officials. One gentleman, watching the behavior of his colleagues, expressed his disappointment to me (knowing that I was the team leader for the Democrats). “I don’t understand this,” he said.

4. Republicans Had Full Access.

Republicans claim that their challengers were denied access to the room, that they weren’t allowed enough challengers, and that they couldn’t see what was happening. This is simply false.

Each accrediting organization was allowed 134 challengers, and the Republicans were coordinating with “Election Integrity Fund,” so they were allowed twice that number. EIF claims to be non-partisan, but our team saw challengers switching credentials from Republican to EIF and back again so that they could get two people from their team to observe the duplication. This coordination blatantly violated the rules for accrediting challengers. Far from being turned away, the Republicans had more challengers than are allowed.

As counting started on Tuesday, they had at least twice as many challengers as the Democrats – we had fewer than 90 challengers in the room.

After the polls closed Tuesday night, at least fifty additional Republican challengers arrived and were admitted to the counting room. They had plenty of people. When the election officials stopped admitted additional challengers, they stopped us as well as Republicans. I complained that the Republicans had more challengers than we did, and that we should be allowed to even things up. The election officials wouldn’t change their view, and the Democratic team then accepted their decision and moved on.

The Republican challengers had full access to see what was going on. The elections inspectors were accommodating until, and often after, Republicans became unreasonable and abusive. When Republican challengers asked politely for a better vantage point that did not interfere with the process, they were accommodated. Our challengers could see what was going on, and I don’t believe that Republicans as a group have significantly worse vision than Democrats.

Republican challengers would often approach a table and lean in very close to the election inspectors, violating the COVID guidelines. In at least one case, the Republican challenger complained that she couldn’t see, but nothing was happening at the table and there was nothing to see. When she was asked what she was trying to see, she had no answer. They had a script – complain that you can’t see. They repeated it constantly, whether or not they could really see, and whether or not there was anything to see.

For a group that claims that they were turned away from the counting room at TCF Center, the Republicans have brought a lot of witnesses to this Legislature who claim to have been there.

4. The Republican-EIF Program Was Not Designed to Find Fraud.

If an intelligent person was really convinced that there would be fraud at an AVCB, and really determined to find it, that person would design a program very different from that the Republicans designed and executed.

Anyone who has been involved in forensic work can tell you that it is exacting and tedious work. One has to understand potential signs of fraud and watch intently. I led fraud and misconduct investigations in business and worked with professionals to conduct the investigations. None of them looked anything like this.

A serious effort would have deployed a trained team who knew the law and the correct procedures and organized themselves to watch quietly and effectively for slip-ups that would betray cheating. A serious effort would have had a strategy for raising process challenges with election officials and carefully recording their responses. A serious effort would not have distracted its team with repetition of obviously invalid challenges.

In short, a serious effort would not have been run like a street protest.

As I have noted, Republicans often claimed that they couldn't see, and when they asked politely for a better view they were accommodated. In a serious effort, challengers who couldn't see what was going on, would not have thrown tantrums worthy of spoiled four-year-olds; they would have had a colleague get a supervisor or elections official to verify and correct the situation.

One Republican spotted an election inspector returning from the tabulators to his table carrying a box used for ballots. He loudly accused the inspector of bringing ballots back to the table to be processed again! A small crowd of Republican challengers gathered. The election inspector looked at these very excited people and opened his box for them to see. It was empty. He was bringing the empty box back to the table to be filled with the next batch of ballots.

In a serious effort the Republicans would have quietly followed the inspector back to his table to catch him in the act and document the fraud.

The inescapable conclusion is this: The Republican challengers were not actually looking for fraud. Sadly, they just trying to create something that could play fraud on television -- and social media.

Respectfully submitted,

David B. Jaffe

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Testimony of David B. Jaffe
Senate Elections Committee
February 23, 2022

Chair Johnson and Senators, thank you for the opportunity to testify today. I am here on my own initiative, and am not representing any organization or person.

I have come today to oppose S.B. 884 in its current form, and to suggest amendments. The bill is unnecessary and unclear. It reflects misplaced priorities.

This bill does not even specify what it means by “manufactured.” The bill’s sponsor now says that she means that every component must be made in the United States. She says that this bill is similar to the Secure Equipment Act of 2021, signed by President Biden last year.

Senator Johnson acknowledges that no existing voting machine is made entirely in the U.S., and that some components of voting machines are not made in the United States. But this bill would prohibit clerks from buying a replacement machine starting in 15 days.

The Secure Equipment Act requires the Federal Communications Commission to make rules to prohibit the use of specific components that the FCC has determined pose a risk to national security or the safety of U.S. persons in communications equipment. Senator Johnson is fully aware that electronic voting systems are not communications equipment. She is well aware that electronic voting systems are inspected and certified in the United States. She says that she has not even consulted with the U.S. Election Assistance Commission, which accredits testing labs and certifies voting systems, to learn how they assess the risk to election equipment. Yes this bill would be a blanket ban, on equipment made even in democracies that are our closest allies, not the evaluation of security risks that federal law requires for sensitive communications equipment.

The imprecise drafting and failure to think through the meaning and effect of the bill shows that this is a public relations exercise and not a serious effort at legislation. It panders to people who still believe that Dominion Voting Systems was somehow connected with Hugo Chavez, that voting tabulators have modems, and other lies about the 2020 election. The Committee should spend its time addressing the real needs of our election law in Michigan

This bill does not provide clerks with the tools and funding they need to conduct the best possible elections. It does not provide for pre-processing or early voting, which clerks have requested. It does nothing about newly appointed County Canvassers who have openly declared that they won’t certify the election if their candidate doesn’t win. It does nothing to protect election inspectors, or to protect the election process from invalid challenges, much less from challengers who come to polling places armed, as one candidate for the State Senate has urged. It does nothing to protect clerks from people who fraudulently represent themselves as police officers to gain illegitimate access to voting machines.

As Committee members may recall, I have been the team leader for challengers credentialed by the Michigan Democratic Party at the Detroit Absent Voter Counting Board. During Detroit’s

2021 primary, our team performed its statutory function of observing and challenging election procedures that were not being properly followed. (Section 733(1)(c) of the statute.) We, once again, saw some mistakes by election inspectors and got them corrected on the spot.

We also performed our statutory function of bringing to an election inspector's attention violations of election law and other prescribed election procedures. (Section 733(1)(e)(iv)).

As in past elections, we observed many violations of Section 727(3) of the statute: challengers making challenges indiscriminately and without good cause, and challengers interfering with and unduly delaying the work of the election inspectors.

Challengers from the Election Integrity Fund repeatedly harassed and intimidated inspectors and repeatedly made baseless challenges to interfere with and delay the work of the inspectors. I will give one example here and add details in the appendix below.

The EIF challengers intentionally and indiscriminately asked the same question of many inspectors across the counting room. They would gather in an aisle where a leader would assign a question or challenge and instruct the challengers to take it across the room. This was done quite loudly, so anyone nearby could easily hear. The challengers were told to ask the question repeatedly to – and I quote -- “see if we can get them to give different answers.”

One of these was a challenge to voters on the ground that the poll book showed their effective registration date as January 1, 1900. As the Chair well knows, many voters had this date assigned when the Qualified Voter File was created because before that time the registration date wasn't recorded. This was explained by election officials, as it was in 2020, but that did not stop the challengers from repeating their absurd challenge “indiscriminately and without good cause” in plain violation of the law.

This Committee could amend this bill to protect election inspectors from harassment and our elections from unlawful disruption. You could give clerks tools to enforce the existing laws on challengers. You could give clerks the ability to protect election inspectors from interference and intimidation from the people who come to polling places and counting rooms armed. For example, the law prohibits intimidating or threatening challengers and voters, you could extend it to prohibit threatening election inspectors.

But this Committee isn't doing any of these things. It considers where voting machines are made, which gives aid and comfort to those who still perpetrate the fraud fraud, and who attempt to disrupt the next election.

During 2020 general election the leader of the Election Integrity Fund, Timothy Griffin, repeatedly used his phone in the Detroit absentee counting room in violation of election procedures. After several violations, a security officer confiscated the phone. Mr. Griffin said to the security officer who took his phone, “Nothing personal. I'm paid a lot of money to create chaos.”

{Appendix follows starting on the next page}

Appendix to Testimony of David B. Jaffe
The Detroit Absent Voter Counting Room for the 2021 Primary Election

The “Election Integrity Fund” sent 11 challengers to the Detroit Absent Voter Counting Room for the August 2021 Primary Election. From the time of their arrival the EIF challengers attempted to intimidate and harass election inspectors, disrupt the counting of ballots, and make invalid challenges. Several of the EIF challengers were either completely untrained or, as it appeared to our team, were pretending to be untrained in an effort to distract the election inspectors and to create a pretext for disruption under claims of ignorance.

The EIF challengers engaged in a coordinated effort to disrupt and delay the counting of ballots, including the following:

1. Outright Harassment and Intimidation. Shortly after they arrived, EIF challengers began crowding the election inspectors and removing their masks. These actions were clearly unrelated to their work as challengers. Most EIF challengers refused to use the large monitor that was provided for challengers to enable them to see what the inspectors were doing, but instead insisted on standing close to the election inspector operating the computer and leaning over that person to see the small screen. They repeatedly leaned over inspectors in a physically intimidating way. A number of inspectors expressed their objections and distress. EIF challengers claimed that they had to stand close in order to see; our challengers were able to see perfectly well without standing over election inspectors.

2. Intentional Disruption and Violations of Election Law. The EIF challengers took a variety of actions to distract election inspectors, disrupt their work, and interfere with the counting process. The EIF challengers themselves said openly that this was an effort to be disruptive.

A. Requests for Training from Election Inspectors. The EIF challengers repeatedly asked individual election inspectors to explain their process in detail. These questions were often couched with an explanation that the challenger was (purportedly) new and didn’t understand. Some EIF challengers claimed that they were untrained or that only online training had been available to them.

Many inspectors patiently explained what they were doing to the challengers. This took time away from their work. It was clear that this was not a genuine effort to understand the process because the same EIF challengers repeated the requests and questions to different inspectors around the room. As noted in my oral testimony, these challengers were told to ask questions and issue challenges repeatedly to “see if we can get them to give different answers.”

B. Effective Registration Date. EIF challengers repeatedly asked election inspectors why some voter records show an effective registration date of January 1, 1900. Election inspectors often did not know the answer (and did not need to know the answer to do their work), but the discussion took their time and distracted them from their work. Election officials patiently explained that, when the Qualified Voter File was created, the 1900 date was added to records of voters who were already registered, where the original registration date had not been

recorded. This explanation did not deter the EIF challenger from repeatedly asking the question, sometimes challenging voters on the basis of this date, and insinuating or asserting to election inspectors that there must be a problem with these voters or voter records.

C. Dead Voters. EIF Challengers repeatedly asked questions about whether voters were dead. The challengers did not state any objective basis for these claims, which seemed to be random. These were challenges “without good cause” in violation of the election law.

D. Missing Privacy Sleeve. EIF challengers repeatedly made a fuss when election inspectors opened ballot envelopes and found that the ballot was not in a secrecy sleeve. They were told repeatedly that in Michigan, unlike (for example) Pennsylvania, a ballot that is not in a secrecy sleeve is perfectly valid.

E. Supposed Duplicate Voting. EIF challengers repeatedly raised issues about potential duplicate voting, particularly when ballots with the same last name were next to one another in a tray of ballots. It is common for the ballots of spouses to be next to one another in the tray, and therefore to be opened one after the other. EIF challengers repeatedly claimed that something nefarious was going on, without any objective basis for their claims.

It is not uncommon for spouses to switch their ballot envelopes, so that one spouse’s ballot is in the other spouse’s envelope and vice versa. Election inspectors are trained to correct this common error and to reunite the correct ballot with the correct envelope. EIF challengers repeatedly insinuated or claimed that this is evidence of fraud.

3. Other Violations of Rules and Laws.

A. Phone Use. One EIF challenger who was observing the adjudication stations pulled out her mobile phone at 1:50 pm and began texting. Security personnel told her that phone use was not permitted, and she claimed that she was a new challenger and did not know about the rule. The security personnel reminded her of the acknowledgement and oath she had signed when she entered, which expressly states that phones are not allowed.

The security personnel allowed the challenger to store the phone in her backpack at the side of the room. This creates an unclear situation and an opportunity for abuse because the rules clearly state that phones are not allowed inside the room. Our team did not observe this person return to get her phone during the day, but it is well documented that EIF challengers and observers repeatedly violated the phone rule after being told to put their phones away during the counting for the 2020 general election.

B. Early Departure. An EIF challenger left the counting room before the polls closed, between 5:00 and 6:00 pm. Leaving the room before the polls close is a violation of Section 765a(10) of the Michigan Election Law and of the statutory oath that all challengers are required to sign.

I'll close by respectfully reminding the committee that, wherever the election system is manufactured, in Michigan we retain the original ballots. We have a statutory audit system; it's called a recount. I'll note that no recount was requested in Michigan in 2020. On top of the recount, we have a risk limiting audit. Even if tabulators were to make errors – and there is absolutely no reason to believe that they do, we have in place the systems needed to catch and correct them.

It is deeply disappointing that the Committee continues to engage in public relations stunts when it could be working to protect our elections.

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Exhibit C
To Comments of David B. Jaffe
December 11, 2025

Testimony of David B. Jaffe
Senate Elections Committee
November 13, 2024

Chair Moss and Senators, thank you for the opportunity to testify today. I am here on my own, not representing any organization.

I have been the team lead for challengers credentialed by the Democratic Party at the Detroit absentee vote count every election since the 2020 Primary. This year I was there with a team for all nine days of tabulation. Our team served its statutory function of bringing to election inspectors' attention violations of election law or other prescribed election procedure – more simply, mistakes by inspectors or challengers. I'm glad to be able to tell you that Detroit has implemented substantially improved processes and training and that processing and tabulation went extremely well this year.

This was the first election since the Supreme Court largely upheld the Secretary's Guidelines on challengers, which this bill would codify. The Guidelines helped the process immensely by protecting it from disruption and delay and making it easier to avoid and correct mistakes.

First, the City Clerk used her authority to establish reasonable and fair rules of conduct that made the disruptions of past years much more difficult. And indeed, I saw only two truly disruptive incidents involving challengers.

Second, the rules on permissible and impermissible challenges focused challengers and election inspectors on actual issues in the processing and tabulation. An impermissible challenge is just a challenge that has no basis in law.

What a difference from 2020, 2021, and 2022, when inspectors were screamed at, snarled at, threatened. When I was snarled at and threatened for doing my job. When groups of challengers repeated invalid challenges in waves at counting boards across the room. When groups of four or five challengers would run around the room to confront and intimidate inspectors. When challengers would challenge anything they didn't like, no matter that it was expressly required by a statute. For example, demanding that challenged ballots not be tabulated, when the statute expressly and clearly says that they must. I have brought excerpts from my testimony before this committee in 2022 in case you'd like to refresh your memory.

That conduct had nothing to do with the role that the statutes assign to challengers. It was done to harass inspectors, to delay the count, and to create chaos and a false appearance of fraud.

We largely did not have these kinds of behaviors and challenges this year.

This year, because Inspectors, Liaisons and Election Officials were not dealing with the pressure and distraction of invalid challenges and disruptive tactics, challengers -- including Republican challengers -- were able to get prompt and fair attention from the Liaisons and Election Officials when they had questions or challenges. Our team got mistakes corrected by calling them to a Liaison's attention even without a formal challenge. The challenger system worked well.

This bill would help challengers do their jobs well, would provide more assurance to clerks, election inspectors and challengers and would facilitate continued improvement in election processes. It would also reduce tensions between groups of challengers, which we were glad to experience this election. I urge you to support this bill.

I do have one suggestion, which I have submitted to your staff. Several sections (727(1), 733(1)(i), and 733(2)(i)) say that if “a challenger wishes to challenge a recurring element of the election process, the challenger shall make a single omnibus challenge.” As I mentioned, teams of challengers have made the same invalid challenge across the room, repeating the nonsense at 30 or more counting boards. They coordinated this, sometimes brazenly enough for us to overhear. They demanded that the process stop, an Election Official be summoned, and the challenge be recorded in the poll book each and every time. No one challenger made repeated challenges, but the group did. I suggest that the language be amended to read: “If a challenger or group of challengers wish ~~wishes~~ to challenge a recurring element of the election process, the challenger or group of challengers shall make a single omnibus challenge”

Thank you for your consideration. I'd be glad to answer any questions.

From: [MDOS-Canvassers](#)
To: [McInerney, Jenny \(MDOS\)](#); [Boes, Alessa \(MDOS\)](#)
Subject: FW: Dec. 15 Meeting
Date: Thursday, December 18, 2025 2:25:45 PM

From: Brenda Layne <blayneflamingo@gmail.com>
Sent: Tuesday, December 9, 2025 1:38 PM
To: MDOS-Canvassers <MDOS-Canvassers@michigan.gov>
Cc: Letters@slotkin.senate.gov
Subject: Dec. 15 Meeting

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Dear Canvassers Committee -

I am writing to ask you not to block the new rules pertaining to protections to Michigan voters as asserted by Secretary of State, Jocelyn Benson, at your meeting on December 15, 2025.

These protections are important - especially for the vulnerable, disenfranchised and people of color - and necessary for each Michigander to retain our voting freedom and independence.

Thank you.

-Brenda Layne Lancaster
989 Fairlawn Rd, St Joseph, MI 49085
269-921-8574

From: [Bruce W](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Comments on the JCAR, Rule Set 15
Date: Friday, December 12, 2025 4:58:32 PM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

To the Bureau of Elections in Lansing, Michigan:

My comments on Rule Set 15 will focus on training.

R 168.203(4) ("Record of individuals serving as challengers; organizational training") and R 168.207 ("Challenger training") are quite vague and ambiguous.

Statements about the training include "must include, but is not limited to", "working knowledge" is not defined, and neither is when "changes to election law, election regulations, a court order, or another event" will no longer mandate government retraining of credentialed poll challengers.

I assume these changes, if they go into effect, will be used in the November 2026 election, which is < 12 months away - in other words, soon.

So, if these details are to be worked out, when will they be worked out?

Another aspect of "training" that is concerning:

(1) credentialing organizations (such as the Michigan Republican party) "shall complete training created by the secretary of state for credentialing organizations" and

(2) that each challenger must sign a "written statement certifying that the challenger completed the required training and has a working knowledge of the material".

Did "credentialing organizations" need to complete training last year? Previous years?

It seems perilous that this Rule Set creates a distinct political connection from the Secretary of State's office to "credentialing organizations". If they are members of two different parties / groups, could this Rule Set be used to the advantage of one over the other?

In addition, when the training is not specified and, after certification and credentialing, a subsequent "change in the election law, a change in election regulations, a court order, or another event substantially alters or abrogates information contained in the [original] training", the secretary of state may require individuals wishing to serve as challengers to complete a supplemental training before serving as a challenger". What is the date limit for these changes?

Last, since the source of these training materials and documentation will be governed by the Secretary of State, aren't these requirements/mandates possible "prior restraint" First

Amendment violations? As mentioned above, there appears to be no requirements for the details of this training. Are there any plans for an objective, neutral 3rd party to review the training materials and all aspects of that training? If not, isn't it possible that government-mandated election training could be a violation if the training imposes restrictions on what challengers can say or express about the electoral process, such as, if "the training prohibits election officials or volunteers from discussing certain aspects of the election process (e.g., irregularities, procedures, or opinions)". The restrictions on challenges as outlined in R 168.208 ("Challenge to a voter's eligibility; challenge to an elector's ability to cast a ballot after receiving an absent voter ballot") seem to validate this concern about "prior restraint" First Amendment violations.

Thank you for your time.

Bruce Watson
East Lansing, Michigan

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [Metcalf Forestry](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Rule Set 15
Date: Friday, December 12, 2025 8:21:00 AM

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To the Michigan Bureau of Elections,

Rule set 15, in combination with rule set 13 and 14 and the election laws that were passed in 2024, blatantly violate Article 1 Section 1 of the Michigan Constitution.

All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

It is obvious that an election system where the all forms of independent oversight have been removed and replaced by a system that is 100% run by the government and their contractors is in violation of this core principal to Democracy.

Shame on you.

Bryce Metcalfe

Metcalf Forestry
402 Chestnut St.
Grayling, MI 49738

<http://www.metcalfeforestry.com>

989-348-3596

IMPORTANT NOTICE: The information in this e-mail transmission is intended only for the use of the addressee. Its contents may be privileged and confidential. If you have received this e-mail in error, please delete it or contact the sender at Metcalfe Forestry at (989) 348-3596.

Document received by the MI Court of Claims.

From: [christy englert](#)
To: [MDOS-Elections-PublicComment](#)
Date: Friday, December 12, 2025 4:55:26 PM

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I'm totally opposed to Rule set 15.
There are way to many rules just to be a challenger that would discourage people from wanting to do their civic duties.

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: Personal@dsgraves
To: [MDOS-Elections-PublicComment](#)
Subject: Rule set 15 re election
Date: Friday, December 12, 2025 3:38:18 PM

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Dear Department of State,

As someone who has served in elections, I am unhappy with the proposed Rule 15. It seems to me to violate MCL 168.733 and to make it harder for challenger to challenge fraud and impossible to challenge entire classes of election fraud such as deceased voters. The standards for removing challengers seem rather vague and therefore likely to allow arbitrary removal of challengers.

Please do not approve this rule.

—Dan

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [Dave Kopin](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Against Rule Set 15
Date: Friday, December 12, 2025 4:40:23 PM

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I cannot support Jocelyn's rule set 15.

It is an obvious continuation of sets 13 and 14, which violate openness toward serious voters, effectively blocking honest oversight.

Secretary of State Jocelyn Benson is writing legislation through the state's Rulemaking process.

Rule Set 14 made it through the process and has been formally adopted.

Rule Set 13 made it through the process via inaction on the part of JCAR, but is not yet in effect.

Rule set 15 is still in the early stages of the process.

It is difficult to see LEGITIMATE reasons for these clampdowns on oversight. It is EASY to see questionable motives to help guarantee her election to governor. Also to "demonstrate" to the people how insignificant they are in the eyes of rhw queens & kings, some of whom are not elected but rather appointed.

Please involve the election integrity committee and the legislature before passing approving judgment on this move.

Regards, Dave Kopin 479-597-9049 dkopin@aol.com

From: [D. M. Ball](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Rule Set 15
Date: Wednesday, December 10, 2025 9:57:42 AM

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I am entirely opposed to the election modifications encoded in the proposal known as Rule Set 15. The integrity of Michigan elections is already under enough suspicion due to the flagrant abuse of the absentee ballot process, without further undermining the public's confidence in its ability to contest dubious election outcomes, which I believe is the real intent of this proposal.

David Ball
710 Glenwood Avenue, A-15
Port Huron, MI

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [Deb](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Rule Set 15
Date: Wednesday, December 10, 2025 9:32:14 AM

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I am writing to object to the implementation of rule set 15. Elections belong to the people and their communities. Implementing rules that in practice eliminate our ability to be involved are not in our states best interest. People want to be involved. Requiring all training be done by the state removes our community's responsibility and ability for involvement. I have voted people into office that should be doing these things. In both instances, it smacks of authoritarianism. Finally, rules and laws regarding elections are the purview of our legislators. Using this process bypasses the representatives we have voted for that we have decided have our best interests at heart. The SOS working to put these rule sets in place just before an election in which Benson is running for governor as she is administering the election, does not pass the smell test.

Sent from my iPad

RETRIEVED FROM DEMOCRACYDOCKET.COM

Dee Davey, representing myself; deedavey@protonmail.com;

Dear Bureau of Elections Elections-PublicComment@Michigan.gov
Please find below and attached Testimony in opposition to Rule Set 015 as delivered by Dee Davey, representing herself, deedavey@protonmail.com

Mail in your comments, but they must be received by 5:00 p.m. ET on 12/12/25. Mail to:

Bureau of Elections
P. O. Box 20129
Lansing, MI 48901-0726

Email your comments, but they must be received by 5:00 p.m. ET on 12/12/25.

Elections-PublicComment@Michigan.gov

Dear Honorable Chair and Committee:

I strongly oppose Rule Set 015 for two reasons:

Reason ONE: Rule Set 15 reduces citizen engagement and oversight of our elections.

3 Examples

- Rules Set 15 mandates state-controlled training and certification for challengers. State intervention and control suppresses, and will discourage citizen participation.
- With precinct sizes now expanded - limiting the number of challengers reduces citizen oversight.
- Limiting challengers to ballot request/return areas also reduces oversight and suppresses citizen engagement.

Reason TWO: Rule Set 15 circumvents our lawful legislative process.

3 Points to consider:

- Ruleset 15 is an overstep in creating NEW law, and exceeds SOS rulemaking authority

- Our Legislative body has not approved changes to MCL Law as proposed
- The SOS is attempting to change the law through an administrative process which circumvents the legislative process.

How many times has Secretary State Benson been found guilty of exceeding her authority related to “**rules**” of elections? [**PAUSE** & eye contact]

With Rule 015, she is, yet again, overstepping her rulemaking authority. **Her own attorney** stated that the “SOS only follows the laws that she agrees with”. The SOS is attempting to change the law through an administrative process which circumvents the legislative process and the **will of the people**.

In conclusion, I urge the rejection of the entire Rule Set and urge working through the Legislative process.

Thank you for your consideration.

Dee Davey, deedavey@protonmail.com, 734 233 1513

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Found Guilty short list:

- Genetski v Benson CARRA v BENSON
- Johnson v Benson O'Halloran v Benson
- RNC v BensoN

Eight or Nine Court Cases

Slapped down 69 times since 2019!

Link to SOS attorney assertion:

[<https://rumble.com/v48kyv6-benson-lawyer-asserts-that-mi-sos-only-follows-laws-that-she-agrees-with.html>]

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RETRIEVED FROM DEMOCRACYDOCKET.COM

From: ddwhite7@aol.com
To: [MDOS-Elections-PublicComment](#)
Subject: Rules 13. 14. & 15
Date: Friday, December 12, 2025 12:33:33 PM

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I'm appalled at the actions being taken by our state to try to get citizen oversight away from their own elections. These rules are highly inappropriate and we stand against them!
You're voting constituents are watching. Douglas and Debra White
5498 Fern drive Fenton Michigan

[Sent from AOL on Android](#)

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [Jeffrey Jarvi](#)
To: [MDOS-Elections-PublicComment](#)
Subject: I am opposing Secretary of State Benson's rule set 15 changes
Date: Thursday, December 11, 2025 10:47:44 AM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

I oppose Secretary of State Benson's proposed rule set 15 changes for the following reasons:

- These rules force mandatory state-controlled training and certification for election challengers, creating barriers that chill volunteer participation and limit independent oversight of our elections—turning everyday citizens into bureaucrats.
- By requiring all challenger communications to go through a government-designated liaison, Rule 15 delays critical challenges to voter eligibility or ballot issues, potentially allowing fraud to slip through while empowering officials to filter complaints.
- Limiting challenges to just four vague areas ignores major problems like deceased voters, duplicate registrations, or felons on rolls—leaving systemic election flaws unchecked and eroding trust in the process.
- Subjective standards for "disruption" or "party-related clothing" allow arbitrary removal of challengers, opening the door to viewpoint discrimination and silencing those watching for irregularities.
- Organizations face new record-keeping, annual submissions, and recertification mandates without funding, hiking costs for political parties and citizen groups while favoring well-resourced insiders.
- Promulgated right after Secretary Benson's January 2025 gubernatorial run announcement, these rules suspiciously restrict oversight of the very elections she oversees — a clear conflict that undermines democracy.
- Rule 15 violates First Amendment rights to free speech and association by compelling government speech in training and restricting political expression, contradicting Michigan law that protects direct challenger access.
- The state's own analysis admits these rules aren't needed and won't change behavior, yet they exceed legal authority and contradict statutes like MCL 168.733—demand a full repeal to safeguard fair elections for all.

Respectfully,
Jeff Jarvi

From: joejazz2@comcast.net
To: [MDOS-Elections-PublicComment](#)
Subject: Michigan Bureau of Elections
Date: Wednesday, December 10, 2025 11:55:37 AM

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ATTN: Michigan Bureau of Elections,
Please consider the potentially negative implications which would result from Rule set 15 and the resulting litigation that will likely cost the taxpayers a great financial loss. Rule Set 2025-15 not only mandates training but also breaches the First Amendment, putting the government in charge of creating the training materials and providing the training, clear violations of free speech and associational rights

The concerns of Michigan's rulemaking process and Rule set 15

- These rules force mandatory state-controlled training and certification for election challengers, creating barriers that chill volunteer participation and limit independent oversight of our elections—turning everyday citizens into bureaucrats.
- By requiring all challenger communications to go through a government-designated liaison, Rule 15 delays critical challenges to voter eligibility or ballot issues, potentially allowing fraud to slip through while empowering officials to filter complaints.
- Limiting challenges to just four vague areas ignores major problems like deceased voters, duplicate registrations, or felons on rolls—leaving systemic election flaws unchecked and eroding trust in the process.
- Subjective standards for "disruption" or "party-related clothing" allow arbitrary removal of challengers, opening the door to viewpoint discrimination and silencing those watching for irregularities.
- Organizations face new record-keeping, annual submissions, and recertification mandates without funding, hiking costs for political parties and citizen groups while favoring well-resourced insiders.
- Promulgated right after Secretary Benson's January 2025 gubernatorial run announcement, these rules suspiciously restrict oversight of the very elections she oversees — a clear conflict that undermines democracy.
- Rule 15 violates First Amendment rights to free speech and association by compelling government speech in training and restricting political expression, contradicting Michigan law that protects direct challenger access.
- The state's own analysis admits these rules aren't needed and won't change behavior, yet they exceed legal authority and contradict statutes like MCL 168.733—demand a full repeal to safeguard fair elections for all.

Please understand that as a former elected official in my township, I am hearing many people say that this Rule set 15 will not add value to the integrity of our election

systems, but instead create more distrust in our democratic processes.
Respectfully,
Joseph Guerra
63455 Romeo Plank Rd.
Ray Twp., Michigan 48096-2325

RETRIEVED FROM DEMOCRACYDOCKET.COM

Michigan Bureau of Elections

Regarding Proposed Rule 15

Public Comment of Professor William Wagner & Katherine Bussard

Friday, December 12, 2025

Introduction

Professor William Wagner holds the academic rank of Distinguished Professor Emeritus (Law) and currently holds the Faith and Freedom Center Distinguished Chair at Spring Arbor University. Before joining academia, he served as a federal judge in the United States Courts, as Senior Assistant United States Attorney in the Department of Justice, and as a Legal Counsel in the United States Senate. He is also the founder of Salt & Light Global and the Great Lakes Justice Center.

My name is Katherine Bussard and I serve as the C.O.O. and executive director of Salt & Light Global, a faith-based nonprofit dedicated to upholding good governance. I have also chaired both in-person polling and absentee counting boards, and I have served as an election inspector for many years in numerous jurisdictions.

Thank you for the opportunity to present our thoughts and concerns. Today we testify in our personal capacities. Together, we strongly oppose the adoption of Rule 15 in its current form and contend that the status quo contains the better protection for free and fair elections in Michigan.

Poll challengers serve an important public interest: by independently observing the transparency of our election process and procedurally challenging any concerning actions that would interfere with the objective fairness or security of our elections, they promote the public trust. Instead of being valued for the public trust they help cultivate, the proposed rule making treats them with hostility by silencing their voice [Rule 169.205, Rule 5 (2)] and going beyond the scope of the law to minimize their efficacy.

Constitutional Good Governance Concerns

Rule 169.205, Rule 5 (5) gives challenger liaisons a new, unqualified power to “issue directions to challengers to ensure compliance with the act” and more broadly, to “maintain the peace” and “an orderly election process.” Rule 5 (6) further states that, “Challengers are required to follow the directions of the challenger liaison.” Rule 5(7) allows the Challenger Liaison to delegate this power to issue directives to other election inspectors. What this creates is an impossible situation, where directive rules are not known ahead, not written for equal enforcement or effective compliance, and can be changed at any time. Directive rules issued in real time by the Challenger Liaison or any inspector to whom that power has been delegated will not be uniform from polling place to polling place, further adding to the confusion. Without a written policy, there is also no measure of accountability for how this directive power is used, nor any measure of protection in case of its unlawful use or abuse. More seriously still, these different standards of

accessibility, transparency, and protections for election security, raising 14th Amendment concerns of equal protection and due process.

Also of great concern are Rule 168.208, Rule 8 (1) and (2), which state,

Rule 8. (1) A challenger may make a challenge to a voter's eligibility if the challenger has a good reason to believe that the individual is not a registered elector.

(2) The following are the only permissible reasons that a challenger may challenge a voter's eligibility:

- (a) The individual is not registered to vote.
- (b) The individual is less than 18 years of age on Election Day.
- (c) The individual is not a United States citizen.
- (d) The individual has not resided in the city or township where the individual is attempting to vote for 30 or more days before the election.

At face value, sections 1 and 2 are seemingly contradictory. One sentence is permissive while the next is prohibitive. "A good reason" to issue a challenge is highly subjective and could be considered unconstitutionally vague. Regardless of what a challenger may esteem to be "a good reason", section 2 provides only 4 "permissible reasons" for which a challenge can be made. These reasons are not even consistent with the provisions of our duly enacted laws, which prohibit felons from voting, prohibit citizens from voting more than once, and prohibit the identities of deceased persons from being abused for the sake of casting fraudulent ballots. This section again raises 14th Amendment concerns, as well as more general good governance concerns when the language of the rulemaking does not match the language of the law.

Constitutional Concerns

Transparent, fair elections are a public interest, and poll challengers help secure that interest. The proposed rule, as drafted currently, unduly interferes with this public interest and raises serious constitutional concerns.

This body has a duty to uphold its constitutional oath of office, to protect the integrity of Michigan voter's voice at the ballot box, and to deny approval to this fundamentally flawed proposed rulemaking. We urge you to reject this rulemaking in its current form.

Thank you for your consideration of these concerns.

From: kathleenlorenz
To: [MDOS-Elections-PublicComment](#)
Subject: Rule 15
Date: Wednesday, December 10, 2025 9:34:29 AM

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I do not agree with the procedures that will be required by Rule 15. It is our right as citizens to not be restricted or encumbered when the integrity of elections is at stake. Please reject this rule.

Kathleen Lorencz
18819 Warwick
Beverly Hills, MI 48025

Sent from my Verizon, Samsung Galaxy smartphone

RETRIEVED FROM DEMOCRACYDOCKET.COM

Document received by the MI Court of Claims.

From: [Kathleen O'Laughlin](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Rule Set 15
Date: Friday, December 12, 2025 3:05:12 PM

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I would like to go on record as opposing Rule Set 15 (and 13 and 14, for that matter). However, in the hearing today is on Rule Set 15, I will address this in particular.

Some reasons, among many:

- Rule 15 violates First Amendment rights to free speech and association by compelling government speech in training and restricting political expression, contradicting Michigan law that protects direct challenger access.
- The state's own analysis admits these rules aren't needed and won't change behavior, yet they exceed legal authority and contradict statutes like MCL 168.733—demand a full repeal to safeguard fair elections for all.

Please take this into consideration when reviewing Rule Set 15.

Thank you for your attention.

Kathleen O'Laughlin
Troy, MI Precinct Delegate #23

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [MDOS-Canvassers](#)
To: [McInerney, Jenny \(MDOS\)](#); [Boes, Alessa \(MDOS\)](#)
Subject: FW: These rules are Non partisan
Date: Thursday, December 18, 2025 2:26:06 PM

From: kc.happygirl@yahoo.com <kc.happygirl@yahoo.com>
Sent: Tuesday, December 9, 2025 10:30 AM
To: MDOS-Canvassers <MDOS-Canvassers@michigan.gov>
Subject: These rules are Non partisan

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abuse@michigan.gov

There is no reason to fight the new guidelines, unless one side wants to create havoc. I am for the rules submitted by Jocelyn Benson. I am against the groups fighting these rules.

Thank you,

Kelly Clark
PO Box 325
Baroda, MI 49101

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: kenneth.verfaillie
To: [MDOS-Elections-PublicComment](#)
Subject: rule set 15
Date: Wednesday, December 10, 2025 12:14:56 PM

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secretary of state Benson: whether you believe it or not, it makes no difference, but Father God is watching you. All the ungodly acts you are doing, slapping Him in the face, you will be held accountable and judged--including the passage of Rule Set 15. so don't pass it.
Kenneth and Olivia Verfaillie

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [K.F](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Rule set 15
Date: Thursday, December 11, 2025 1:57:15 PM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Dear Ms Benson,

I urge you to dismiss and stop Rule 15 for the following reasons:

These rules force mandatory state-controlled training and certification for election challengers, creating barriers that chill volunteer participation and limit independent oversight of our elections—turning everyday citizens into bureaucrats.

By requiring all challenger communications to go through a government-designated liaison, Rule 15 delays critical challenges to voter eligibility or ballot issues, potentially allowing fraud to slip through while empowering officials to filter complaints.

Limiting challenges to just four vague areas ignores major problems like deceased voters, duplicate registrations, or felons on rolls—leaving systemic election flaws unchecked and eroding trust in the process.

Subjective standards for "disruption" or "party-related clothing" allow arbitrary removal of challengers, opening the door to viewpoint discrimination and silencing those watching

for irregularities.

Organizations face new record-keeping, annual submissions, and recertification mandates without funding, hiking costs for political parties and citizen groups while favoring well-resourced insiders.

Promulgated right after Secretary Benson's January 2025 gubernatorial run announcement, these rules suspiciously restrict oversight of the very elections she oversees — a clear conflict that undermines democracy.

Rule 15 violates First Amendment rights to free speech and association by compelling government speech in training and restricting political expression, contradicting Michigan law that protects direct challenger access.

Sincerely,
Concerned Voter,

Kevin Foldvary

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [Leann Bigos](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Public Hearing Comment
Date: Wednesday, December 10, 2025 3:31:55 PM

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I am unable to attend the public hearing on Friday, December 12th, 2025 at 10:am on elections.

Here is my Publick Hearing Comment

I have participated as an election challenger. I went so I could see for myself what was happening in Michigan's elections. Providing this opportunity to all Michigan residents promotes transparency and allows us to learn about and observe the process firsthand. It also supports accountability: if you see something, you can say something.

Limiting challenges to only four vague categories overlooks other significant issues such as deceased voters, duplicate registrations, and felons appearing on voter rolls. This leaves systemic election problems unaddressed and weakens public trust in the process. The whole process needs to be transparent and the whole process can be questioned.

The state's own analysis acknowledges that these rules are unnecessary and will not change election-related behavior, yet they exceed the state's legal authority and conflict with statutes such as MCL 168.733. A full repeal is needed to protect fair and lawful elections for everyone.

We demand a full repeal of Rule Set 15 to protect fair and lawful elections for everyone.

Leann Bigos
23720 Scott Dr.
Farmington Hills, MI 48336
248-417-5291

From: [Linda Butler](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Rule Set 15
Date: Wednesday, December 10, 2025 11:36:09 AM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

I am writing to object to Rule Set 15 for the following reasons:

1. The rules force mandatory state-controlled training and certification for election challengers, creating barriers that inhibit volunteer participation and limit independent oversight of our elections
2. By requiring all challenger communications to go through a government-designated liaison, Rule 15 delays challenges to voter eligibility or ballot issues, potentially allowing fraud to slip through.
3. Limiting challenges to four vague areas ignores major problems like deceased voters, duplicate registrations, or felons on rolls, eroding trust in the process.
4. Subjective standards for "disruption" or "party-related clothing" allow arbitrary removal of challengers, silencing those watching for irregularities.
5. Organizations face new record-keeping, annual submissions, and recertification mandates. Proper funding is not provided, thereby hiking costs for political parties and citizen groups while favoring well-resourced insiders.
6. Promulgated right after Secretary Benson's January 2025

gubernatorial run announcement, these rules suspiciously restrict oversight of the very elections she oversees. This is a clear conflict that undermines democracy.

7. Rule 15 violates First Amendment rights to free speech and association by compelling government speech in training and restricting political expression, contradicting Michigan law that protects direct challenger access.

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [Brown, Lisa](#)
To: [MDOS-Elections-PublicComment](#)
Subject: proposed rules
Date: Friday, December 12, 2025 4:58:54 PM

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R168.204

Challengers should still be required to wear their credentials – that will help workers know who and how many are from each group, since there are limits to how many can be present.
.206 challengers can also be in local clerk’s offices

Lisa Brown, Esq., CERA
Oakland County Clerk/Register of Deeds
She/her/hers
(248) 858-0561



Find early voting information here (for most Oakland County communities)

<https://www.oakgov.com/government/clerk-register-of-deeds/elections-voting/voter-information>

Protect your home... our Property Records Notification sends you an e-mail when a document has been recorded in our Register of Deeds office that contains your chosen search term (name, property ID number, etc.)

Sign up for free here: <http://ocmideeds.com/Alerts>

The information transmitted by this email, including any additional attachments, is intended only for the addressee. The communication may contain confidential and/or privileged material which is exempt from disclosure under applicable laws. If you are not the intended recipient, please note that you are strictly prohibited from disseminating, distributing, or copying this information. Please notify me immediately by email or telephone if you have received this email in error, and delete the communication.

From: [Lisa Pieczynski](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Public Comment Opposing Rule Set 15
Date: Thursday, December 11, 2025 10:39:22 AM

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Dear Bureau of Elections,

I am submitting this email as a formal public comment in opposition to the Secretary of State's proposed Rule Set 15. After reviewing the proposal, I am concerned that these rules would create unnecessary burdens, reduce transparency, and limit the ability of citizens and local officials to effectively participate in the electoral process.

I respectfully urge the Bureau to reject Rule Set 15 and to ensure that any regulatory changes prioritize clarity, fairness, and the protection of voter confidence.

Thank you for considering my comments.

Sincerely,
Lisa Pieczynski
Bark River, Michigan

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [mary_harp](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Stop Rule set 15
Date: Thursday, December 11, 2025 9:30:55 AM

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Madam/Mr. Chair and committee members, I am testifying today in **firm opposition** to proposed Rule Set 15. This rule package represents an **unlawful and detrimental encroachment** on the rights of citizens to independently oversee their elections, transforming necessary oversight into unnecessary bureaucracy.

We oppose Rule Set 15 for the following critical reasons:

1. Creation of Barriers to Citizen Oversight

Rule 15 imposes mandatory, state-controlled training and certification for election challengers. This does not improve election integrity; it merely erects bureaucratic barriers that will **chill volunteer participation** and limit independent oversight. It attempts to turn engaged citizens into government-certified bureaucrats, hindering the very independence that makes citizen oversight effective.

2. Delay and Filtering of Essential Challenges

The requirement that all challenger communications pass through a government-designated liaison is highly problematic. This measure introduces the risk of **critical delays** in challenging voter eligibility or ballot issues, creating a window for potential errors or fraud to slip through. Furthermore, it empowers officials to effectively filter and suppress legitimate complaints.

3. Ignoring Systemic Election Flaws

By arbitrarily limiting challenges to just four vague areas, Rule 15 ignores major, verifiable problems such as **deceased voters, duplicate registrations, and felons remaining on the voter rolls**. These are systemic issues that must be addressed to maintain confidence in election integrity, and their exclusion leaves significant flaws unchecked.

4. Enabling Viewpoint Discrimination and Arbitrary Action

The rules employ vague, subjective standards concerning what constitutes "disruption" or inappropriate "party-related clothing." This vagueness provides a tool for the arbitrary removal of challengers, opening the door to **viewpoint discrimination** and silencing those who are actively watching for irregularities.

5. Unfunded Mandates and Financial Burden

The new mandates for annual submissions, recertification, and record-keeping impose significant **unfunded costs** on political parties and citizen groups. This burdens grassroots organizations and favors well-resourced insiders, undermining the democratic goal of broad participation.

6. Conflict of Interest Undermining Trust

The timing of these rules—promulgated right after the Secretary of State announced her gubernatorial candidacy—creates an undeniable **conflict of interest**. These rules suspiciously restrict oversight of the very elections she manages, severely undermining public trust and the perception of neutrality.

7. Violation of First Amendment and State Law

Rule 15 violates core **First Amendment rights** to free speech and association by compelling government-scripted training and restricting political expression. Moreover, it directly contradicts Michigan law (specifically **MCL 168.733**) which protects the direct access and rights of election challengers.

8. Exceeding Legal Authority

Even the state's own analysis indicates these rules are unnecessary and will not change behavior. They clearly **exceed the Secretary of State's legal authority** and stand in conflict with existing statutes.

For these reasons, I urge this committee to recognize the threat Rule Set 15 poses to citizen oversight and fair elections. We demand **that Rule Set 15 not be adopted**.

Thank you,

Mary Harp

Precinct Delegate and Election Inspector

Madison Heights, MI

From: [Melinda Marion](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Rule Set 15 Comment
Date: Friday, December 12, 2025 11:16:53 AM

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The men and women that serve within each county in Michigan have served with integrity and professionalism for years. Having the State mandate or control is an overreach into local communities. This overreach puts citizens of local communities against one another when in fact communities need to pull together to ensure real change and bring the benefit of government to all.

We want fraud out of elections at each and every local voting establishment. We do not need a challenger communications government-designated liaison to police the actions at a community level. This rule will delay critical challenges to voter eligibility or ballot issues that could actually allow fraud to slip through our election system.

Limiting challenges to just four vague areas is also a problem, allowing the trust and process to be poisoned by deceased voters, duplicate registrations, those in the system that have moved out of state but no update has been made or felons on rolls. We want all voices to be heard without discrimination and silencing when there are irregularities.

The timing of this rule and changes should be under investigation with Secretary Benson's January 2025 gubernatorial run announcement. There have been many that have voiced their concerns about the voter rolls in Michigan not being cleaned up. I have two adult children that have moved out of state for over 2 years that still receive notification from the Secretary of state even though they both vote in other states and hold driver's licenses there. The optics of this move and her involvement are of concern to many of us in Michigan.

Thank you for receiving my comments.

Melinda Marion

From: [Monica Yatooma](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Opposition to Ruleset 15
Date: Friday, December 12, 2025 2:39:22 PM
Attachments: [RuleSet15_PublicComment_MonicaYatooma.pdf](#)

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To the Members of the Joint Committee on Administrative Rules:

I am writing to express my strong and unequivocal opposition to Rule Set 15. These proposed rules do not strengthen our elections—they weaken transparency, restrict citizen oversight, and place unnecessary burdens on the very volunteers who help safeguard election integrity in Michigan.

First, the proposal creates a new system of state-mandated training and certification for election challengers. While training is valuable, making it compulsory and centrally controlled by the state erects barriers that will deter volunteers and shrink the pool of independent observers. These roles were designed for ordinary citizens, not bureaucrats. Turning community members into state-processed participants undermines the independence that challenger oversight is supposed to provide.

Additionally, the requirement that all challenger concerns be funneled exclusively through a government-appointed liaison introduces dangerous delays. Challenges related to voter eligibility, counting procedures, or ballot irregularities often require immediate attention. By forcing challengers to wait for permission to speak or submit concerns, Rule 15 creates opportunities for mistakes—or misconduct—to go unaddressed. It also gives officials the power to act as gatekeepers, filtering or

slowing information that should be evaluated in real time.

The rule's decision to confine challenges to only four narrowly defined categories ignores the real issues that have repeatedly surfaced in past elections. Duplicate registrations, deceased voters on the rolls, and ineligible individuals such as certain felons are all documented problems that would fall outside these limited categories. Restricting what challengers can question leaves broader structural issues untouched and damages public confidence in the system.

Equally concerning is the proposal's reliance on subjective standards—especially regarding what constitutes “disruptive behavior” or disallowed apparel. Ambiguous criteria open the door to arbitrary enforcement. A challenger could be removed simply because an official disliked their tone, their attire, or their viewpoint. These undefined standards threaten to silence those whose role is to monitor procedures and call out irregularities.

Organizations that recruit or train challengers would also be burdened by new record-keeping requirements, annual filings, and repeated certification demands, all without any funding to offset the costs. Grassroots groups and local political parties—already operating on limited resources—would be disproportionately impacted, while larger, well-funded entities could absorb the costs more easily. This creates an uneven playing field and disadvantages ordinary citizens.

It is impossible to overlook the timing of these rules: they were advanced immediately after Secretary of State Benson announced her gubernatorial campaign. Introducing sweeping restrictions on election oversight while simultaneously pursuing

higher office raises serious concerns about conflicts of interest. Public trust requires more transparency in election oversight—not less.

Rule 15 also raises substantial constitutional issues. It compels citizens to adopt state-approved messaging through required training, limits political expression, and interferes with freedom of association. These provisions clash with First Amendment protections and contradict Michigan election law, which clearly affirms challengers' right to direct access within polling locations.

Finally, the state's own internal review acknowledges that these rules are unnecessary and are not expected to meaningfully change behavior. Yet they stretch far beyond the authority granted in statute and run counter to long-standing provisions such as MCL 168.733, which outlines challenger rights and procedures already established in law. Regulations that exceed statutory authority and erode transparency should not move forward.

For all these reasons, I respectfully urge the Board to reject Rule Set 15 in its entirety. Michigan elections must remain open to lawful oversight, citizen participation, and robust transparency. These rules move us in the opposite direction.

Thank you for the opportunity to comment.

All the best,

Monica Yatooma

<https://monicaformichigan.com/>

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: mikspace@aol.com
To: [MDOS-Elections-PublicComment](#)
Subject: Elections RULE 15
Date: Wednesday, December 10, 2025 12:51:01 PM

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As a Michigan resident and voter I am adamantly opposed to the proposed language for Rule 15. The Secretary of State is deliberately making it more difficult for election watchers to be present in the polls.

The proposed changes exceed the legal authority as determined by MCL 168.733 and do not improve the transparency of elections and local voting operations.

Leave Rule 15 as it is now.

Mike McDonald
51 E Elmwood
Leonard, MI 48367

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: psusalla@charter.net
To: [MDOS-Elections-PublicComment](#)
Subject: Oppositions to Rule Set 15
Date: Thursday, December 11, 2025 3:35:15 PM

**CAUTION: This is an External email. Please send suspicious emails to
abuse@michigan.gov**

I am opposed to any restrictions on citizens oversight of our election process. Our election process is suspect at best and more scrutiny is welcome in my opinion. Any attempt to increase bureaucracy making it more difficult to ensure accuracy and fairness is unwelcome.

Paul Susalla
psusalla@charter.net

RETRIEVED FROM DEMOCRACYDOCKET.COM

PURE INTEGRITY MICHIGAN ELECTIONS (PIME)

FORMAL WRITTEN SUBMISSION IN OPPOSITION TO RULE SET 2025-15 ST
ELECTION CHALLENGERS AND POLL WATCHERS

Submitted to: Michigan Department of State Bureau of Elections Administrative Rules Division

Date: December 12, 2025

Submitted by: Patrice Johnson, Chairperson Pure Integrity Michigan Elections (PIME) 501(c)(4)
Organization Email: pime2021@protonmail.com Phone: 517-299-8002 Website:
<https://www.pureintegritymichiganelections.org>

RE: Rule Set 2025-15 ST – Election Challengers and Poll Watchers Transaction ID: 1588 Link:
<https://ars.apps.lara.state.mi.us/Transaction/RFRTtransaction?TransactionID=1588>

EXECUTIVE SUMMARY

Pure Integrity Michigan Elections (PIME) opposes Rule Set 2025-15 ST and urges the Joint Committee on Administrative Rules to recommend disapproval and the Secretary of State to withdraw these rules. Rule Set 15 systematically violates state and federal law by:

1. **Exceeding statutory authority** – [MCL 168.31\(1\)\(a\)](#) authorizes only procedural implementation, not substantive restrictions that contradict legislative enactments
2. **Contradicting express statutory language** – [MCL 168.733](#) establishes direct procedures, comprehensive challenge grounds, voluntary training, and protection mandates that Rule Set 15 eliminates
3. **Violating the First Amendment** – Compelled speech, prior restraint, and unconstitutionally vague standards under [Minnesota Voters Alliance v. Mansky, 138 S. Ct. 1876 \(2018\)](#)
4. **Violating the Administrative Procedures Act** – Omitted from annual regulatory plan ([MCL 24.253](#)), admitted unnecessary ([MCL 24.245a](#)), failed federal coordination ([MCL 24.245a\(8\)](#))
5. **Violating federal law** – Undermines [52 U.S.C. § 20507](#) (NVRA), [52 U.S.C. §§ 21081 & 21083](#) (HAVA), and coordinates with Rule Set 14 to violate [52 U.S.C. § 20701](#) (federal record retention)

The state's own Regulatory Impact Statement admits these rules are "not necessary to promulgate" and "will not alter the behavior" of election officials or challengers. When an agency confesses rules are unnecessary, no administrative justification exists for restricting constitutional rights and eliminating statutory protections that have existed for seven decades.

I. STATEMENT OF INTEREST

Pure Integrity Michigan Elections (PIME) is a 501(c)(4) organization dedicated to election integrity advocacy in Michigan through litigation, research, public education, and legislative engagement. PIME serves as a credentialing organization under [MCL 168.730](#), training and fielding poll challengers to observe election administration and challenge violations of Michigan election law.

PIME has direct standing to oppose Rule Set 15 because these rules impose unconstitutional restrictions on our organizational activities, force us to distribute government-created training materials (compelled speech), subject us to vague certification standards without recourse, and eliminate our statutory right to credential challengers who can effectively observe elections and challenge violations.

Our organization also serves the broader public interest. Poll challengers protect the voting rights of all Michigan citizens—regardless of party affiliation—by ensuring election officials conduct elections according to law. Rule Set 15 systematically eliminates this independent oversight at the precise moment when the Secretary of State who promulgated these rules has announced her candidacy for governor.

II. RULE SET 15 EXCEEDS STATUTORY AUTHORITY

The Michigan Legislature established comprehensive rights for poll challengers in [MCL 168.727-734](#). These statutes have existed for seven decades and reflect deliberate legislative choices about the balance between election oversight and operational efficiency.

A. Limited Rulemaking Authority

[MCL 168.31\(1\)\(a\)](#) authorizes the Secretary of State to "issue instructions and promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the conduct of elections and registrations in accordance with the laws of this state."

This grants procedural authority to implement existing statutory rights—not substantive authority to create new restrictions, eliminate statutory rights, or narrow legislative choices. The phrase "for the conduct of elections" means implementation of election procedures, not restriction of statutory oversight mechanisms.

B. Ultra Vires Restrictions

Rule Set 15 exceeds this limited authority by imposing substantive restrictions the Legislature never authorized:

1. Mandatory Training Requirements (R 168.203(4), R 168.207)

[MCL 168.730\(2\)](#) establishes who may serve as challengers: "A person who is a qualified and registered elector may serve as a challenger if appointed in writing by" a recognized political party or incorporated organization.

That is the only qualification the Legislature imposed. The statute contains no authorization for:

- Mandatory state-created training materials
- State-controlled training for credential-issuers
- Certification that challengers have "working knowledge" of state content
- Two-year recertification requirements
- Annual organizational information submissions

The Secretary cannot use rulemaking authority to impose qualifications the Legislature deliberately excluded. When the Legislature established a single qualification and maintained that standard for 70 years, that legislative choice is binding on the executive branch.

2. Mandatory Liaison System (R 168.205)

[MCL 168.730\(5\)](#) authorizes election officials to "designate a challenger liaison to assist with challenger questions regarding election processes or procedures."

Authority to "designate" a liaison to "assist with questions" does not include authority to prohibit direct communication between challengers and election inspectors. The distinction between "assistance" and "prohibition" is critical. A liaison who assists with questions makes the process more efficient. A mandatory intermediary who must be used for all communication transforms the statutory right to "bring attention" into a privilege that can be filtered, delayed, or denied.

Nothing in [MCL 168.730\(5\)](#) authorizes this transformation. The statute authorizes an optional resource; R 168.205 creates a mandatory gatekeeper that contradicts [MCL 168.733](#).

3. Challenge Ground Restrictions (R 168.208)

[MCL 168.733\(1\)\(e\)\(iv\)](#) authorizes challengers to bring to election inspectors' attention "a violation of election law or other prescribed election procedure."

This is deliberately comprehensive language encompassing the full range of potential violations. The Legislature chose broad authority rather than an enumerated list. When the Legislature wants to create enumerated lists, it does so explicitly—as it did for acceptable voter IDs in [MCL 168.523](#).

The Secretary has no authority to narrow this comprehensive statutory language to four exclusive grounds, particularly when doing so excludes numerous legitimate statutory concerns:

- Deceased voters whose identities may be stolen for fraudulent voting
- Duplicate registrations enabling voters to cast ballots in multiple jurisdictions
- Felons ineligible to vote due to incarceration

- Non-residents who moved but remain on registration rolls
- Inactive registrants who should confirm eligibility before voting
- Voters who already voted by absentee ballot attempting to vote in person
- Address fraud where registrants don't actually reside at listed addresses
- UOCAVA civilian ineligibility issues
- Ballot harvesting operations
- Signature mismatches on absentee ballot envelopes

Each of these represents a "violation of election law or other prescribed election procedure" under [MCL 168.733](#). The Secretary cannot use rulemaking authority to exclude them.

4. Vague Ejection Standards (R 168.217, R 168.214)

[MCL 168.733\(3\)](#) provides narrow, objective ejection standards: "Any evidence of drinking of alcoholic beverages or disorderly conduct is sufficient cause for the expulsion of a challenger from the polling place or the counting board."

The statute further mandates: "The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties."

The Secretary has no authority to create additional ejection standards beyond these narrow statutory grounds, particularly when the new standards are vague, subjective, and invert the statutory protection mandate. R 168.217 and R 168.214 authorize ejection based on:

- "Reasonable belief" (no objective criteria)
- Clothing "relating to any party" (impossibly broad)
- Clothing that "disrupts the peace or order" (purely subjective)
- Conduct that "disrupt[s] or interfere[s]" (no limiting guidance)

These standards exceed the Secretary's rulemaking authority and contradict the Legislature's narrow ejection grounds and protection mandate.

C. The Clonlara Standard

The Michigan Supreme Court established the controlling standard in [Clonlara, Inc. v. State Bd. of Educ.](#), 442 Mich. 230, 239 (1993). Administrative rules must be: (1) within the matter covered by the enabling statute, (2) compliant with and carrying out the intent of the enabling act, and (3) reasonable and not arbitrary.

Rule Set 15 fails all three tests. The rules exceed the matter covered by [MCL 168.31\(1\)\(a\)](#), contradict the intent of [MCL 168.727-734](#), and impose arbitrary restrictions responding to no documented need.

III. RULE SET 15 CONTRADICTS EXPRESS STATUTORY LANGUAGE

Beyond exceeding authority, Rule Set 15 directly contradicts express statutory provisions. When rules contradict statutes, the rules are invalid. [Clonlara, 442 Mich. at 239](#).

A. Direct Communication (R 168.205 vs. MCL 168.733)

Statute: [MCL 168.733\(1\)\(e\)](#) provides that challengers may "[b]ring to an election inspector's attention" improper ballot handling, violations of regulations, campaigning violations, or "a violation of election law or other prescribed election procedure."

Rule: R 168.205(2) states: "Challengers shall not communicate with election inspectors other than the challenger liaison or the challenger liaison's designee unless otherwise instructed by the challenger liaison or a member of the clerk's staff."

These provisions cannot be reconciled. The statute gives challengers the right to "bring to an election inspector's attention" violations. This is direct communication. The rule prohibits direct communication with anyone except the liaison.

The statute does not say "bring to a liaison's attention" or "communicate through an intermediary." It says "bring to an election inspector's attention." Rule 168.205 eliminates this statutory right.

B. Challenge Grounds (R 168.208 vs. MCL 168.733)

Statute: [MCL 168.733\(1\)\(e\)\(iv\)](#) authorizes challengers to bring to inspectors' attention "a violation of election law or other prescribed election procedure."

Rule: R 168.208(2) restricts challenges to four exclusive grounds: (a) not registered, (b) under 18, (c) not a citizen, (d) hasn't resided 30 days.

The statute says "any violation of election law." The rule says "only these four grounds." This is direct contradiction, not implementation.

C. Training Requirements (R 168.203, R 168.207 vs. MCL 168.733)

Statute: [MCL 168.733](#) contains no training requirement. The Legislature's 70-year silence on mandatory training reflects a deliberate choice to make training voluntary.

Rule: R 168.203(4) and R 168.207 impose mandatory state training for both credential-issuers and challengers, including certification of "working knowledge" and two-year recertification.

The Legislature could have imposed training requirements at any point over seven decades. It chose not to. The Secretary cannot use rulemaking to impose requirements the Legislature deliberately excluded.

D. Protection vs. Ejection (R 168.217, R 168.214 vs. MCL 168.733)

Statute: [MCL 168.733\(3\)](#) mandates: "The election inspectors and other election officials on duty shall protect a challenger in the discharge of his or her duties."

Rule: R 168.217 and R 168.214 authorize ejection based on "reasonable belief" and vague standards like "disrupts peace or order."

The statute emphasizes PROTECTION of challengers. The rules create THREATS through vague, subjective ejection standards. This inverts the statutory framework.

IV. RULE SET 15 VIOLATES THE FIRST AMENDMENT

A. Compelled Speech

Rules 168.203(4) and 168.207 require credentialing organizations to distribute training materials created by the Secretary of State and require challengers to certify they have "working knowledge" of government-prescribed content.

The First Amendment prohibits government from compelling individuals or organizations to express beliefs or endorse messages. [West Virginia State Board of Education v. Barnette, 319 U.S. 624, 642 \(1943\)](#): "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."

Rule Set 15 does exactly what *Barnette* prohibits:

- Forces organizations to distribute the Secretary's interpretation of election law
- Requires challengers to certify "working knowledge" of state materials
- Provides no alternative compliance mechanism
- Gives the Secretary—while running for governor—control over training about election law during her own campaign

Organizations opposing the Secretary's administration or supporting her gubernatorial opponent must submit to her training, accept her certification, and maintain her approval—or be excluded from oversight entirely. This is compelled speech in service of political control.

The compelled speech violation is aggravated by vagueness. What constitutes "working knowledge"? The rule doesn't say. Who determines adequacy? The rule doesn't say. Can organizations provide supplemental training contradicting the Secretary's interpretations? The rule doesn't say. This vagueness chills participation by creating uncertainty about compliance.

B. Prior Restraint

Mandatory state training operates as a licensing system requiring government approval before citizens can engage in First Amendment-protected political oversight.

[*Near v. Minnesota*, 283 U.S. 697, 713-16 \(1931\)](#) held that prior restraints are "presumptively unconstitutional." The Secretary cannot require organizations to obtain state approval through mandatory training and certification before exercising their statutory right to credential observers.

This is analogous to requiring newspapers to obtain government licenses before publishing political commentary—a practice the Supreme Court unanimously condemned as prior restraint on press freedom.

C. Unconstitutionally Vague Standards

Rule 168.214(4)(k) prohibits wearing "any clothing or other apparel relating to any party, candidate, or proposition on the ballot or that disrupts the peace or order of the early voting site or polling place."

Rule 168.217 authorizes ejection when a liaison has "reasonable belief" that a challenger violates these prohibitions.

These standards are unconstitutionally vague under [*Minnesota Voters Alliance v. Mansky*, 138 S. Ct. 1876 \(2018\)](#). The Supreme Court struck down Minnesota's ban on "political" apparel as unconstitutionally vague, holding that restrictions on political speech must be "clear and reasonable" and that "if the line between permissible and impermissible is not clear, citizens are left guessing" and enforcement becomes "haphazard and discriminatory."

Michigan's standards are substantially vaguer than Minnesota's struck-down provisions:

"Relating to any party": Could mean virtually anything. Does red clothing "relate to" Republicans? Does blue "relate to" Democrats? Does green "relate to" the Green Party? An American flag pin? A union logo? Business attire versus casual clothing?

"Disrupts the peace or order": Purely subjective and reaction-based. Depends not on the clothing itself but on how others react to it. If a partisan liaison is "disrupted" by a MAGA hat but not by a Black Lives Matter shirt—or vice versa—the standard enables viewpoint discrimination.

"Reasonable belief": Provides no objective criteria. The liaison being observed determines what's "disruptive" based on subjective judgment.

Without objective standards, enforcement depends entirely on the liaison's political preferences. This enables partisan liaisons to eject opposition party challengers based solely on subjective "disruption" judgments while tolerating their own party's observers.

The Court warned in *Mansky* that vague standards "make[] it easier to discriminate against unpopular speech" and "favor those in power." Michigan's standards fail constitutional scrutiny for the same reasons Minnesota's did.

D. Chilling Effect

The combined effect of compelled speech, prior restraint, and vague standards is to chill legitimate political activity. Challengers will:

- Decline to serve rather than certify "working knowledge" of government content
- Avoid necessary questions for fear of being labeled "disruptive"
- Refrain from wearing any clothing that might be deemed "relating to a party"
- Self-censor to avoid arbitrary ejection

This chilling effect on protected First Amendment activity is precisely what the Constitution prohibits.

V. RULE SET 15 VIOLATES THE ADMINISTRATIVE PROCEDURES ACT

Michigan's Administrative Procedures Act establishes mandatory procedures for state agencies promulgating rules. Rule Set 15 violated the APA at every stage.

A. Omitted from Annual Regulatory Plan (MCL 24.253)

[MCL 24.253](#) requires each agency to prepare an annual regulatory plan identifying "the rules the agency expects to review... in the next year" and "the rules it reasonably expects to process in the next year." This plan must be electronically transmitted to the office of regulatory reinvention by July 1 of each year.

The Secretary of State's July 1, 2024, annual regulatory plan did not include Rule Set 15. This comprehensive package of 20 rules restricting election oversight was never mentioned.

Rule Set 15 was filed in March 2025—nine months after the annual plan was due.

This omission deprived stakeholders of advance notice necessary to:

- Prepare detailed constitutional and statutory analysis
- Recruit expert witnesses and legal counsel
- Coordinate opposition responses across multiple organizations
- Engage legislative champions
- Mobilize public comment campaigns with adequate preparation time

The omission appears strategic. Including these controversial rules in the July 2024 plan would have alerted election integrity organizations, political parties, and legislators to prepare responses. By omitting the rules and filing them suddenly, the Secretary minimized scrutiny and expedited implementation.

This violation alone provides grounds for invalidation under [MCL 24.287\(1\)\(c\)](#), which permits courts to declare rules invalid if "adopted without compliance with statutory rulemaking procedures."

B. Admission That Rules Are "Not Necessary" (MCL 24.245a)

[MCL 24.245a\(1\)](#) requires agencies to "determine whether the proposed rule is reasonably necessary to meet the intent of the statute or statutes pursuant to which the rule was promulgated and not arbitrary and capricious."

The requirement to "determine whether the proposed rule is reasonably necessary" means more than asserting general authority—it requires affirmative demonstration that rule changes serve legitimate administrative purposes rather than political objectives, that less restrictive alternatives are inadequate, and that the benefits justify the costs.

The Regulatory Impact Statement for Rule Set 15 contains a fatal admission: "However, while it is not necessary to promulgate the instructions as rules, the Department seeks to alleviate any remaining confusion regarding the rules."

The state confesses these rules are unnecessary. The RIS further admits: "The rules will not alter the behavior or frequency of behavior for election officials, election inspectors, or challengers and poll watchers."

When an agency admits rules are unnecessary and won't change behavior, no administrative justification exists for restricting constitutional rights. This confession alone requires invalidation under [MCL 24.245a](#).

C. Failed Federal Coordination (MCL 24.245a(8))

[MCL 24.245a\(8\)](#) requires agencies to "explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter."

The RIS claims: "The rules have not been coordinated with other federal, state, or local laws as there are none applicable to the same activity or subject matter."

This statement is demonstrably false and violates the coordination requirement:

1. Federal Record Retention ([52 U.S.C. § 20701](#))

Rule Set 14 mandates 7-day deletion of electronic pollbook data. This directly violates the 22-month federal retention requirement for all election records. Rule Set 15 coordinates with Rule Set 14 by restricting the challenger observation necessary to identify record retention violations. The RIS contains no analysis of this conflict.

2. National Voter Registration Act ([52 U.S.C. § 20507](#))

The NVRA requires states to maintain accurate voter registration lists. Rule Sets 13 and 15 coordinate to undermine this requirement: Rule 13 makes pre-election challenges nearly impossible through \$2,300 fees and impossible "personal knowledge" standards, while Rule 15 restricts the during-election challenges that serve as a backup mechanism. The RIS contains no NVRA analysis.

3. Help America Vote Act ([52 U.S.C. §§ 21081, 21083](#))

HAVA requires database accuracy verification and auditable systems. Rules 14 and 15 eliminate the auditable pollbook records and restrict the systematic observation necessary for verification. The RIS contains no HAVA compliance analysis.

4. First Amendment ([U.S. Const. Amend. I](#))

Rule Set 15 operates as prior restraint on political association, compels speech through mandatory training, and enables viewpoint discrimination through vague ejection standards. The RIS contains no First Amendment analysis or consideration of less restrictive alternatives.

The complete absence of federal coordination violates [MCL 24.245a\(8\)](#) and demonstrates arbitrary rulemaking designed to evade scrutiny.

D. Inadequate Cost Analysis ([MCL 24.245a\(4\)](#))

[MCL 24.245a\(4\)](#) requires agencies to "estimate the actual statewide compliance costs of the rule based upon reports from state agencies, local units of government, and organizations and interested persons who are expected to comply with the rule."

The RIS provides only cursory, generic statements without meaningful analysis of:

- Cost to organizations of implementing credentialing systems
- Cost of conducting or obtaining state-approved training
- Cost of annual recertification and record-keeping
- Cost to political parties of operating under numerical limits
- Cost to local clerks of implementing liaison systems
- Cost to challengers of legal compliance with vague standards

These costs are substantial but unquantified. The RIS's failure provides inadequate information for evaluating whether benefits justify burdens and violates [MCL 24.245a\(4\)](#).

E. Arbitrary and Capricious Rulemaking

Even if the Secretary had complied with procedural requirements, Rule Set 15 would still violate the APA's prohibition on arbitrary and capricious rulemaking.

The October 2024 Election Officials Manual provided comprehensive challenger guidance. Elections proceeded successfully. Absentee Voter Counting Boards operated efficiently. No documented incidents required intervention. The system worked.

The Secretary provides no evidence of:

- Problems under the October 2024 manual
- Documented need for training mandates
- Incidents justifying liaison gatekeeping
- Issues requiring challenge ground restrictions
- Disruptions from challenger clothing requiring vague standards

When the less restrictive baseline worked successfully, the more restrictive rules cannot be justified as administratively necessary. The absence of any documented problem proves Rules 168.203, 168.205, 168.207, 168.208, 168.214, and 168.217 are solutions in search of problems.

Additionally, the Secretary reversed prior policy without explanation. [MCL 168.733](#) made training voluntary. The October 2024 manual respected this legislative choice. Rule Set 15 reverses this policy by requiring mandatory state-controlled training without explanation.

When agencies reverse positions, administrative law requires reasoned explanation. [Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.](#), 463 U.S. 29, 43 (1983). The Secretary provides none.

VI. RULE SET 15 VIOLATES FEDERAL LAW

A. National Voter Registration Act (52 U.S.C. § 20507)

[52 U.S.C. § 20507](#) requires states to conduct list maintenance programs to ensure voter registration lists are accurate. Challenge mechanisms serve as critical tools for identifying ineligible registrations.

Rule 168.208's four-ground restriction undermines NVRA compliance by preventing challengers from identifying:

- Deceased voters (not on the four-ground list)
- Duplicate registrations (not on the four-ground list)
- Non-residents who moved (only "hasn't resided 30 days" is covered—long-term non-residents excluded)
- Inactive voters requiring confirmation (not on the four-ground list)

By restricting challenge grounds, Rule Set 15 eliminates tools necessary for NVRA list maintenance.

B. Help America Vote Act (52 U.S.C. §§ 21081, 21083)

[52 U.S.C. § 21081](#) requires computerized statewide voter registration lists that are accurate and include safeguards. [52 U.S.C. § 21083](#) requires verification procedures.

Rule Set 15's restrictions on challenger observation eliminate the independent verification necessary to ensure database accuracy. Combined with Rule Set 14's 7-day record deletion, these rules eliminate the auditable systems HAVA requires.

C. Federal Record Retention (52 U.S.C. § 20701)

[52 U.S.C. § 20701](#) requires all election records to be retained for 22 months. This federal requirement preempts conflicting state rules.

While Rule Set 15 itself doesn't mandate record deletion, it coordinates with Rule Set 14 (which requires 7-day electronic pollbook deletion) by:

- Restricting the observation that would identify record retention violations
- Limiting challenges to four grounds, excluding challenges based on missing records
- Creating barriers that prevent challengers from effectively monitoring compliance

This coordinated pattern violates federal law.

VII. THE COORDINATED THREE-STAGE ASSAULT ON OVERSIGHT

Rule Set 15 must not be viewed in isolation. It represents the third stage of a coordinated effort to eliminate election oversight at every phase:

BEFORE ELECTIONS -- Rule Set 2025-13 ST (Voter Registration Challenges)

- Blocks pre-election identification and removal of ineligible registrations
- Imposes \$2,300 fee per challenge (pricing out citizen oversight)
- Requires impossible "personal knowledge" standard
- Creates illegal protected class for overseas voters (Equal Protection violation)
- Link: <https://ars.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1586>

DURING ELECTIONS – Rule Set 2025-15 ST (Election Challengers)

- Restricts real-time observation through training barriers
- Blocks direct communication via mandatory liaison system
- Limits challenges to four grounds, excluding deceased voters, duplicates, harvesting
- Enables arbitrary ejection through vague standards
- Link: <https://ars.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1588>

AFTER ELECTIONS – Rule Set 2024-14 ST (Electronic Pollbooks)

- Requires deletion of electronic pollbook data after 7 days
- Violates [52 U.S.C. § 20701](#) federal 22-month retention requirement
- Eliminates ability to investigate irregularities post-election
- Already effective (October 23, 2025)
- Link: <https://ars.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1585>

This three-stage pattern eliminates oversight before, during, and after elections. The systematic nature across all three phases strongly suggests deliberate coordination rather than good-faith election administration responding to documented problems.

VIII. MICHIGAN'S FAILED OVERSIGHT SYSTEM REQUIRES JUDICIAL INTERVENTION

Michigan's legislative oversight mechanism has structurally failed. The Joint Committee on Administrative Rules (JCAR) consists of five senators and five representatives. This 50-50 composition creates partisan deadlock preventing the majority vote needed to disapprove rules.

Rule Set 15 is taking effect not because JCAR approved it, but because JCAR cannot disapprove it. This transforms administrative rulemaking from a process requiring legislative consent into one requiring only that the Legislature fail to disapprove—a failure guaranteed by partisan gridlock.

This structural defect means that:

- Rules exceeding statutory authority take effect without approval
- Rules contradicting express legislative language take effect without approval
- Rules violating constitutional protections take effect without approval
- Rules admitted to be "not necessary" take effect without approval

When the oversight mechanism designed to check executive overreach becomes paralyzed by that very gridlock, judicial intervention becomes constitutionally necessary to preserve separation of powers and protect statutory rights from administrative usurpation.

Federal and state courts must step in when:

1. Administrative rules exceed statutory authority
2. Rules contradict express legislative language
3. Rules violate constitutional protections
4. The legislative oversight mechanism fails

All four conditions exist here.

IX. REMEDIES REQUESTED

Pure Integrity Michigan Elections requests that:

A. The Joint Committee on Administrative Rules:

1. Recommend disapproval of Rule Set 2025-15 ST in its entirety
2. Create formal legislative record of the statutory, constitutional, and procedural violations detailed herein
3. Refer the matter to appropriate legislative committees for statutory clarification

B. The Secretary of State:

1. Withdraw Rule Set 2025-15 ST
2. Return to the October 2024 Election Officials Manual guidance, which operated successfully
3. If new rules are deemed necessary, restart the rulemaking process with:
 - Inclusion in the annual regulatory plan
 - Genuine demonstration of administrative necessity
 - Proper federal law coordination
 - Meaningful cost-benefit analysis
 - Compliance with statutory limits on rulemaking authority

C. State and Federal Courts (if administrative remedies fail):

1. Declare Rule Set 2025-15 ST invalid under [MCL 24.287](#) for:
 - Exceeding statutory authority ([MCL 168.31\(1\)\(a\)](#))
 - Contradicting express statutory language ([MCL 168.733](#))
 - Adoption without APA compliance ([MCL 24.253](#), [24.245a](#))
2. Declare specific rules facially unconstitutional:
 - R 168.203(4) and R 168.207 (compelled speech)
 - R 168.205 (prior restraint)
 - R 168.214 and R 168.217 (void for vagueness under [Mansky](#))
3. Issue preliminary and permanent injunctions prohibiting enforcement of Rule Set 15
4. Award attorney fees and costs under 42 U.S.C. § 1988 for civil rights violations

X. CONCLUSION

The mark of genius is to distill something to its most pure form. Our Founding Fathers achieved this by creating the Constitution and Bill of Rights—defining freedom in clear, elegant language. The First Amendment protects free speech in just 45 words. Michigan's challenger statute, [MCL 168.733](#), grants comprehensive oversight rights in direct, unambiguous language.

Rule Set 2025-15 ST does the opposite. It muddies clear law with vague restrictions. It uses intimidating language to chill participation. It contradicts statute, violates the Constitution, and ignores procedural safeguards.

The evidence of these violations is overwhelming:

Statutory violations: The rules exceed the procedural authority granted by [MCL 168.31\(1\)\(a\)](#) and directly contradict the comprehensive rights established in [MCL 168.733](#).

Constitutional violations: The rules violate the First Amendment through compelled speech ([Barnette](#)), prior restraint ([Near](#)), and unconstitutionally vague standards ([Mansky](#)).

Procedural violations: The rules violated [MCL 24.253](#) (annual plan), [MCL 24.245a](#) (necessity), and [MCL 24.245a\(8\)](#)(federal coordination).

Federal violations: The rules undermine compliance with [52 U.S.C. § 20507](#) (NVRA), [52 U.S.C. §§ 21081 & 21083](#)(HAVA), and coordinate with Rule Set 14 to violate [52 U.S.C. § 20701](#) (record retention).

Most damning is the state's own admission: These rules are "not necessary to promulgate" and "will not alter behavior." When an agency confesses rules are unnecessary, no administrative justification exists for eliminating 70 years of statutory rights and burdening constitutional protections.

Poll challengers are unpaid volunteers who serve as the public's eyes and ears to protect election integrity for all Michigan voters—regardless of party affiliation. Rule Set 15 transforms this civic service into a state-controlled privilege subject to arbitrary enforcement by the very officials being observed.

When election administrators implement rules restricting oversight of their own administration—when those rules exceed statutory authority, contradict legislative language, violate constitutional rights, and respond to no documented need—and when structural defects in legislative oversight prevent meaningful review—courts must intervene to preserve the statutory rights the Legislature created and the constitutional protections the people retain.

Pure Integrity Michigan Elections urges disapproval of Rule Set 2025-15 ST and stands ready to support judicial invalidation if administrative remedies fail. The integrity of Michigan's elections depends on independent oversight. These rules eliminate that oversight without statutory authorization, without constitutional justification, and without administrative necessity.

They must not be allowed to stand.

Respectfully submitted,

Patrice Johnson Chairperson, Pure Integrity Michigan Elections (PIME) Email:
pime2021@protonmail.com Phone: 517-299-8002 Website:
<https://www.pureintegritymichiganelections.org>

Date: December 12, 2025

ATTACHMENTS

1. PIME Comprehensive Legal Analysis of Rule Set 2025-15 ST (December 2025)
2. Copy of Regulatory Impact Statement for Rule Set 2025-15 ST
3. Excerpts from October 2024 Election Officials Manual
4. Excerpts from July 2024 Election Officials Manual
5. Michigan Compiled Laws 168.727-734 (Challenger Statutes)
6. Secretary of State Annual Regulatory Plan (July 1, 2024)

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2025, a copy of this Written Submission was delivered via electronic mail and U.S. Mail to:

Michigan Department of State Bureau of Elections Administrative Rules Division Lansing,
Michigan

Joint Committee on Administrative Rules Michigan Legislature Lansing, Michigan

Office of Regulatory Reinvention Michigan Department of Licensing and Regulatory Affairs
Lansing, Michigan

END OF WRITTEN SUBMISSION

From: [Robin Evancoe](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Rule Set 15
Date: Friday, December 12, 2025 2:45:46 PM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Dear Legislators, Representatives, Commissioners,

I am opposed to Elections: Rule Set 15 currently being proposed. This rule set places an additional heavy burden on our electoral process by requiring training and certification. It also makes it more difficult for challenges to be made to the electoral process by requiring an additional bureaucratic step. Voting is on a tight schedule which does not allow for the slow bureaucratic process. Furthermore, challenges should not be limited to 4 areas--who knows what kind of issues may be presented in the future which the "areas" do not address. Finally, the State itself has admitted that the rules will not change behavior and they go beyond legal authority and contradict statutes.

Thank you for considering.

Sincerely,

Robin Evancoe

(Precinct Delegate, South Lyon)

RETRIEVED FROM DEMOCRACYDOCKET.COM

From: [Sharon Williams](#)
To: [MDOS-Elections-PublicComment](#)
Subject: Rule Set 15
Date: Friday, December 12, 2025 1:35:32 PM

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Dear Sec of State Benson and Election Committee Leaders

Please know that I am in direct opposition to Rule Set 15

Firstly, anything that limits timely and effectual dispositions to challenges is cause for concern. The required challenger correspondents to go through government personnel is inefficient. To maintain the integrity of the process, processes need to be expeditiously--this eliminates the chances of fraud.

Secondly, rule 15 compromises free speech rights by pigeon-holing speech into that which is government sanctioned. Therefore, undermining viewpoint expression.

Finally, if funderstanding this correctly, this perpetuates government inefficiency by piling on unnecessary and feckless rules that really have no impact on election integrity--just more bureaucracy.

Thank you for your service and for considering my thoughts on this matter.

Sincerely,
Sharon Williams
1401 Brougham Court
South Lyon, Mio 48178
248-231-0625

Exhibit F

RETRIEVED FROM DEMOCRACYDOCKET.COM

In the Matter Of:
BOARD OF STATE CANVASSERS

MEETING
December 12, 2025

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1 STATE OF MICHIGAN
2 BOARD OF STATE CANVASSERS
3 JOCELYN BENSON, SECRETARY OF STATE

4 PUBLIC COMMENT MEETING

5
6 December 12, 2025

7
8 10:00 a.m.

9
10 Binsfeld Office Building
11 201 Townsend Street
12 Lansing, Michigan 48933

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22
23 RECORDED BY: Rachelle Roberts, CER 9585
24 Certified Electronic Recorder
25 Esquire Deposition Solutions
Firm Registration Number 8035

APPEARANCES

State of Michigan
Elections Staff:

JENNIFER LYNN MCINERNEY, ESQ.
(P73605)

ALESSA JILL THOMAS BOES, ESQ.
(P74397)

MICHIGAN DEPARTMENT OF STATE

430 West Allegan

Lansing, Michigan 48918

517-331-7825

800-292-5973

mcinerneyjl@michigan.gov

boesa@michigan.gov

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1 Lansing, Michigan

2 Friday, December 12, 2025 - 10:00 a.m.

3 MS. MCINERNEY: Good morning. This is a
4 public hearing on the proposed administrative rules
5 entitled Election Challengers and Poll Watchers.

6 This hearing is being conducted pursuant to Section
7 31 of the Michigan Election Law, 1954 PA 116, and
8 on behalf of the Michigan Department of State. I
9 am adjusting. Can you hear me better?

10 MS. RITCHIE: Sounds like you're just
11 talking.

12 MR. JAFFE: The red light is on.

13 MS. MCINERNEY: The red light is on.

14 MS. RITCHIE: I know. It just sounds
15 like you're talking.

16 MS. MCINERNEY: Okay. Can you ask
17 the sergeant?

18 MS. BOES: See if that helps.

19 MS. MCINERNEY: Can you hear me now?

20 MS. RITCHIE: Not any better. That's
21 weird.

22 MS. MCINERNEY: I'll just speak a little
23 louder; is that okay? Okay. So we'll just not go
24 with microphones for the moment, and then once they
25 turn them on, you'll wave that you can hear me too

1 loud.

2 This is a public hearing on the proposed
3 administrative rules entitled Election Challengers
4 and Poll Watchers. This hearing is being conducted
5 pursuant to Section 31 of the Michigan Election
6 Law, 1954 PA 116, and on behalf of the Michigan
7 Department of State. This hearing is being called
8 to order at 10:00 a.m. on December 12th, 2025, in
9 room 1100 of the Binsfeld Office Building --

10 MS. RITCHIE: There we go.

11 MS. MCINERNEY: -- at 201 Townsend
12 Street, Lansing, Michigan 48933. This hearing was
13 published in three newspapers of general
14 circulation: the Big Rapids Pioneer, the Escanaba
15 Daily Press, and the Huron Daily Tribune. It was
16 also published in the Michigan Register, issue
17 number 21 published December 1st, 2025.

18 My name is Jenny McInerney, and I'll be
19 facilitating the hearing today. I am joined by my
20 colleague, Alessa Boes. The purpose of the hearing
21 today is to listen to public comment on the
22 proposed administrative rules. Note that public
23 comment is still open, and the department will
24 accept written public comments until 5:00 p.m.
25 today. The easiest way to submit public comment to

1 the department is by emailing elections-
2 publiccomment@michigan.gov.

3 Please note that we are here today to
4 receive your comments on the proposed rules. If
5 you wish to speak, please make sure you have signed
6 in and indicated your willingness to speak. We
7 will call on speakers in the order in which names
8 are listed on the sign-in sheets. When you come
9 forward to speak, please identify yourself with
10 your name, the organization you represent, and the
11 email address so this information may be
12 transcribed into the hearing report. If you have
13 additional comments to submit in writing, you may
14 leave them at the sign-in desk or submit them to
15 the department no later than 5:00 p.m. today.
16 Public comment will be limited to three minutes per
17 person. Because the purpose of this hearing is to
18 listen to public input related to the proposed
19 rules, we will not be answering questions.

20 So I'm going to go in order the sign-in
21 sheet. So the first speaker is Kathleen Kubik. If
22 you could come up, you will have three minutes to
23 speak and we'll keep track of that time.

24 MS. KUBIK: Do I sit any place?

25 MS. MCINERNEY: Yep.

1 MS. KUBIK: Either one?

2 MS. MCINERNEY: Either one. Yep. And
3 then just turn on the mic with the little button at
4 the base.

5 MS. KUBIK: Oh. I have a big mouth, so I
6 don't -- I wish I knew more about this proposal.
7 But I just want to --

8 MS. MCINERNEY: Sorry. Could you say --

9 MS. KUBIK: Oh.

10 MS. MCINERNEY: -- say and spell your
11 name and give any organization you represent and
12 your email address, please?

13 MS. KUBIK: Kathleen Kubik, and I am just
14 being me. And I wanted to speak because I have
15 worked elections. I've been poll challenger or --
16 I was never a worker, and these changes to me don't
17 seem necessary. And there -- I keep reading
18 that -- anticipated no cost for these changes.
19 I've been promised many things by the government,
20 but that usually is not true when they say no cost.
21 What I also see is that the Secretary of State
22 manipulates the rules to tie our hands even more.
23 I was at the 2020 election in Detroit. I was at in
24 '22, and I see that -- I -- in '20, it was
25 unbelievable what was happening. We were not

1 allowed to see ballots. We were not -- we were
2 told -- screamed at 60 million times, and when we
3 really questioned. And that's serious. They might
4 have shown just -- but that was a very bad one.

5 So she came up with more rules, and I
6 think it's just to tie our hands. And now poll
7 workers don't want to work, because -- not poll
8 workers, poll challengers, because they could be
9 arrested if a worker says that we're bothering
10 them. I also was instructed before by Benson's
11 changes -- I -- and I -- when -- before an
12 election, we were taught how to be poll
13 challengers. So -- and it doesn't have to be by
14 Benson. It was these groups. I went with MCC.
15 They taught us how to do things, and we did them
16 right. So it just seems like, why does she want to
17 change these things to make it even harder for poll
18 challengers or the other poll people?

19 So I don't believe there's a need for any
20 change, and I don't trust much that -- or anything
21 that Jocelyn Benson does. She's harmed the
22 election process. She has not helped it. Thank
23 you.

24 MS. BOES: Thank you.

25 MS. MCINERNEY: Thank you. Next up is

1 Angelina Esteban.

2 MS. ESTEBAN: Good morning, and thank you
3 for listening to us. Let me introduce myself. I'm
4 Angelina Esteban. I am the daughter of immigrants
5 who grew up in Spain during the -- during the 1936
6 Civil War in Spain. They lived under the fascist
7 government, the dictatorship of Francisco Franco.
8 My parents had to escape to come into this country.
9 Actually, my mother was American. She was born in
10 Ohio. My grandparents took her back to Spain. And
11 so she was able to come back -- she had to escape
12 Spain, get into Portugal to come back here. And my
13 parents instilled in their children freedom of
14 speech, and I believed in it with all my heart. I
15 love my country. I wrapped myself around my flag
16 because I was blessed not to live under
17 dictatorship.

18 Having said that, I also became a door-
19 knocker, and I would go -- I -- from Lake Orion all
20 the way to South Lyon. In 2024, I have knocked
21 thousands of doors because I believe in my free
22 speech. What Jocelyn Benson wants to do is
23 regulate my speech. Laws designed to combat
24 information can restrict what individuals can say
25 about elections. If a statement is deemed false or

1 misleading, it may lead to legal consequences,
2 which can discourage open expressions. The
3 potential for punitive measures under her rules may
4 lead individuals to self-censor or avoid discussing
5 elections-related topics for fear of being labeled
6 as spreading misinformation. Determining what
7 constitutes misinformation can be subjective. This
8 ambiguity may lead to a chilling effect, where
9 individuals worry that their critiques or opinions
10 may be interpreted as false.

11 Overly-stringent regulations, which is
12 what she's trying to do, could stifle critical
13 discussions about electoral processes, practices,
14 or policy issues, essential components of a healthy
15 democracy. If people fear repercussions for their
16 views, robust debate may diminish. If rules are
17 enforced selectively -- which you know what? It's
18 always the conservative who gets -- who gets called
19 in. Let's not forget about our electors. If it's
20 enforced selectively or disproportionately against
21 certain individuals or groups, again, it can create
22 an environment of censorship, undermining the
23 principles of free speech.

24 MS. MCINERNEY: Thank you for your
25 comments.

1 MS. ESTEBAN: Thank you.

2 MS. MCINERNEY: Next up, we have Sheree
3 Ritchie.

4 MS. RITCHIE: Good morning. You need
5 name, spelling, and email; is that correct?

6 MS. MCINERNEY: Yes, please.

7 MS. RITCHIE: My name is Sheree
8 Retchie -- Ritchie. Excuse me. I can't even say
9 my own name. The spelling is S-H-E-R-E-E, last
10 name R-I-T-C-H-I-E. And my email address is my
11 name with a period in the middle,
12 sheree.ritchie@hotmail.com.

13 I served as a poll challenger in November
14 2024, and I want to tell you what actually happened
15 under the system that worked before these rules
16 were created. I served last year on an absentee
17 vote county board in Wayne County at Huntington
18 Place for three days as a poll challenger. The
19 October 2024 Election Officials' Manual provided
20 our guidance, and the system worked perfectly
21 according to the established procedures. I
22 observed ballot processing. I checked signature
23 verification. I monitored ballot duplication
24 procedures. I kept records, and I raised concerns
25 when I saw issues, and election inspectors and

1 supervisors addressed those concerns professionally
2 and promptly. There were no problems at all. The
3 October 2024 manual encouraged liaison coordination
4 for efficiency, but it preserved our statutory
5 right to communicate with inspectors when
6 necessary. That flexibility was crucial.

7 Elections happen in real time. When I
8 observed a signature on a ballot that didn't match
9 the signature on file, I needed to address that
10 immediately before the ballot was removed from its
11 envelope and became anonymous. The direct
12 communication right is in MCL 168.733, and it
13 worked in practice in November of 2024. Rule set
14 15 eliminates that right. Under Rule 168.205, I
15 would have to find the liaison, explain the issue,
16 wait for the liaison to approach the inspector, and
17 hope the liaison accurately conveys my concern. By
18 the time that happens, the ballot might already be
19 separated from its identifying envelope, making it
20 impossible to remedy the violation.

21 Let me tell you what else worked in
22 November of 2024. I didn't need mandatory State
23 training to understand election procedures. My
24 credentialing organization provided excellent
25 training. We studied Michigan election law. We

1 practiced scenarios. We learned from experienced
2 challengers. That training was comprehensive and
3 effective, and it didn't require State control. I
4 wore professional attire. Nobody considered an
5 American flag pin disruptive or relating to a
6 party. But under Rule 168.214's vague standards,
7 would a liaison consider an American flag pin a
8 violation? I don't know, and neither would any
9 challenger. No. That uncertainty limits
10 legitimate activity.

11 The point is the November system --
12 November 2024 system worked. The proof is that I'm
13 not aware of any documented incidents that required
14 these new restrictions. No major disruptions, no
15 systematic problems. Thank you. Please do not
16 approve the rule set. Thank you.

17 MS. MCINERNEY: Thank you for your
18 comments. Next up, we have Norm Guild.

19 MR. GUILD: Good morning. My name is
20 Norman Guild, G-U-I-L-D.

21 MS. MCINERNEY: I think you have to press
22 the button at the base of the microphone to turn it
23 on. There's a button at the base on the counter.

24 MR. GUILD: Is that better?

25 MS. MCINERNEY: The light has got to come

1 on.

2 MR. GUILD: Oh, there. I see the
3 buttons.

4 MS. MCINERNEY: Yeah. They're kind of
5 hidden.

6 MR. GUILD: All right. My name is Norman
7 Guild, G-U-I-L-D, and my email address is
8 normanpguild@hotmail.com. And I'm representing
9 myself.

10 And I know you're not going to answer any
11 questions, but I just -- I also served as a poll
12 challenger at the old Cobo Hall in 2022, and I
13 stood for over 40 hours over four days because
14 Sunday, Monday, they were allowed to open the
15 ballots, separate them from the envelopes, put them
16 in piles. And then on election day, they continued
17 to do that, but then they could start to process
18 them as well. And I found it interesting that the
19 value that was placed on all of the poll workers
20 and lack thereof for poll challengers was
21 ridiculous. I felt it was insulting to any citizen
22 that just wants to be sure that the election
23 process in this country is on the up and up.

24 I experienced personal attempts at being
25 entrapped. They offered me a chair, told me that

1 it was okay if I went and got a chair. There's one
2 right over there against the wall. So I walked 50
3 feet, and I got a chair. And I brought it over,
4 sat down. Within 30 seconds, the supervisor came
5 over and informed me that challengers are not
6 allowed to sit. So I have really significant
7 peripheral artery disease, and for me to be on my
8 feet for 40 hours was a challenge. But I did it
9 because I believe it's important that citizens that
10 are volunteers are treated with the same dignity
11 and respect as people that are being paid to be
12 there. I don't know. I was disappointed.

13 So I've got a couple things that I want
14 to spout off. If I was to FOIA a request for any
15 input by said stakeholders, how many actual poll
16 challengers could I expect to read about? The
17 proposed codifications favor everyone except the
18 poll challengers. Should there also possibly a
19 need for codification of the rights to be treated
20 and given the same level of respect for poll
21 challengers as there are for poll workers? If our
22 election process is as transparent as claimed, why
23 do poll workers and clerks feel so threatened?
24 Thank you very much.

25 MS. MCINERNEY: Thank you for your

1 comments. Next, we have Sandra Carolan.

2 MS. CAROLAN: My name is Sandra Carolan,
3 and that's S-A-N-D-R-A, C-A-R-O-L-A-N. I'm
4 representing Citizens for Transparency. And I
5 would like you to know that I filled out the sign-
6 in sheet with my email, so I don't see any need to
7 repeat it online.

8 I have lived and voted in Michigan for
9 all of my life, beginning in the '70s in the booths
10 with the curtains and the levers. I am the
11 daughter of immigrants who came illegally to the
12 United States after World War II. Today, I've come
13 to warn this board and those that may be listening
14 that I feel that a very old statement in a very
15 popular old book relates to rules and regulations
16 as well as to our actions and yours. "Men love
17 darkness rather than light because their deeds are
18 evil." Rules and regulations on a state and
19 national level have been passed by a very few that
20 affect very many. There are only three of you in
21 the ten seats I'm looking at, and only 18 people in
22 this room right now when these decisions are being
23 made.

24 We come today as just a handful of
25 citizens representing millions of others who could

1 not drive hours to speak for three minutes or --
2 well, the last time I was here, they reduced it at
3 the last minute to 60 seconds, and I had to speak
4 very quickly. I urge you to stop moving forward
5 with rules and regulations that disenfranchised
6 taxpayers and voters. I have acted as a poll
7 challenger, a poll watcher, and a poll worker in
8 past elections. Any actions taken that can reduce
9 transparency and limit oversight contributes to
10 darkness in areas that should be flooded by light.
11 A lot of transparency equals more trust. We live
12 in a very divided state right now, and the best
13 thing to do to promote trust is to promote openness
14 and transparency. Everybody loves the word, but
15 nobody loves the action.

16 I urge that the entire rule set 15 be
17 refused, and that we continue to allow citizen
18 oversight of our elections, as a previous speaker
19 very carefully articulated with the Michigan laws.
20 And I just want you to know that I would like to be
21 a part of this process, and I don't think that it's
22 necessary for me to come to the State and ask
23 for -- or you pay for additional training when I am
24 appropriately trained and have done this in the
25 past. And I don't have that much time to come here

1 and come there and then be trained and retrained at
2 taxpayer expense. Thank you.

3 MS. MCINERNEY: Thank you for your
4 comments. Next, Patrice Johnson signed up but did
5 not indicate yes or no.

6 MS. JOHNSON: Yes.

7 MS. MCINERNEY: Yes? Okay. So come
8 ahead. Come on.

9 MS. JOHNSON: I'm not sure where the
10 button is.

11 MS. MCINERNEY: It's at the base of the
12 microphone.

13 MS. JOHNSON: Ah.

14 MS. MCINERNEY: There's a little button.
15 Yeah.

16 MS. JOHNSON: I think it would be okay
17 just to leave it on. Is it over here?

18 MS. MCINERNEY: No, right there.

19 MS. JOHNSON: Thank you. Sorry. I used
20 up my three minutes trying to find the button.

21 MS. MCINERNEY: I didn't start -- I
22 didn't start your time yet.

23 MS. JOHNSON: Thank you. Hi. Good
24 morning. I'm Patrice Johnson, chair of Pure
25 Integrity Michigan Elections.

1 Time2024@protonmail.com. We oppose rule set 15 on
2 a number of grounds detailed in our written
3 submission. Our founding fathers distilled freedom
4 into clear, elegant principles. The First
5 Amendment protects free speech in just 45 words.
6 Michigan's challenger statutes grant comprehensive
7 oversight in clear, direct language. Rule set 15
8 does just the opposite. It muddies the law with
9 vague, intimidating language. It contradicts
10 statute. It violates the Constitution. It ignores
11 procedural safeguards while the secretary, who
12 promulgated these rules, runs for governor.

13 Poll challengers are unpaid volunteers,
14 protecting election integrity for all voters. Rule
15 set 15 transforms this civic service into State-
16 controlled privilege, subject to arbitrary
17 enforcement. Rules 203 and 207 force credentialing
18 organizations to distribute secretary-created
19 training materials, classic compelled speech. The
20 secretary, while running for governor, controls
21 training for challengers and monitors of her own
22 election. Organizations opposing her must accept
23 her interpretations or be excluded entirely.
24 Challengers must certify working knowledge of
25 government content, but working knowledge is

1 undefined. This vagueness chills participation.

2 This isn't election administration. It's
3 compelled speech violating First Amendment rights.
4 "State law authorizes challengers to address any
5 violation of election law," quote. The legislature
6 deliberately chose comprehensive language, but Rule
7 208 restricts challengers to only four grounds.
8 Everything else is excluded. Deceased voters whose
9 identities are stolen, excluded. Duplicate
10 registrations, excluded. Ballot harvesting,
11 excluded. Signature mismatches, excluded. Felons
12 voting while incarcerated, excluded. Address
13 fraud, excluded. Overseas civilian ineligibility,
14 excluded.

15 The legislature says any violation. That's
16 the law. The secretary's rule says only these four
17 things. This contradicts statute. When rules
18 contradict statutes, the Michigan Supreme Court held
19 in *Clonlara* the rules are invalid. Rule set 15
20 systematically violates Michigan's Administrative
21 Procedures Act. APA law requires rules be reasonably
22 necessary, but the Secretary of State's own
23 regulatory impact statement admits in writing it is
24 not necessary to promulgate the instructions as
25 rules.

1 When an agency confesses rules are
2 unnecessary, no justification exists for them. I
3 urge you to reject rule set 15. Thank you.

4 MS. MCINERNEY: Thank you for your
5 comment. Next up, we have Dee Davey.

6 MS. DAVEY: Good morning. My name is Dee
7 Davey. I'm representing myself.
8 Deedavey@protonmail.com. Dear chair and committee
9 as there is here, I strongly oppose to rule set 15
10 for two reasons. Reason one, rule 15 reduces
11 citizen engagement and oversight of our elections.
12 Three examples. Rule set 15 mandates State-
13 controlled training and certification. State
14 intervention and control suppresses and will
15 discourage citizen participation. Two, with
16 precinct sizes now expanded, limiting the number of
17 challengers reduces citizen oversight. Three,
18 limiting challengers to ballot request return areas
19 only also reduces oversight and suppresses citizen
20 engagement.

21 My second reason, rule set 15 circumvents
22 our lawful legislative process. Three points to
23 consider. Rule set 15 is an overstep in creating
24 new law and exceeds the Secretary of State's
25 rulemaking authority. Our legislative body has not

1 approved changes to MCL law as proposed. And
2 thirdly, the Secretary of State is attempting to
3 change the law through an administrative process
4 and not the legislative process, circumventing law.

5 How many times has Secretary of State
6 Benson been found guilty of exceeding her authority
7 related to rules? With rule 15, she is yet again
8 overstepping her rule-making authority. Her own
9 attorney stated that the SOS only follows the law
10 that she agrees with, and we have that recorded.
11 The SOS is attempting to change the law through an
12 administrative process, which circumvents the
13 legislative process and the will of the people. In
14 conclusion, I urge the rejection of the entire rule
15 set and urge working through the legislative
16 process. Thank you for your consideration.

17 MS. MCINERNEY: Thank you for your
18 comments.

19 Next, we have Katherine Bussard. I
20 apologize if I'm getting any of these
21 pronunciations wrong. I'm doing my best.

22 MS. BUSSARD: You're fine. Thank you so
23 much for the opportunity to share here. My name is
24 Katherine Bussard, and I am sharing testimony on my
25 own behalf as well as that of Professor William

1 Wagner. He's a distinguished professor of
2 constitutional law, about 40 years in service to
3 the state and federal government in pursuit of
4 justice, and you can read more in the written
5 testimony of his credentials. I serve as the COO
6 and executive director of Salt & Light Global, and
7 I've also worked elections as a chair of local in-
8 person elections polling and then also have worked
9 on absentee boards, and all of these things for
10 roughly a decade. And today, we speak -- I speak
11 in my personal capacity.

12 And I just wanted to say at the outset
13 that in that near decade of serving in local
14 elections, I've never once had a problem in my
15 jurisdiction where I live or in other jurisdictions
16 where I've served. I've never once witnessed a
17 problem with a poll challenger being disruptive or
18 unruly. Instead, poll challengers, I think, need
19 to be noted in this conversation as individuals who
20 really do represent a genuine public interest
21 because they independently observe the transparency
22 of our elections, and they procedurally challenge
23 any concerning actions.

24 And honestly, those challenges are somewhat
25 rare in many cases as they should be because we want

1 to be doing the right thing the right way as election
2 workers. And they're just accountability for us.
3 They're not a threat. They're not menacing. They're
4 not disruptive or intimidating. And they certainly
5 don't interfere with the objective fairness of our
6 elections. Rather, they help amplify that. And so
7 that attitude is something that's so important in how
8 we treat them, and I really don't feel that it's
9 embodied in these rules as written at all.

10 And before I dive in a little bit deeper,
11 I'd just like to state that I really do oppose
12 these standards in their current form. The way the
13 rules are drafted, again, raise serious concerns
14 about good governance. And I'd like to talk about
15 that just a little bit more. Rule 169.205, Rule 5,
16 Section 5, gives challenger liaisons a new
17 unqualified power to, quote, "issue directions to
18 challengers to ensure compliance with the act," end
19 quote, and more broadly, to maintain the peace and
20 to maintain an orderly election process.

21 And of course, they should do those things
22 in terms of maintaining order, but being able to
23 issue directives willy-nilly on the fly, in the
24 moment, is very concerning for a number of reasons.
25 They're also able to delegate that power to others

1 just verbally. And what this creates is an
2 impossible situation where directive rules are not
3 known ahead. They're not written for equal
4 enforcement or even for effective compliance, and
5 they can be changed at any time simply by the spoken
6 word.

7 As a nation that values the rule of law,
8 that's concerning for a number of reasons.
9 Directive rules issued in real time by challenger
10 liaisons or any inspector to whom that power has
11 been delegated will not be uniform from polling
12 place to polling place, further adding to the
13 confusion, and without written policy, there's also
14 no measure of accountability for how this directed
15 power is used -- I'm sorry. That's time?

16 MS. MCINERNEY: Yeah. You can finish
17 your sentence.

18 MS. BUSSARD: There's no directed
19 power -- accountability for how these are used, and
20 that really does raise many concerns about the 14th
21 Amendment and due process and equal protection.
22 And I believe it would be prudent for you guys to
23 look into that before these move forward in any
24 fashion. Thank you.

25 MS. MCINERNEY: Thank you for your

1 comments. Next up, we have Devin Hayes.

2 MR. HAYES: Good morning. My name is
3 Devin Hayes. The email I provided is
4 devint227@hotmail.com. And I'm here today because
5 administrative necessity does not look like this.
6 Last October, our elections ran smoothly under a
7 guidance manual that worked perfectly fine. Yet a
8 mere weeks after the secretary's announcement for
9 run for governor, we have a sudden rush to codify
10 restrictions that the -- your own report admits are
11 not necessary. The -- if the system is not broken,
12 why are you attempting to fix it?

13 Rule 15 doesn't protect the process. It
14 insulates the politician. By forcing volunteers to
15 communicate through gatekeepers and requiring
16 State-approved certifications, you are creating a
17 VIP section for election oversight. You're
18 replacing the statutory rights of the people with
19 permissions granted by the State. Transparency is
20 not a privilege for you to dole out. It is a right
21 for us to keep. With that, I absolutely implore
22 you to withdraw rule set 15. Thank you.

23 MS. MCINERNEY: Thank you for your
24 comment.

25 Next is Frederick Nienstedt.

1 MR. NIENSTEDT: Good morning. My name is
2 Fred Nienstedt, F-R-E-D, N-I-E-N-S-T-E-D-T. My
3 email is fnienstedt@wideopenwest.com. It is my
4 opinion -- oh. Excuse me. Good morning. My
5 name -- right.

6 But it is my opinion that these rules
7 that are being proffered by the Secretary of State
8 are going to take away my First Amendment rights.
9 I am a civil libertarian activist. I want to be
10 able to have all of my First Amendment rights when
11 I'm at a polling location watching elections.
12 These rights that are being systematically violated
13 are freedom from compelled speech, freedom from
14 prior restraint, freedom from vague restrictions on
15 political activities. I'm old enough to know what
16 a poll tax is. You can't restrict access to the
17 polls. Is this some kind of a test that can be
18 escalated over time to choose who can be a poll
19 challenger or a poll watcher? This is egregious.

20 Rules 168.203, Paragraph 4, and 168.207
21 require credentialing organizations to distribute
22 training materials created by the Secretary of
23 State. Am I going to be required to sign those
24 materials in order to be a poll challenger or a
25 poll watcher and return that signature to the

1 Secretary of State?

2 There are Supreme Court cases that
3 clearly see this as a violation of my First
4 Amendment rights. Organizations who oppose the
5 current Secretary of State could be rejected by
6 this test. This is a subjective consideration for
7 being able to exercise my First Amendment right and
8 monitor elections. Why would anybody want to
9 restrict monitoring elections? Is there anything
10 that could possibly be used to say, oh, no, you
11 can't talk to your local clerk about the voter
12 rolls that this clerk has a duty to keep updated?
13 Why is the Secretary of State the only person with
14 that authority under all of these rule sets? This
15 has got to end.

16 This rule set 15 should be denied. There
17 should be no way that as a citizen of Michigan,
18 that I would be restricted by a test administered
19 by the Secretary of State. This is not a driver's
20 license that we're talking about. There is no
21 required permission in any way or form. Thank you
22 for your consideration.

23 MS. BOES: Thank you.

24 MS. MCINERNEY: Thank you for your
25 comments.

1 Next is Bryanna Vitale.

2 MS. VITALE: Good morning. My name is
3 Bryanna Vitale, spelled B-R-Y-A-N-N-A, V-I-T-A-L-E.
4 My email is bvitale@house.mi.gov. I'm the
5 legislative director for Representative Rachelle
6 Smit, who is chair of the House Election Integrity
7 Committee. I'm here to speak on her behalf.

8 Representative Smit is strongly opposed
9 to rule set 15 because it is yet another effort by
10 our Secretary of State to silence citizens who
11 vigilantly act to ensure election integrity. This
12 rule set exceeds the Secretary of State's
13 administrative authority, contradicts legislative
14 text, and violates constitutional protections in a
15 few key ways. These rules force mandatory State-
16 controlled training and certification for election
17 challengers, taking control away from local clerks
18 and election workers.

19 They require all challenger communications
20 to go through a government-designated liaison,
21 turning a simple process into a long, drawn-out,
22 bureaucratic one. They provide subjective standards
23 for disruption or party-related clothing, which
24 allows for challengers to be arbitrarily removed from
25 polling locations, opening the door to silencing

1 challengers with different political views. Most
2 importantly, anything that is passed in this rule set
3 is done so by circumventing the legislative process.

4 Under our Constitution, it is the
5 legislature that determines the times, places, and
6 manner of our elections, but the very nature of
7 this rule-making process violates that principle.
8 The legislature should be making decisions about
9 poll challengers and not the Secretary of State.

10 Thank you.

11 MS. MCINERNEY: Thank you for your
12 comments.

13 Next, we have David Jaffe.

14 MR. JAFFE: Good morning. My name is
15 David -- is it not on?

16 MS. MCINERNEY: I think you might have
17 turned it off. There we go. Perfect.

18 MR. JAFFE: David Jaffe, J-A-F-F, as in
19 Frank, E. Jaffedb@gmail.com. Here representing
20 myself. I am here in strong support of the rule
21 set. I have suggested some alterations and written
22 comments that don't need to be repeated here. I
23 have been the team leader for the challengers
24 accredited by the Michigan Democratic Party at
25 Huntington Place at every election since August of

1 2020.

2 The rules substantially similar to this
3 rule set were instituted by the secretary as
4 guidance in 2022. And in 2022, the conduct of
5 elections and the ability of challengers to
6 effectively monitor elections was actually
7 enhanced. These rules will make it easier for
8 challengers to be effective in monitoring and
9 challenging, when appropriate, election practices
10 because they eliminate the chaos.

11 In November of 2020, we had a disaster at
12 Huntington Place with substantial abuse of
13 challengers and inspectors by what I'll call rogue
14 challengers. It's been my practice to call errors
15 to the attention of inspectors as authorized by the
16 statute before issuing the formal challenge. And
17 in my experience, the election inspectors, now the
18 liaisons, are extremely responsive. The notion
19 that naming a liaison is a restriction is, quite
20 frankly, silly. The liaisons, at least at the
21 Detroit absent voter county board and in a polling
22 place, are the people best able to understand and
23 act on a question or a challenge. These rules
24 bring a minimum amount of order to the process.
25 They are well within the statutory authority. If

1 anyone would look at the rules and refer back to
2 the -- to the statute, they would see that.

3 They are reasonable interpretations of
4 existing law. These rules do not restrict access
5 to the polls. They, in fact, make it possible for
6 access to be effective. The only suggested change
7 I would mention here is that there should not be
8 eligibility challenges at absent -- an absent voter
9 ballot counting facility because the statute
10 clearly requires that a voter be present to be able
11 to refute a challenge to eligibility.

12 A number of comments made here today when
13 someone says that they checked signature verification
14 in 2024, that's simply false. That didn't happen.
15 So perhaps the person doesn't actually understand the
16 process as well as they think they do, and perhaps
17 some training would be helpful.

18 These rules in the form of the guidance
19 that's been in place have made the challenger
20 process much more effective and have made it easier
21 for challengers to identify, question, and get
22 resolution to concerns about practices, procedures
23 not being followed in a polling place or a counting
24 room. Thank you.

25 MS. MCINERNEY: Thank you for your

1 comments.

2 That is the conclusion of the list. I
3 don't think we have anyone else who has signed up.
4 If there are no other people who wish to speak at
5 this time and hearing no further comments, I hereby
6 declare the hearing closed. Any additional
7 comments regarding the proposed rules that you may
8 wish to share must be submitted in writing to the
9 Bureau of Elections. I do have the address,
10 although mail probably wouldn't get to us in time.
11 PO Box 20126, Lansing, Michigan 48901-0726, or by
12 email to elections-publiccomment@michigan.gov.

13 That record will remain open until 5:00
14 p.m. today. The current time is 10:42. Thank you
15 very much for coming.

16 (Meeting concluded at 10:42 a.m.)
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CERTIFICATE

I, Rachelle Roberts, a Certified Electronic Recorder and Notary Public within and for the State of Michigan, do hereby certify that on December 12, 2025, before the Board of State Canvassers, I digitally reported the proceedings had and the evidence given, together with the objections of counsel and the rulings of the Board thereto, and that said testimony was accurately captured with annotations by me during the proceedings, taken at said time and place.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am not interested in the outcome of this matter, financial or otherwise.

IN WITNESS THEREOF, I have hereunto set my hand this 23rd day of December 2025.



Rachelle Roberts, CER 9585
Notary Public, State of Michigan
County of Montcalm
My commission expires: April 29, 2027

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Exhibit G

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Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)
MOAHR-Rules@michigan.gov

AGENCY REPORT TO THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES (JCAR)

AGENCY INFORMATION:

Agency name:
State

Division/Bureau/Office:
Elections & Campaign Finance

Name of person completing this form:
Jenny McInerney

Phone number of person completing this form:
517-331-7825

Email of person completing this form:
McInerneyJ1@michigan.gov

Name of Department Regulatory Affairs Officer reviewing this form:
Meghan Schaar

RULE SET INFORMATION:

MOAHR assigned rule set number:
2025-15 ST

Title of the proposed rule set:
Election Challengers and Poll Watchers

1. Purpose of the proposed rules and background:

The purpose of these rules is to clarify required procedures regarding election challengers and poll watchers.

2. Summary of the proposed rules:

The purpose of these rules is to clarify required procedures, rights, and duties regarding election challengers and poll watchers.

3. List names of newspapers in which the notice of public hearing was published and publication dates:

Big Rapids Pioneer—11/15/2025
Huron Daily Tribune—11/15/2025
Escanaba Daily Press—11/15/2025

4. Date of publication of the proposed rules and notice of public hearing in the Michigan Register:
12/1/2025

5. Date, time, and location of the public hearing:

12/12/2025 10:00 AM at Room 1100 of the Binsfeld Office Building, 201 Townsend St. Lansing, MI 48933

6. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:

<https://ARS.apps.lara.state.mi.us/Transaction/RFRTtransaction?TransactionID=1588>

7. List of the name and title of agency representative(s) who attended the public hearing:

Jenny McInerney, Michigan Bureau of Elections, Regulatory Attorney
Alessa Boes, Michigan Bureau of Elections, Regulatory Attorney

8. Persons submitting comments of support:

David Jaffe
Kelly Clark
Brenda Layne Lancaster
Melanie Macey
Bailey Rechler

9. Persons submitting comments of opposition:

Kathleen Kubik
Angelina Esteban
Sheree Ritchie
Norman Guild
Sandra Carolan
Patrice Johnson
Dee Davey
Katherine Bussard
William Wagner
Devin Hayes
Fred Nienstedt
Bryanna Vitale
Christy Englert
Dave Kopin
Dan Graves
Kathleen O'Laughlin
Robin Evancoe
Monica Yatooma
Sharon Williams
Douglas White
Debra White
Melinda Marion
Bryce Metcalfe
Paul Susalla
Kevin Foldvary
Jeff Jarvi
Lisa Pieczynski
Mary Harp
Leann Bigos
Mike McDonald
Kenneth Verfaillie
Olivia Verfaillie
Joseph Guerra
Linda Butler
David Ball
Kathleen Lorencz
Deb Michael

10. Persons submitting other comments:

Lisa Brown
Bruce Watson
Joe Rozell
Alison Fitzgerald

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11. Identify any changes made to the proposed rules based on comments received during the public comment period:

	Name & Organization	Comments Made at Public Hearing	Written Comments	Agency Rationale for Rule Change & Description of Change(s) Made	Rule Number & Citation Changed
1	Bailey Rechler & Melanie Macey, Promote the Vote		Add clerks' offices to the definition of challenger service locations.	Added clerks' offices to the definition of challenger service locations. While there is a separate rule about clerks' offices, this makes it clearer that the rules apply to clerks' offices.	R 168.201(1)(d)
2	Bailey Rechler & Melanie Macey, Promote the Vote		Address clerical error, changing the word "candidate" to "individual"	Changed "candidate" to "individual" to reflect the intent of the rules.	R 168.201(1)(d)
3	David Jaffe, self		There is no electronic pollbook at an absent voter counting board, so there is not an individual responsible for the electronic pollbook on those teams of election inspectors.	Removed sentence listing the roles on a team of election inspectors, as not all roles are relevant on an absent voter counting board.	R 168.201(1)(l)
4	David Jaffe, self		The number of points of contact should be consistent to avoid confusion.	Removed "or individuals." This is consistent with the first sentence of this subrule that states that "a member" is designated.	R 168.203(2)
5	David Jaffe, self		At multi-precinct polling places and at absent voter ballot counting facilities, where there may be 50 counting boards, the clerk should be allowed to designate more than one liaison.	Added "or more" because more than one challenger liaison may be needed for large sites.	R 168.205(1)
6	Joe Rozell, Oakland County Director of Elections		If the most senior member of the clerk's staff present doesn't work in elections, they should not be the default challenger liaison.	Added "election" so it reads "the most senior member of the clerk's election staff." This is useful to avoid confusion.	R 168.205(1)(c)
7	Joe Rozell, Oakland County Director of Elections		The limit for absent voter counting boards applies to each counting board at a facility.	Replaced the standard in Section 765a with the standard in Section 730. While there is not a statutory number of challengers at an absent voter ballot county facility, this is the correct standard for each board at a facility.	R 168.206(1)(d)
8	Alison Fitzgerald,		Questioned what the process was for the	Added "A replacement challenger must comply with	R 168.206(6)

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	Brownstown Charter Township Election Specialist		replacement of a challenger.	the provisions of this rule set, including but not limited to R 168.214(1)." The listed section applies to the check-in requirement for a challenger.	
9	Bailey Rechler & Melanie Macey, Promote the Vote		Requiring physical signatures would be an unnecessary logistical hurdle for PTV and other credentialing organizations.	Added "or electronically sign." This would allow challengers to attest by electronic signature that they have completed required training.	R 168.207(5)
10	David Jaffe, self		This Rule fails to make it clear when a challenger is permitted to challenge an absent voter's ability to cast a ballot.	Added "at an Election Day polling place or early voting site." This makes it clear that eligibility challenges are not permitted at an absent voter ballot counting facility.	R 168.208(1) and rule title
11	David Jaffe, self		This rule should explicitly require the challenger to state the required elements of the challenge with specificity. I have often seen challengers make rambling statements about eligibility that may use one or two words from the statutes but that, taken as a whole, do not state a legally recognized ground for ineligibility.	Added "to state with specificity." This makes it clear that the challenge must be specific and targeted to an allowable ground for ineligibility.	R 168.208(6)
12	David Jaffe, self		This Rule fails to make it clear when a challenger is permitted to challenge an absent voter's ability to cast a ballot. Under the current guidance, "[v]oter eligibility challenges are not permissible at an absent voter ballot processing facility." This restriction should be included in the new rules.	Added the language suggested. This mirrors language from the Bureau's challenger manual, on which this rule set was based.	R 168.208(8) added
13	David Jaffe, self		The term "each repetition" is perhaps imprecise. Change "each repetition" in line 3 to "any subsequent" repetition.	Changed "each repetition" to "subsequent repetitions." This avoids the concern that a challenger would abuse this rule by challenging some but not all repetitions.	R 168.209(5)
14	Alison Fitzgerald, Brownstown Charter		(d) Incorrect reference to 168.203(3) – "challenges made for an improper reason as	Changed reference to R 168.208(3). This was an inadvertent mistake.	R 168.210(4)(d)

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	Township Election Specialist		described in R168.203(3)."		
15	Alison Fitzgerald, Brownstown Charter Township Election Specialist		When documenting a challenge in the pollbook, the challenger's organization should be listed as well for accountability and tracking purposes.	Added "The name of the credentialing organization that credentialed the challenger." This is consistent with inclusion of the same field in R 168.213(2).	R 168.211(2)(b)
16	David Jaffe, self		Change "includes" to "shall include" in line 5. Change "necessary" in line 8 to "necessary or appropriate." These changes are proposed for clarity."	Made both changes. This is consistent with the purpose of the rules and useful for clarity.	R 168.213(2)
17	Joe Rozell, Oakland County Director of Elections		Absent voter counting places do not use an electronic pollbook.	Revised to read "the physical pollbook and, if it is being used at that location, in the electronic pollbook." This reflects the intent of the rules.	R 168.213(3)
18	Alison Fitzgerald, Brownstown Charter Township Election Specialist		Incorrect reference to R168.216 - It states that the challenger must complete the oath set out in Rule 168.216; however, the oath is not in Rule 168.216, it is Rule 168.215 (Challenger Oath)	Changed reference from R 168.216 to R 168.215. This was an inadvertent mistake.	R 168.214(1)
19	David Jaffe, self		At a location with more than one precinct or more than one counting board, there will be multiple pollbooks. It should be possible to enter this information in any one pollbook. It seems unnecessary and wasteful to enter all of this information in each physical and electronic pollbook at the location. Possibly change "the" to "a" in line 5.	Changed "the" to "a" and added a sentence clarifying that the challenger may be recorded in only one pollbook.	R 168.214(1)
20	Alison Fitzgerald, Brownstown Charter Township Election Specialist		Incorrect reference to R168.216 - It states that the challenger must complete the oath set out in Rule 168.216; however, the oath is not in Rule 168.216, it is Rule	Changed reference from R 168.216 to R 168.215. This was an inadvertent mistake.	R 168.214(3)

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			168.215 (Challenger Oath)		
21	David Jaffe, self		This rule should be expanded to cover threatening or intimidating other challengers. I have been physically threatened by another challenger in the Detroit absent voter counting facilities, and I have seen examples of challengers attempting to intimidate other challengers.	Added "other challengers" to the individuals a challenger may not threaten or intimidate. This is consistent with the intent of the rules.	R 168.214(4)(b)
22	Norman Guild, self	Challengers should be allowed to sit in chairs.		Added provision that challengers may request and be provided with chairs as long as it does not interfere with the orderly conduct of elections. This cannot interrupt the election but should be allowed for accessibility purposes.	R 168.214(5)
23	Bailey Rechler & Melanie Macey, Promote the Vote		The last sentence of the oath in Rule 15 contains the phrase "within the counting place." We recommend deleting that phrase so the oath applies to challengers at polling places, early voting sites, and clerk's offices, in addition to counting places.	Replaced "counting place" with "description of applicable location." This change mirrors the language in the previous sentence.	R 168.215(1)
24	David Jaffe, self		The absent voter ballot processing facility is the entire location, and there may be multiple counting boards or teams of inspectors at that location.	Replaced "ballot processing facilities" with "counting boards" to reflect the intent of the rule.	R 168.216(1)
25	David Jaffe, self		The Detroit absent voter ballot counting facility has rules in place to restrict the number of counting boards to which a challenger may be assigned.	Added "subject to reasonable limits by the clerk" to reflect facilities where there are dozens or hundreds of counting boards.	R 168.216(1)
26	Joe Rozell, Oakland County Director of Elections		Absent voter counting places do not use an electronic pollbook.	Revised to read "the physical pollbook and, if it is being used at that location, in the electronic pollbook." This reflects the intent of the rules.	R 168.217(5)

27	David Jaffe, self		This provision should clarify, as the existing guidance does that the ejected challenger may contact the clerk after leaving the location, as provided in rule 20.2(b) below. Add the language currently in Rule 20.2(b) or clarify that it applies to this rule.	Added the language from R 168.220(2)(b) indicating that an appeal to the clerk must be made after the challenger has left the site.	R 168.217(6)
28	Alison Fitzgerald, Brownstown Charter Township Election Specialist		Are challengers required to check-in and notify clerk's office staff of their presence upon arrival as they are required to when at an AVCB, EV site, or polling place?	Added reference to the "check-in" requirement for challengers in R 168.214(1) to this rule. This makes the requirement consistent.	R 168.218(2)

12. Date report completed:

5/7/2026

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