



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

September 23, 2024

The Honorable Bryan Steil, Chairman
Committee on House Administration
U.S. House of Representatives
1309 Longworth House Office Building
Washington, DC 20515-6157

Dear Chairman Steil:

I am writing in response to your September 16, 2024, letter requesting information and clarification regarding the ability of election observers to participate in the democratic process in Michigan, specifically as it relates to observing the initial processing of mail ballots and signature verification.

As you note in your letter, during the Committee on House Administration's recent hearing "*American Confidence in Elections: Looking Ahead to the 2024 General Election*" on September 11, 2024, Secretary Benson was asked if Michigan was prepared and ready to once again welcome bipartisan Congressional Election Observers. Specifically, Representative Laurel Lee asked:

"... this question I'll direct to all of our Secretaries who are here with us today, one of the things that we've heard discussed during this hearing is the election Observer program, which Congress administers across the country, and this committee runs that program, and we deploy trained Congressional staff and send them around as those observers in elections offices around America, and I would like to hear from each of you on, really just a yes or no, if your office is prepared and ready to welcome these election observers during this election cycle..."¹

To which Secretary Benson responded, "Yes."² The Secretary's answer remains the same today. Michigan is prepared and ready to welcome bipartisan Congressional Election Observers during this election cycle, as we always have in past election cycles. I thank you for the opportunity to confirm this in writing and thus to dispel any doubts about our commitment to transparency in our elections, including through the involvement of Congress.

However, your letter includes another question, one that was not raised in your recent hearing and one that seems separate from bipartisan Congressional Election Observers.

You ask about the role and rights of "Michigan observers", and then later reference the roles and rights of "challengers". Under Michigan Election Law, these terms are not equivalent.

¹ [American Confidence in Elections: Looking Ahead to the 2024 General Election](#): Hearing Before the H. Comm. On Admin., 118th Cong. (2024) at 1:39:55-1:40:28.

² *Id.* At 1:40:35

In Michigan, an election “observer” is known as a “poll watcher”, and that is legally different from a “challenger,” which is a specific term designated under the Michigan Election Law.³ They are distinct roles with distinct rights.⁴ Both play important and constructive parts in ensuring elections are conducted in an open, fair, and orderly manner throughout our state. These different roles and their respective rights go back decades and are derived from our State Constitution and the laws put in place by our State Legislature as the People’s representatives.

In Michigan, a poll watcher is the term used to identify members of the public wishing to observe the electoral process in a polling place, early voting site, or an absent voter ballot processing facility, so long as they stay within a designated Public Viewing Area. Poll watchers are restricted from speaking with voters, issuing challenges, standing behind an election inspector as voters and/or votes are processed, and being 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.⁵

By contrast, Michigan law specifies that a challenger must be appointed and credentialed by political parties and qualified organizations. A challenger must be a registered Michigan voter.⁶ A challenger enjoys more rights to participate in the oversight of the administration of elections than poll watchers. Some rights that challengers are afforded under Michigan law include the ability to make challenges to another voter’s registration or eligibility; 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; observe the election process from a reasonable distance; 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; 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.⁷ Each challenger-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.⁸ 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.⁹ A challenger present in a clerk’s office may not view the Qualified Voter File.¹⁰

The bottom line is, yes, Michigan remains prepared and ready to once again welcome bipartisan and nonpartisan challengers this election cycle so that they can play their important part in overseeing the administration of elections in a manner that is consistent with the state’s longstanding laws and guidelines.

³ See MCL 168.730. See also Challenger Guidelines at pp. 1 and 23.

⁴ See Michigan Election Law, 1954 PA 116, MCL 168.1 *et seq.* See also [“The Appointment, Rights, and Duties of Election Challengers and Poll Watchers”](#) (“Challenger Guidelines”).

⁵ See Challenger Guidelines at pp. 23-24.

⁶ See MCL 168.730.

⁷ See MCL 168.730-734. See also Challenger Guidelines at pp. 19-20.

⁸ See MCL 168.730-734. See also Challenger Guidelines at p. 7.

⁹ See *Id.*

¹⁰ MCL 168.509gg(1).

As always, we are committed to following the law as we administer accessible, secure, and transparent elections for Michigan citizens.

Sincerely,

/s/ Michael Brady

Michael Brady
Chief Legal Director
Michigan Department of State