

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE**

ALEXANDER GANIK and AMERICAN
CIVIL LIBERTIES UNION OF MICHIGAN,

Plaintiffs,

Case No. 2020- -AW

v

JANICE M. WINFREY, in her official capacity
as City Clerk for the City of Detroit,

Defendant.

**COMPLAINT FOR WRIT OF
MANDAMUS AND OTHER RELIEF**

**EXPEDITED CONSIDERATION
REQUESTED**

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**Pro hac vice* motions forthcoming

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

NOW COME Alexander Ganik and American Civil Liberties Union of Michigan (“ACLU”) (collectively, “Plaintiffs”), by and through their undersigned attorneys, and for their Complaint against Janice M. Winfrey in her official capacity as City Clerk for the City of Detroit, Michigan (“Defendant” or “City Clerk”), state as follows:

INTRODUCTION

1. Plaintiffs file this Complaint to ensure that Defendant will comply with her legal duties to honor Detroit voters’ constitutional right to cast election ballots by mail for the general election on November 3, 2020.

2. In November 2018, the people of Michigan voted to enshrine a constitutional right to vote by absentee ballot. By an overwhelming margin, the people passed a constitutional amendment giving every registered voter the right to submit an absentee ballot—by mail or in person, at the voter’s choosing—at any point in the 40 days preceding an election. See Const 1963, art 2, § 4(1)(g).

3. Michigan statutes further mandate that the City Clerk shall mail or personally deliver absentee ballots to voters *immediately* upon receipt of an absentee ballot application. MCL 168.761(1). The City Clerk must also process absentee ballots in the same order in which the applications were received. See MCL 168.761(4).

4. Consistent with this legal requirement, and as recognized by the Michigan Court of Appeals on July 14, 2020, the Michigan Secretary of State has directed local clerks to issue absentee ballots within 24 hours of receipt of an application. See *League of Women Voters v Secretary of State*, 2020 WL 3980216, at *19 n.2 (July 14, 2020) (Riordan, J., concurring).

5. Defendant has systematically failed to comply with her duty to issue absentee ballots within 24 hours of the receipt of an application.

6. Upon information and belief, as of September 23, 2020, Defendant was in possession of 200,000 absentee ballot applications. See Kiertzner, *Under the gun, Detroit city clerk shows how she's getting ready for the record election*, WXYX.com (September 23, 2020), available at <<https://www.wxyz.com/news/election-2020/under-the-gun-detroit-city-clerk-shows-how-shes-getting-ready-for-the-record-election>> (“Detroit City Clerk Janice Winfrey is going into the November election with a record number of absentee ballot applications . . . There will be 200,000 absentee ballot applications processed.”).

7. Publicly available data from the Secretary of State’s office, show that as of October 12, 2020, Defendant had issued only 132,879 ballots. See Ex. 1. In other words, it appears that up to 70,000 ballot applications have been sitting in Defendant’s office for almost three weeks.

8. Indeed, although Defendant has logged the ballot application of Plaintiff Andrew Ganik as having been received by Defendant on October 1, he has not yet received his ballot. Ex. 2, Affidavit of Alexander Ganik ¶ 5 (hereinafter “Ganik Affidavit”). Upon information and belief, numerous other registered voters in Detroit have had to wait weeks to receive their ballots after having made a proper request, and an unknown number are, like Mr. Ganik, still waiting for ballots that they requested long ago.

9. Furthermore, the same data from the Secretary of State’s office show that as of October 12, 2020, Defendant had logged only 142,622 ballot applications as received, see Ex. 1, in the online voter registration database, the Michigan Voter Information Center (“MVIC”).¹

¹ The MVIC reflects the voter’s Qualified Voter File (“QVF”), the official electronic file for the “conduct of all elections.” MCL 168.509o. Election clerks are legally required to “enter the name of the [absentee voter] applicant . . . together with the date of receiving the application, the date of mailing or delivering the ballot or ballots to such voter, the date of (continued...) ”

This suggests that Defendant has yet to confirm receipt of at least 50,000 applications, let alone issues ballots in response to those applications.

10. Thus, despite the statutory mandate to issue ballots within 24 hours upon receipt, it appears that Defendant has left thousands of ballot applications unprocessed for weeks. As the Court of Appeals recently recognized, “[i]f a local election clerk has *ignored or otherwise failed to comply with the Secretary’s directions and the law*, it would require a mandamus action against those clerks to force their compliance.” *LWV*, 2020 WL 3980216, at *12 (emphasis added). Defendant’s inaction violates her clear constitutional and statutory obligations to mail ballots to voters “immediately” upon receipt of an absentee ballot application.

11. The immediacy of the impending general election, Defendant’s clear and indisputable legal duties, the fundamental nature of the rights at stake, and the practicalities of the COVID-19 pandemic warrant injunctive and declaratory relief. In particular, Plaintiffs ask that the Court issue an injunction and a writ of mandamus requiring Defendant to clear the backlog of absent voter applications within 24 hours and to hand-deliver the ballots to affected voters in order to avoid postal delays that could disenfranchise voters whose ballots have been delayed as the result of Defendant’s unconstitutional (in)action.

PARTIES

12. Plaintiff Alexander Ganik is a registered voter residing in Detroit, Michigan. Ganik Affidavit at ¶2, ¶3. Mr. Ganik submitted his application for an absentee ballot to the Detroit City Clerk’s office on September 29, 2020 by completing the online application. Affidavit of Alexander Ganik, ¶4. As of October 16, 2020, his ballot has not been sent. Ganik

receiving the ballot from such voter . . . “[u]pon receipt of such properly executed application.” MCL 168.760 (emphasis added).

Affidavit, ¶8. As a registered voter in Detroit, Mr. Ganik has a legal right to vote by absentee ballot and to have his timely absentee ballot application processed immediately upon receipt.

13. Established in 1959, Plaintiff American Civil Liberties Union of Michigan (“ACLU”) is a domestic, nonpartisan and nonprofit corporation organized for the civic, protective, or improvement purpose of protecting rights guaranteed by the United States and Michigan Constitutions. The mission of the ACLU is to realize the promise of the Bill of Rights for all citizens and expand the reach of its guarantees to new areas through public education, advocacy, and organization. The ACLU seeks to ensure an easy and equal right to vote for every citizen and encourages its members and the people of Michigan to exercise their right to vote, including by absentee ballot. The ACLU works to shape public policy and promotes full and fair access to the ballot, including, for example, by supporting and advocating for the 2018 ballot proposal that is now embodied in Art. 2, § 4 of the Michigan Constitution. At present, the ACLU has approximately 317 members in Detroit, each of whom, upon information and belief, is registered to vote and has been encouraged by the ACLU to vote by absentee ballot. The ACLU dedicates substantial time, effort, and resources to voter education and the protection of voting rights. These efforts include informing voters about the law concerning absentee ballots and educating them on how to apply for and timely submit their absentee ballot by mail and in person for the November 3, 2020 general election. The ACLU’s ability to fulfill its mission to educate and encourage voting by absentee ballot is harmed by the state constitutional and statutory violations detailed in this Complaint, which divert ACLU resources from other aspects of its mission. The ACLU has organizational standing and associational standing to represent its members who wish to vote by absentee ballot.

14. The ACLU has standing to represent its members who wish to vote by absentee ballot.

15. Defendant Janice Winfrey is the City Clerk for the City of Detroit and is the Chairperson of the Election Commission for the City of Detroit. City Clerk <<https://detroitmi.gov/government/city-clerk> > (accessed October 16, 2020); Charter of The City of Detroit Sec. 3-102, p.26, available at <https://detroitmi.gov/sites/detroitmi.localhost/files/2018-05/2_29_2012_CharterDocument_2_1_WITHOUT_COMMENTARY_1.pdf>. The Detroit City Clerk is also the election official authorized to issue absent voter ballots to voters in the City of Detroit. MCL 168.759; MCL 168.761; MCL 168.761b. In her capacity as the Chairperson of the Election Commission for the City of Detroit, she has the authority (and obligation) to “appoint a number of assistants as may be necessary to carry out the general provisions of the election law.” MCL 168.29. See also MCL 168.25; Detroit Charter 3.103. Defendant took an oath of office to support the Michigan Constitution and has a clear legal duty to enforce the Michigan Constitution and Michigan election laws regarding elections requiring no exercise of judgment or discretion. See Const 1963, art 11, § 1. She is sued in her official capacity.

16. Among her many constitutional and statutory duties as the Director of Elections for the City of Detroit who is authorized to issue absentee ballots, Defendant is required to mail or deliver personally ballots to the voter applicant immediately upon receipt of the application or as soon as the ballots are printed. MCL 168.761.

JURISDICTION

17. This Court has jurisdiction over this action pursuant to MCR 2.605 (declaratory relief); MCR 3.305(A)(2) (mandamus relief); and MCR 3.310 (injunctive relief). See also *Alliance for Mentally Ill v Dep’t of Community Health*, 231 Mich App 647, 660; 588 NW2d 133,

139 (1998) (“As a court of general equity jurisdiction, the circuit court had subject-matter jurisdiction to issue an injunction.”).

18. “[M]andamus is the proper remedy for a party seeking to compel election officials to carry out their duties.” *LWV*, 2020 WL 3980216, at *2, quoting *Citizens Protecting Mich’s Const v Secretary of State*, 324 Mich App 561, 583; 922 NW2d 404 (2018) (alteration in original). Mandamus actions may be brought against local election clerks who have “ignored or otherwise failed to comply with . . . the law.” *LWV*, 2020 WL 3980216, at *12.

19. Venue is proper in this Court pursuant to MCL 600.1621, MCL 600.1615, and MCR 3.305(B)(1) (mandamus relief). City Clerk Winfrey conducts business in Wayne County.

**NECESSITY FOR EXPEDITED CONSIDERATION
AND IMMEDIATE ACTION**

20. There is an urgent need for this Court to render an expedited decision in this case because there are 18 days before Election Day and Defendant’s noncompliance impacts the constitutional rights of registered voters for the November 3, 2020 general election.

21. The Michigan Supreme Court has declared that election-related cases should be considered expeditiously. See *Scott v. Mich Dir of Elections*, 490 Mich 888, 889; 804 NW2d 119, 120 (2011).

22. Expedited review is especially imperative in light of the COVID-19 pandemic, which has created a heightened need for election clerks to honor voters’ broad constitutional absentee voting rights, thereby reducing the number of voters appearing to vote on Election Day in person.

FACTUAL ALLEGATIONS

I. Michigan Voters Possess a Constitutional Right to Cast an Absentee Ballot In Person or By Mail Under Proposal 3.

23. In the November 2018 general election, Michigan voters—by a margin of 67% to 33%—adopted 2018 Proposal 3, which created several state constitutional voting rights now set forth in Article 2, § 4 of the Michigan Constitution.

24. Proposal 3 created an unqualified, unconditional state constitutional right for registered voters to vote in all elections:

Every citizen of the United States who is an elector qualified to vote in Michigan shall have the following rights:

(a) The right, once registered, to vote a secret ballot in all elections.

Const 1963, art 2, § 4(1)(a).

25. It also created an unqualified, unconditional state constitutional right for registered voters to vote in all elections by absentee ballot: the Michigan Constitution now provides that all registered voters have the right “to vote an absent voter ballot without giving a reason, during the forty (40) days before an election” and have “the *right to choose* whether the absent voter ballot is applied for, received and submitted *in person or by mail*.” *Id.*, art 2, § 4(1)(g) (emphasis added).

26. Recognizing the importance of the constitutional right to vote by absentee ballot, the amendment further provides that:

Persons registered in accordance with subsection (1)(f) shall be *immediately* eligible to receive a regular or absent voter ballot.

Id., art 2, § 4(1)(f) (emphasis added).

27. These newly adopted constitutional voting rights “shall be self-executing” and “shall be liberally construed in favor of voters’ rights in order to effectuate its purposes.” *Id.*, art 2, § 4(1).

II. The Michigan Constitution and Michigan Election Laws Prescribe Clear Legal Duties for Defendant.

28. City Clerk Winfrey, in her capacity as chief election official for the City of Detroit, has clearly defined legal duties as prescribed by the Michigan Constitution (as amended by Proposal 3), Michigan elections laws (by statute), and the Detroit City Charter. The City Clerk is responsible for processing absentee ballot applications, issuing absentee ballots, and receiving completed absentee ballots.

29. By statute, Michigan voters may apply for an absentee ballot any time during the 75 days prior to an election and up until 8 p.m. on Election Day, and absentee ballots are not issued except upon application. See MCL 168.759(1) and (2); MCL 168.761(3).

30. Once the City Clerk receives an absentee ballot application, the City Clerk “*immediately* upon receipt of the application or, if the application is received before the printing of the absent voter ballots, *as soon as the ballots* are received by the clerk, . . . shall forward by mail, postage prepaid, or shall deliver personally” the ballot to the applicant. MCL 168.761(1) (emphases added). See also MCL 168.759(1) and (3). In addition, all “[a]bsent voter ballots must be issued in the same order in which applications are received by the clerk. . . .” MCL 168.761(4).

31. As the Court of Appeals has recognized, Secretary of State Jocelyn Benson “discharged her legal duty to, in essence, direct local clerks to comply” with the requirement that ballots be issued “immediately” by directing clerks to issue absentee ballots within 24 hours of the receipt of an application. See *LWV*, 2020 WL 3980216, at *12.

32. Thus, pursuant to Michigan's Constitution and election laws, the City Clerk is legally required to issue ballots in response to a valid absentee ballot application within 24 hours.

III. The Detroit City Clerk Has Failed to Comply with Constitutionally and Statutorily Mandated Duties.

33. Upon information and belief, Defendant has been in possession of at least 200,000 absentee ballot applications as of September 23, 2020—a record number. See Kiertzner, *Under the gun, Detroit city clerk shows how she's getting ready for the record election*, WXYX.com (September 23, 2020), available at <<https://www.wxyz.com/news/election-2020/under-the-gun-detroit-city-clerk-shows-how-shes-getting-ready-for-the-record-election>>.

34. In light of the significant volume of applications, Defendant secured a \$7 million grant as of September 23, 2020 to hire sufficient staff to process absentee ballot applications in a timely fashion. *Id.*

35. Defendant has nonetheless consistently fallen far short of meeting her legal obligations.

36. As of September 28, 2020, Defendant had logged 114,191 absentee ballot applications as having been received. Ex 3, Secretary of State, Ballot Statistics by Jurisdiction (September 28, 2020)

37. As of October 5, 2020, Defendant had issued approximately 108,065 ballots, slightly over half of the number of absentee ballot applications that were apparently in her possession as of September 23. Ex. 4, Secretary of State, Ballot Statistics by Jurisdiction (October 5, 2020). This also shows that Defendant had failed to issue absentee ballots in response to at least 6,126 of the 114,191 applications *that she had logged as received* by September—despite having those applications in her possession for at least a week.

38. On October 8, 2020, Plaintiff ACLU transmitted a letter to Defendant seeking information regarding the extent of Defendant's backlog of absentee ballot applications and Defendant's plan for ensuring that applications in her possession would be processed immediately. Ex. 5, Letter from ACLU (October 8, 2020).

39. On October 12, 2020, Defendant responded to Plaintiff ACLU's letter indicating that the "unprocessed applications you mentioned in your letter are expected to be processed on or before Wednesday, October 14." Ex. 6, Letter from City Clerk Winfrey (October 12, 2020). Defendant failed to provide any information regarding the number of applications that remained in her backlog, despite being explicitly asked to do so in the ACLU's October 8 letter.

40. Data released by the Secretary of State's office on October 13, 2020 showed that as of October 12, 2020, Defendant had issued approximately 133,000 ballots. Ex. 1, Secretary of State, Ballot Statistics by Jurisdiction (October 12, 2020). Thus, it appears that 70,000 applications in the possession of the Defendant as of September 23 had still not been processed by October 12. That data further showed that approximately 10,000 voters whose applications for an absentee ballot had been received by Defendant still had not been mailed a ballot.

41. On October 14, 2020, Plaintiff ACLU sent another letter to Defendant, requesting (a) that Defendant provide information regarding the extent of Defendant's backlog that she omitted in her prior letter; (b) that Defendant confirm that she did in fact process the unprocessed applications referenced in Plaintiff ACLU's October 8 letter; and (c) provide her plan for complying with her legal obligation for processing ballot applications going forward within 24-hours. Ex. 7, Letter from ACLU (October 14, 2020).

42. To date, Defendant has provided no response to Plaintiff ACLU's October 14 letter. And despite her representation to the contrary, Defendant did not process all unprocessed

applications “on or before Wednesday, October 14.” As of October 16, 2020 ballots have still not been mailed to Plaintiff Ganik. Upon information and belief, Plaintiff Ganik is merely the tip of the iceberg and numerous other registered voters in Detroit who have requested their absentee ballots also have not been sent ballots.

43. At her present rate, Defendant will need *another 7 days* to process the applications that have already been in her possession for at least 20 days. This does not include any ballot applications that she might have received between October 13 and the date of this filing.

44. Defendant has failed to comply with her fundamental legal duty to process absentee ballot applications “immediately,” *i.e.*, within 24-hours.

45. In addition, Plaintiff ACLU has for several weeks received complaints from civic engagement organizations attempting to assist voters and from voters themselves that they cannot get through to anyone at the Detroit clerk’s office by phone to check on the status of their requested ballot or to request an application. Organizations have been left to deliver blank applications to voters who request them because they cannot get through to the clerk. Ex. 8.

IV. Defendant’s Unwillingness to Comply With Voting Laws Risks Disenfranchising Thousands of Detroit Voters.

46. Unless corrected immediately, Defendant’s failure to comply with the law will likely disenfranchise thousands of Detroit voters.

47. Experts have predicted that the 2020 general election will boast the largest mail-in ballot electorate in U.S. history (at least three-quarters of all American voters), with roughly 80 million mail-in ballots inundating election offices in November—more than double the number that were returned in 2016. See Love et al., *Where Americans Can Vote by Mail in the 2020*

Elections, NY Times (Aug. 14, 2020)

<<https://www.nytimes.com/interactive/2020/08/11/us/politics/vote-by-mail-us-states.html>>.

48. The increase in mail-in ballots is largely attributable to the COVID-19 pandemic. See DeSilver, *Mail-in voting became much more common in 2020 primaries as COVID-19 spread*, Pew Research Center (October 13, 2020) <<https://www.pewresearch.org/fact-tank/2020/10/13/mail-in-voting-became-much-more-common-in-2020-primaries-as-covid-19-spread/>> (accessed Oct. 16, 2020). As adults of any age with certain underlying medical conditions are at increased risk for severe illness or death from exposure to COVID-19, the Centers for Disease Control and Prevention recommends that the best way to ensure protection from COVID-19 is to “limit your interactions with other people as much as possible.” People with Certain Medical Conditions, Centers for Disease Control and Prevention, <<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>> (accessed Oct. 16, 2020). Mail-in voting is thus essential for voters who face increased risk from exposure to COVID-19, cases of which are spiking in Michigan and across the country. Leatherby, *U.S. Virus Cases Climb Toward a Third Peak*, NY Times (October 16, 2020), available at <<https://www.nytimes.com/interactive/2020/10/15/us/coronavirus-cases-us-surge.html>>.

49. Defendant’s failure to timely issue absentee ballots risks disenfranchising not only those voters whose applications have yet to be processed, but also voters who have yet to submit their applications and whose applications will likely be delayed by Defendant’s backlog.

50. Michigan law allows city clerks to issue absentee ballots until 5 p.m. on the Friday before election day (October 30). MCL 168.759(2). Michigan also allows its voters to apply for absentee ballots online, while, as noted above, requiring local election clerks to issue

ballots within 24 hours of receipt of ballot applications. A Detroit voter therefore has the legal right to submit her application online by 5 p.m. on October 29, the Thursday before election day. However, the voter's ability to receive and cast a timely ballot depends on Defendant's complying with the legal requirement that she process applications "immediately."

51. The harm caused by Defendant's failure to timely process absentee ballot applications is particularly acute in light of rampant United States Postal Service ("USPS") delivery delays. While USPS used to process mail within a city or township locally, with next day delivery and twice daily deliveries common in residential areas, see United States Postal Service (USPS), *An American History* (2020), p. 27, available at <<https://about.usps.com/publications/pub100.pdf>> (accessed July 16, 2020), that is no longer the case. Now, all mail is transported to a local post office, then to a regional sorting facility, and from there to a local post office for delivery. There are five regional facilities that serve Michigan: Detroit, Grand Rapids, Traverse City, and Marquette, Michigan; and Green Bay, Wisconsin.

52. Other recent operational changes at USPS have resulted in further mail delivery delays. Recent USPS performance data show significant delays since July 2020. <https://about.usps.com/newsroom/global/pdf/0831-congressional-service-briefing.pdf>

53. The ongoing COVID-19 pandemic also complicates USPS's ability to process mail in accordance with its average estimated delivery time. See Hicks, *Coronavirus Continues to Disrupt Mail Service in Parts of Michigan*, mlive (May 6, 2020) <<https://www.mlive.com/public-interest/2020/05/coronavirus-continues-to-disrupt-mail-service-in-parts-of-michigan.html>> ("USPS has had 113 employees test positive for the virus in the Detroit-Detroit-Flint area" and "[t]he region continues to be hit hard by the coronavirus.").

54. Plaintiffs' concerns are not merely theoretical. Voters in other states who have sought to vote absentee amidst the ongoing COVID-19 pandemic have been disenfranchised due to unreliable mail delivery timelines. In a recent election in Ohio, "[s]ome Ohioans did not receive their ballots in time for the election because of mail delays." Lee, *Scattered problems with mail-in ballots this year signal potential November challenges for Postal Service*, Wash Post (July 15, 2020) <https://www.washingtonpost.com/politics/scattered-problems-with-mail-in-ballots-this-year-signal-potential-november-challenges-for-postal-service/2020/07/15/0dfb8b42-c216-11ea-b178-bb7b05b94af1_story.html>. Some ballots "took up to nine days" to be delivered "and were not returned in time to be counted." *Id.* "In one county, more than 300 delayed ballots were not counted" *Id.*²

55. Thus, absent intervention by this Court, Defendant will continue to violate Plaintiffs' constitutional and statutory rights to vote absentee (by mail or in person) and in person on Election Day in the upcoming November 3 election.

V. COVID-19 Does Not Relieve the City Clerk of Her Constitutional Duty to Issue Absentee Ballots Immediately.

56. On March 24, 2020, Governor Whitmer issued an executive order expressly stating that "activities necessary to manage and oversee elections" are "necessary government activities" that are not to be suspended. Executive Order 2020-21 (COVID-19), available at <https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-522626--,00.html>.

57. The Secretary of State has created at least six different programs to provide financial support to local clerks in connection with the upcoming general election. See, e.g., Ex.

² See also Fessler & Moore, *Signed, Sealed, Undelivered: Thousands Of Mail-In Ballots Rejected For Tardiness*, NPR (July 13, 2020) <<https://www.npr.org/2020/07/13/889751095/signed-sealed-undelivered-thousands-of-mail-in-ballots-rejected-for-tardiness>>.

9, June 19, 2020 Michigan Bureau of Elections (“BOE”) email (“[Supplemental supply order form] allows clerks to use federal CARES funding to purchase additional supplies needed to process the expected increase in absentee balloting and other issues related to COVID-19 . . . Supplies available through this purchase order will be in addition to, not instead of, the PPE the Bureau of Elections is already providing to local jurisdictions . . . If you don’t place an order by June 30, there will be an additional purchasing opportunity after the August election.”); Ex. 10, June 23, 2020 BOE email (identifying various funding programs); Ex. 11, September 3, 2020 BOE email.

COUNT I
VIOLATION OF MCL 168.761:
FAILURE TO ISSUE ABSENTEE BALLOTS IMMEDIATELY

58. Plaintiffs hereby incorporate all foregoing paragraphs as if they were fully set forth herein.

Declaratory Relief

59. Pursuant to MCR 2.605, this Court has the authority to declare the rights and legal relations to the parties to this action.

60. There exists an actual case and controversy between the parties in that Plaintiffs allege that Defendant violated—and continue to violate—Michigan election laws by failing to “*immediately* . . . forward by mail, postage prepaid, or . . . deliver personally” the absentee ballot to the voter upon receipt of her application. MCL 168.761(1) (emphasis added). See also MCL 168.759(1) and (3).

61. Defendant has not processed ballot applications immediately, *i.e.*, within 24 hours as directed.

62. Plaintiffs are therefore entitled to declaratory relief.

Writ of Mandamus

63. This Court has jurisdiction to issue a writ of mandamus. MCR 3.305(A)(2). See also *LWV*, slip op., at 16 (noting that mandamus actions may be brought against local election clerks who have “ignored or otherwise failed to comply with the Secretary’s directions and the law.”).

64. Defendant has a clear legal duty to forward by mail or deliver personally absentee ballots to voters “*immediately* upon receipt” of their absentee ballot application. MCL 168.761(1) (emphasis added). See also MCL 168.759(1) and (3).

65. The act of forwarding by mail or delivering personally an absentee ballot as set out by statute is ministerial in nature.

66. Plaintiffs have clear legal rights to vote by absentee ballot, including by mail; to receive an absentee ballot immediately upon submission of a completed absentee ballot application; and to demand that Defendant comply with her legal duties to effectuate Plaintiffs’ rights.

67. No other adequate legal or equitable remedy exists that might achieve the same result.

Preliminary and Permanent Injunctive Relief

68. Plaintiffs are likely to prevail on the merits of their claims because Defendant has failed to forward by mail or deliver personally absentee ballots to voters immediately upon receipt of ballot applications. See MCL 168.761(1); MCL 168.759(1) and (3).

69. Plaintiffs face a real and imminent danger of irreparable harm if injunctive relief is not granted. As a threshold matter, a “loss of a constitutional right constitutes irreparable harm which cannot be adequately remedied by an action at law.” *Garner*, 185 Mich App at 764. Defendant’s failure to issue absentee ballots immediately to voters who have submitted ballot

applications infringes on Plaintiffs' constitutional right to vote by absentee ballot. Absent the relief Plaintiffs seek, Plaintiff Owens, like many other Detroit voters, face a substantial risk of not being able to effectuate her right to vote, let alone to vote by absentee ballot.

70. Moreover, the balance of harms weigh in favor of Plaintiffs, as their irreparable harm is nothing short of violating their constitutional right to vote by absentee ballot. Nor can Defendant credibly claim *any* harm when Plaintiffs are simply asking that she comply with her constitutional and statutorily mandated duties.

71. Finally, there is no clearer public interest than the right to vote, which as Michigan now recognizes, enshrines the fundamental right to vote by absentee ballot. Furthermore, absentee voting helps minimize the risks of long lines on election day associated with COVID-19.

72. All four factors therefore weigh in favor of preliminary and permanent injunctive relief.

CONCLUSION AND RELIEF SOUGHT

Wherefore, Plaintiffs pray that this Court:

- A. Expedite mandamus proceedings;
- B. Order Defendant to show cause why a Writ of Mandamus should not issue;
- C. Declare that Defendant are required by Michigan law to issue absentee ballots immediately upon receipt of an application for absentee ballot by a registered voter;
- D. Issue a Writ of Mandamus from the Court ordering Defendant (1) to process all pending absentee ballot applications submitted *before* this Court's order within 24 hours of the date of the Court's order; and (2) to process all absentee ballot applications received *after* this Court's order within 24 hours of their receipt.

- E. Enter a preliminary and permanent injunction ordering Defendant (1) to process all pending absentee ballot applications submitted *before* this Court's order within 24 hours; (2) to process all absentee ballot applications received *after* this Court's order within 24 hours of their receipt; (3) to provide daily reports on the number of absentee ballot applications in Defendant's possession, and the number of ballots issued; (4) to hand-deliver ballots to affected voters in order to assure their timely return; and (5) staff the Detroit phone line from 9-9 each day for voters to call and get information on the status of their application or ballot.
- F. Grant Plaintiffs any such further relief as the Court deems equitable and just under the circumstances.

Dated: October 16, 2020

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EXHIBIT 1

	DLCOUNTYCODE	JURISDCODE	COUNTY	JURISDICTION	REQUESTS	ISSUED	RECEIVED
1467	82	22000	WAYNE COUNTY	DETROIT CITY	142,622	132,879	34,735

EXHIBIT 2

AFFIDAVIT OF ALEXANDER JACOB GANIK

ALEXANDER JACOB GANIK, BEING OF FULL AGE, ON HIS OATH, DEPOSES AND SAYS:

1. I am over the age of 21 years and if sworn as a witness I am competent to testify about the matters set forth herein based on personal knowledge except where the matter is indicated to be based on information and belief.
2. I reside at 436 Prentiss, Detroit MI 48201. I have been residing at this address in Detroit for approximately 2 years and have lived in Michigan for approximately four years.
3. I am a registered voter in the City of Detroit.
4. I first applied for an absentee ballot on September 29, 2020 by completing the on-line application to receive an absentee ballot for the November general election.
5. The Secretary of State's ballot tracking system (<https://mVIC.sos.state.mi.us/Voter/Index>) indicates that my absentee ballot request was received on October 1, 2020, but it does not indicate that a ballot has been sent. A copy of the ballot-tracking readout is attached herein as Exhibit A.
6. If I do not receive my ballot soon, I will likely be unable to vote in the general election as I will be in New York on November 3, 2020. Therefore, while I remain a Michigan resident, residing in Detroit, I will be out of town on Election Day which is why I requested an absentee ballot.
7. In addition, I am concerned with the current delays being experienced by the postal system that if I do not receive my absentee ballot soon, my vote will not be counted.
8. As of today, I have not yet received my absentee ballot.

AFFIRMATION

I affirm that the contents of this affidavit are true and correct to the best of my knowledge.

Signature of the person making this affidavit: _____

Affirmed before me this _____ day of _____, _____ at _____

My commission expires on _____.

Signature of Officer Administering Oath _____ Title _____

Oct 14, 2020

Alexander Ganik

JURAT WITH AFFIANT STATEMENT

State of Washington } ss.
County of King

☒ See Attached Document (Notary to cross out lines 1-7 below)

☐ See Statement Below (Lines 1-7 to be completed only by document signer[s], not Notary)

1 _____
2 _____
3 _____
4 _____
5 _____
6 _____
7 _____

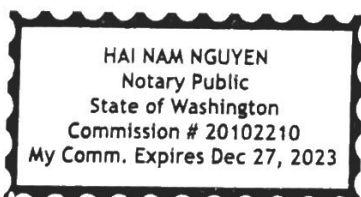
Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

Subscribed and sworn to (or affirmed) before me

this 14th day of October, 2020, by
Date Month Year

Alexander Jacob Granik
Name of Signer No. 1



Place Notary Seal/Stamp Above

Name of Signer No. 2 (if any)

Hai Nam Nguyen
Signature of Notary Public

Expired: December 27th 2023

Any Other Required Information
(Residence, Expiration Date, etc.)

OPTIONAL

This section is required for notarizations performed in Arizona but is optional in other states. Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Affidavit of Alexander Jacob Granik

Document Date: October 14th, 2020 Number of Pages: one

Signer(s) Other Than Named Above: _____

EXHIBIT 3

			28-Sep-20			
JURISDCODE	COUNTY	JURISDICTION	REQUESTS	ISSUED		RECEIVED
22000	WAYNE COUNTY	DETROIT CITY	114,191	91,764	80%	2,334

EXHIBIT 4

	DLCOUNTYCODE	JURISDCODE	COUNTY	JURISDICTION	REQUESTS	ISSUED	RECEIVED
1467	82	22000	WAYNE COUNTY	DETROIT CITY	124,400	108,065	12,426

EXHIBIT 5

**State Headquarters**

2966 Woodward Avenue
Detroit, MI 48201
Phone 313.578.6800
Fax 313.578.6811
E-mail aclu@aclumich.org
www.aclumich.org

Legislative Office

115 West Allegan Street
Lansing, MI 48933
Phone 517.372.8503
Fax 517.372.5121
E-mail aclu@aclumich.org
www.aclumich.org

West Michigan Regional Office

1514 Wealthy St. SE, Suite 260
Grand Rapids, MI 49506
Phone 616.301.0930
Fax 616.301.0640
Email aclu@aclumich.org
www.aclumich.org

*** IMMEDIATE ACTION REQUESTED ***

October 8, 2020

Janice M. Winfrey, Detroit City Clerk
Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 200
Detroit, Michigan 48226

By email to: winfreyj@detroitmi.gov

Re: Clearing the Backlog of Detroit's Absentee Voting Applications

Dear Clerk Winfrey:

In November 2018, the people of Michigan, by an overwhelming margin, voted to enshrine a constitutional right to vote by absentee ballot. The ACLU of Michigan and Michigan State Conference NAACP have learned that the City of Detroit is not fully complying with the requirements of the Michigan Constitution and Michigan election laws as to absentee voting. We are writing to urge you to redress the issues raised in this letter so that Detroit voters can fully and fairly exercise their right to vote without further undue burden.

The Michigan Constitution, as amended by Proposal 3, provides that every registered voter has a constitutional right to vote absentee in person or by mail during the 40 days before the election. Const 1963, art 2, § 4(1)(g). This year, that 40-day window began on **September 24**.

Michigan law further mandates that the clerk shall issue an absentee ballot to a registered voter "immediately upon receipt of the application." MCL 168.761(1). As the Michigan Court of Appeals recently recognized, the Michigan Secretary of State has directed local clerks to issue absentee ballots ***within 24 hours of receipt of the application***. See *League of Women Voters v Secretary of State*, ___ Mich ___, ___ NW2d ___, 2020 WL 3980216 (2020) (Docket No. 353654); slip op at 15. Accordingly, in recent litigation brought by some of the undersigned counsel, courts have reiterated that city clerks *must* process absentee ballots within 24 hours of receipt of an application from a voter. See July 23, 2020 Order (attached).¹

Publicly available data distributed by the Secretary of State's office shows that as of September 28, your office had received a total of 114,191 absentee ballot requests. Yet by

¹ "Processing" means that the application is reviewed and either a ballot is mailed or the application is rejected for a qualifying deficiency within 24 hours upon receipt. See *id*.

October 5, your office had issued a total of 108,065 ballots—meaning that *at least* 6,000 applications that were submitted by September 28 have been left unprocessed for at least five business days.

The same data shows that your office received an additional 10,000+ absentee ballot requests between September 28 and October 5. Those requests are now presumably subject to a backlog that will delay the issuance of ballots well beyond the 24-hour period required by state law.

Even more troubling, our nonpartisan election protection hotline 866-OUR-VOTE has received dozens of calls from Detroit voters whose ballot applications were sent to your office but apparently have not even been logged into the Qualified Voter File. This suggests that the backlog may be tens of thousands of ballots larger than indicated in the Secretary's publicly available data. This failure to issue ballots immediately—*i.e.*, within 24 hours from receipt of the absentee ballot application—is a clear violation of the law and threatens to disenfranchise the voters of Detroit.

With fewer than 30 days until the general election, time is of the essence to ensure that the citizens of Detroit can exercise their constitutional right to vote. While we understand that your office faces resource constraints, every available resource—including assistance from the Secretary of State's office, if needed—must be called upon to clear this backlog immediately in order to avoid disenfranchising Detroit's voters, particularly in light of widespread postal delays. We sincerely hope and expect that your office will clear the existing backlog of applications by Tuesday, October 13, as we believe that voluntary compliance would better serve the citizens of Detroit than litigation.

Please respond to this letter in writing and email no later than 9:00 a.m. on Monday, October 12, with a detailed explanation of: (1) the number of ballot applications in your office's possession that have **not** been logged in the Qualified Voter File as having been received; and (2) how your office plans to clear the backlog of pending absentee ballot applications by the end of the day on **Tuesday, October 13**. If we have not received a satisfactory response by Monday morning, or if the backlog is not actually cleared by Tuesday, we anticipate moving forward immediately with litigation.

Sincerely,



Daniel Korobkin, Legal Director
Phil Mayor, Senior Staff Attorney
ACLU of Michigan
2966 Woodward Ave.
Detroit, MI 48201
dkorobkin@aclumich.org
pmayor@aclumich.org



Khalilah V. Spencer, Chair, Legal Redress
Michigan State Conference NAACP
8220 Second Avenue,
Detroit, MI 48226
khalilah_spencer@att.net

Shankar Duraiswamy, Cooperating Attorney
Covington & Burling LLP
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sduraiswamy@cov.com

Jennifer Grieco, Cooperating Attorney
Altior Law
401 South Old Woodward
Suite 460
Birmingham, MI 48009
jgrieco@altiorlaw.com

cc: Mike Duggan, Mayor of Detroit, DugganM@detroitmi.gov
Brenda Jones, City Council President, Bjones_mb@detroitmi.gov
Lawrence Garcia, Corporation Counsel, GarciaL@detroitmi.gov

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE

BRIAN BARKEY, DORIS BARKEY,
QUINCY MURPHY, MARYUM RASOOL,
NAYYIRAH SHARRIFF, and AMERICAN
CIVIL LIBERTIES UNION OF MICHIGAN,

CASE NO. 20-114457-CZ

Plaintiffs,

HON. CELESTE D. BELL

v.

INEZ M. BROWN, in her official capacity as
City Clerk for the City of Flint, and
CITY OF FLINT,

ORDER

Defendants.

At a session of said Court held at the Courthouse in
the City of Flint, County of Genesee, Michigan on
the 22~~nd~~23 day of July, 2020

PRESENT: THE HONORABLE CELESTE D. BELL, CIRCUIT JUDGE

On July 22 and 23, 2020, with all counsel present, the Court heard oral argument on Plaintiffs' Complaint for Writ of Mandamus and Other Relief, the latter including issuance of injunctive relief. As stated on the record, the Court acknowledges the detrimental effect the COVID-19 pandemic and the statewide shutdown has had on the conduct of all governmental business. It further notes that Genesee County ballots were delayed due to candidate challenges. These factors, combined, significantly affected the ability to meet the statutory deadline of providing ballots during the 40 days prior to the election, as well as providing a safe, open location in which to conduct business. Nonetheless, a substantial delay has occurred in providing absent voter applications and ballots that cannot be explained or excused by the unfortunate circumstances affecting the voters and the City Clerk. The Court makes the following findings:

- (1) Plaintiffs¹ have shown they have a clear, legal right to the performance of the duty sought;

¹ Counsel for Plaintiffs conceded at the hearing that Plaintiffs Brian Barkey and Doris Barkey have received and returned their ballots. Accordingly, the Court finds that, as to them, the Complaint is moot. Additionally, the Clerk states that Plaintiff Sharriff's application has been processed and her ballot mailed to her on July 18. Because the relief requested could affect her, she remains a party along with the other named plaintiffs.

- (2) Defendant Inez Brown, in her capacity as the Flint City Clerk², has a clear legal duty to perform the act of receiving applications for absent voter ballots; processing the received applications in a timely fashion; providing absent voter ballots in a timely fashion; and receiving completed absent voter ballots within the time schedule that allows the vote to be counted in the August primary election;
- (3) The duty to perform the above stated actions is ministerial;
- (4) No other adequate legal remedy exists that might achieve the same result;
- (5) Plaintiffs are in danger of irreparable harm through the loss of their constitutional absentee voting rights if the City Clerk fails to take immediate steps as required by this Order to comply with legal mandates regarding the issuance and receipt of absent voter ballots;
- (6) Plaintiffs will suffer more harm from the denial of injunctive relief than the Defendant will suffer from the granting of such relief; and
- (7) Granting such relief will serve the public interest.

Accordingly, for the above reasons and those stated on the record, the Plaintiffs' request for mandamus relief is granted. Defendant Clerk Brown will comply with the following terms:

- (a) All absent voter ballot applications currently in the possession of the Clerk, as well as any that are received through 5:00 p.m. on Saturday, July 25, shall be processed within 72 hours from the signing of this order. It is understood that if an application is deemed defective or insufficient in some way, additional time will be required for processing. Nonetheless, it is expected that the vast majority of the pending applications will be processed in the time frame stated. Processing includes the review of the application and mailing of the ballot.
- (b) All absent voter ballot applications received after 5:00 p.m. Saturday, July 25, shall be processed within 24 hours of receipt, as recommended by the Bureau of Elections. See also *League of Women Voters of Michigan. v. Secretary of State*, __Mich App __, (2020) (Docket No. 353654) Westlaw 3980216, at *15-16.
- (c) With the exception of Sunday, July 26, the Clerk Office shall be open to the public *every day* during regular business hours (7:00 am to 5:00 pm) for distribution and acceptance of absent voter ballot applications, distribution of absent voter ballots, and acceptance of completed absent voter ballots from the date of this order through Election Day, August 4, 2020.
- (d) Commencing Monday, July 27, the Clerk shall provide to this Court and to local opposing counsel a daily summary report containing the following information for the prior day: the total number of absent voter applications received; the total number of absent voter ballots issued; the total number of completed absent ballots received; and the total number of absent ballot applications rejected or

² The City Clerk is charged with the duties imposed by state election law and is, therefore, the proper party to this matter, not the City of Flint. Accordingly, the City of Flint is dismissed. See *League of Women Voters of Michigan. v. Secretary of State*, __Mich App __, (2020) (Docket No. 353654) Westlaw 3980216 at *15-16.

delayed due to some deficiency (state the deficiency). The report generated July 27 shall reflect the statistics from the date of this order through Sunday, July 26.

Based on the record submitted by the parties, which includes the postal mail delays due to the COVID-19 pandemic and the documented delays in processing applications by the Clerk's office in this case, this Court finds that absentee voters cannot be assured that their ballots will arrive at the Clerk's office by 8 pm on Election Day. As such, the Court finds particularly applicable MCL 168.764a(d), which requires the Clerk to "provide assistance" to a voter, which includes picking up "the absent voter ballot within the jurisdictional limits of the city, township, or village in which [the voter is] [] registered." MCL 168.764a. The Clerk, through counsel, has assured the parties and the Court that this method of retrieving absent voter ballots will be available and engaged.

IT IS SO ORDERED.

Dated: July 23, 2020


CELESTE D. BELL (P41453)
CIRCUIT JUDGE

EXHIBIT 6

City of Detroit
DEPARTMENT OF ELECTIONS

GEORGE C. AZZOUZ,
Director

JANICE M. WINFREY, *City Clerk*
Chairperson, Election Commission

GINA C. AVERY-WALKER,
Deputy Director

VIA EMAIL ONLY

Daniel Korobkin, Legal Director
ACLU of Michigan
2966 Woodward Ave
Detroit MI 48201
dkorobkin@aclumich.org

Phil Mayor, Senior Staff Attorney
ACLU of Michigan
2966 Woodward Ave
Detroit MI 48201
pmayor@clumich.org

RE: Detroit Absentee Voting Applications

Dear Mr. Korobkin:

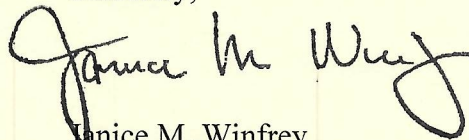
Thank you for your letter dated October 8, 2020. The Office of the Detroit City Clerk is passionate about allowing all Detroiters to vote safely and conveniently, and I appreciate your work on this important subject.

My office is extremely busy trying to prepare for a general election that will take place during an epidemic, while the entire State is adjusting to new rules on absent voting. Therefore, I hope that the following points of information will adequately respond to your inquiry.

1. The unprocessed applications you mentioned in your letter are expected to be processed on or before Wednesday, October 14.
2. I have deployed between 71 and 100, trained Electronic Pollbook Inspectors to extinguish any unprocessed applications.
3. My office has coordinated with staff from the Secretary of State to provide technical support around accessing the Qualified Voter File to speed checking voter applications.
4. We have installed 31 Drop Boxes throughout the City and have expanded the number of satellite vote centers to 24.
5. My office has secured approximately 95,000 square feet of space at the TCF Center for voting activity on November 3, 2020 as well as overnight tabulation activity.
6. I have hired an additional 300 workers, split between the TCF Center and the Department of Election, to expedite the processing of ballots.

All of these measures have been taken in response to the uncommon and novel challenges posed by this year's election. I hope you will be reassured by this response.

Sincerely,



Janice M. Winfrey
Detroit City Clerk

EXHIBIT 7

**State Headquarters**

2966 Woodward Avenue
Detroit, MI 48201
Phone 313.578.6800
Fax 313.578.6811
E-mail aclu@aclumich.org
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West Michigan Regional Office

1514 Wealthy St. SE, Suite 260
Grand Rapids, MI 49506
Phone 616.301.0930
Fax 616.301.0640
Email aclu@aclumich.org
www.aclumich.org

***** IMMEDIATE ACTION REQUESTED *****

October 14, 2020

Janice M. Winfrey, Detroit City Clerk
Coleman A. Young Municipal Center
2 Woodward Avenue, Suite 200
Detroit, Michigan 48226

By email to: winfreyj@detroitmi.gov

Re: Clearing the Backlog of Detroit's Absentee Voting Applications

Dear Clerk Winfrey:

Thank you for your response to our October 8, 2020 letter and your continuing efforts to ensure that all Detroiters receive their absentee ballots in time to vote in the upcoming general election. Given that the election is fewer than 20 days away, we remain extremely concerned that any voters whose applications have not been timely processed will be disenfranchised. In light of this concern, and in an effort to avoid litigation, we ask that you provide reasonable assurances regarding two remaining issues that we raised in our October 8 letter as well as describing your office's plan to comply with its obligation to issue absentee ballots within 24 hours of receiving an application.

First, our October 8 letter requested that you provide us with the number of ballot applications in your office's possession that have **not** been logged in the Qualified Voter File ("QVF") as having been received. Your October 12, 2020 response did not provide this information. As we noted in our October 8 letter, our nonpartisan election protection hotline 866-OUR-VOTE has received dozens of calls from Detroit voters whose ballot applications were sent to your office but apparently were not logged into the QVF. We remain concerned that there may be a significant number of absentee ballot applications in your office's possession that have not been recorded as received and have not been processed within 24 hours of their receipt, as required by law. See *League of Women Voters v Secretary of State*, ___ Mich ___, ___ NW2d ___, 2020 WL 3980216 (2020) (Docket No. 353654); slip op at 15. Please respond to this letter with an explanation as to the number of ballot applications in your possession that still have not been logged into the QVF, the status of these applications, and the steps you are taking to ensure that they are issued immediately.

Second, our October 8 letter requested information regarding how your office planned to clear the backlog of at least 6,000 pending absentee ballot applications by the end of the day on Tuesday, October 13. Your October 12 response stated that your office will clear the backlog "on or before Wednesday, October 14, 2020." We are grateful and encouraged that you intend to

clear the backlog by the end of today and appreciate all that your office is doing to make sure that happens. We are, however, aware of and in direct contact with several Detroit voters whose ballots still have not been sent as of this morning, even though they submitted their applications on various dates between July and September.¹ Moreover, because some of these registered Michigan voters have temporarily relocated out of state and are thus unable to vote in person on Election Day, the failure to issue ballots to these voters immediately is particularly likely to result in their disenfranchisement. Please respond to this letter by providing the number of absentee ballot requests in your office's possession who have not been sent ballots by the end of the day today. If any applications remain unprocessed at the end of the day today, please state the date of the earliest-received application which still remains unprocessed.

Finally, in addition to clearing the backlog that presently exists, it is absolutely critical that, going forward, absentee ballots are issued within 24 hours of your office's receipt of an absentee ballot application. Publicly available data from the Secretary of State indicates that your office was in possession of over 9,700 ballot applications that have not been processed as of October 13, 2020. Based on the facts noted above, a significant number of these applications have apparently been in your office's possession for several days if not weeks or even months. While we recognize that your office faces resource constraints, voters who do not receive their ballots in time to vote in the upcoming election will be irreparably harmed. Accordingly, please provide a detailed explanation regarding the resources you will secure to ensure that new incoming absentee ballot applications are processed within 24 hours of receipt.

As stated, we appreciate your efforts in this area and hope that we can avoid the need for litigation. **Please respond to this letter in writing and by email no later than 9:00 a.m. tomorrow.** If we do not receive a satisfactory response regarding the issues raised above, we anticipate moving forward immediately with litigation.

Sincerely,



Daniel Korobkin, Legal Director
Phil Mayor, Senior Staff Attorney
ACLU of Michigan
2966 Woodward Ave.
Detroit, MI 48201
dkorobkin@aclumich.org
pmayor@aclumich.org

¹ The fact that your office has not yet sent out ballots to voters who originally requested them in July also raises concerns that your office is not complying with its legal obligation to process absentee ballot requests in the order that they are received.



Khalilah V. Spencer, Chair, Legal Redress
Michigan State Conference NAACP
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khalilah_spencer@att.net

Shankar Duraiswamy, Cooperating Attorney
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Jennifer Grieco, Cooperating Attorney
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jgrieco@altiorlaw.com

cc: Mike Duggan, Mayor of Detroit, DugganM@detroitmi.gov
Brenda Jones, City Council President, Bjones_mb@detroitmi.gov
Lawrence Garcia, Corporation Counsel, GarciaL@detroitmi.gov
George Azzouz, azzouzg@detroitmi.gov
Daniel Baxter, baxterd@detroitmi.gov
Lawrence Garcia, garcial@detroitmi.gov
Caven West, westc@detroitmi.gov
Tonja Long, longto@detroitmi.gov

EXHIBIT 8

[REDACTED]

From: Dessa Cosma [REDACTED]
Sent: Wednesday, September 30, 2020 12:36 PM
To: Janice Winfrey [REDACTED]
[REDACTED]

Subject: No one answering the phones

Good Afternoon,

I hope you all are doing well as we zoom toward E -Day.

I'm emailing because Detroit Disability Power is running a 150,000 person Detroit voter outreach/GOTV program by text/phone and we are getting responses from people about how they are calling the City Clerk's office to ask for an absentee ballot, but are never getting an answer. They don't have the Internet, so doing it online is not an option.

I wanted to alert you to this problem since I know you are committed to as many people casting votes as care to do so.

Thank you,

Dessa Cosma
Detroit Disability Power, Executive Director
www.DetroitDisabilityPower.org

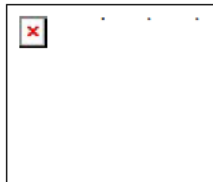
EXHIBIT 9

From: Michigan Bureau of Elections <MISOS@public.govdelivery.com>
Sent: Friday, June 19, 2020 9:40 PM
Subject: 6/19/2020 News Update - EPB Practice Day, QVF Software Release for MVIC AV Ballot Application, 2020 Supply Order Form and more

Having trouble viewing this email? [View it as a Web page.](#)



June 19, 2020



EPB Practice Day

Thursday, June 25, will be another EPB Practice Day. Online courses will be available in the Elections eLearning Center. Staff will dedicate the day to answering your questions by email and phone as you practice and prepare your EPB for Election Day.

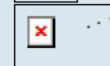
Activities include:

- New online course: QVF & EPB – What's New for August 2020 (available by Thursday, June 25)
- Update your EPB Manuals to June 2020 editions (available by Tuesday, June 23)
- Explore the EPB Training Database with instructions and practice scenarios
- Practice downloading EPB
- Lots of staff available to answer your EPB specific needs

To participate, simply log in to the eLearning Center on June 25, search "EPB Practice Day" and select your preferred online courses. **No course pre-registration is required** since there are no live webinars. Classes will remain available for those who cannot attend June 25.

Table of Contents

- EPB Practice Day
- QVF Software Release for MVIC Absent Voter Ballot Application
- 2020 Supply Order Form
- QVF Software Release
- Are You Ready?
- June 25 Absent Voter Ballot Availability
- Reminders - Absentee Balloting
- Accessible AV Ballot



QVF Software Release for MVIC Absent Voter Ballot Application

The Bureau appreciates the feedback it has received from clerks on the MVIC online AV application. The application has been updated to include the following elements. All of the below elements will be



You can also find webinars from past EPB Practice Days in eLearning. These include:

- EPB Practice Day February 2020: **How to Run an Efficient Precinct with the E-Pollbook** (21 min.)
 - New Election Day scenarios under Proposal 18-3
 - AV processing option with the E-Pollbook [including Dual EPB]
 - E-Pollbook checklists
 - Election Day preparations
 - Practice database for inspector training
- EPB Practice Day October 2019: **QVF Features & Discussion on What's New** (24 min.)
 - Setup QVF in QVF Refresh
 - Election geography
 - Election inspectors (optional)
 - Ballot style Election Day number ranges (optional)
 - Download from QVF Refresh
 - Download once, extract, and copy file
 - Upload History to QVF Refresh
 - Only upload history from Election Day, not from practice or training

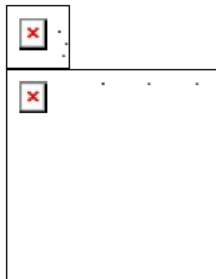
included on any printed applications submitted by voters moving forward. You can also reprint applications that have been submitted prior to Thursday, but only the checkbox and precinct number will be added to printed applications that were submitted prior to Thursday (the information will all be available in QVF).

- **Dual/single applications.** Print with the election(s) checkbox selected depending on the voter's response.
- **Print queue.** Removed print options as QVF Printed is the only supported output format available.
- **Precinct #.** The precinct number now prints on the application.
- **Ballot style alias.** Any clerk created ballot style aliases are now represented on the application.
- **Date.** The date that the voter requested the application now appears in the signature date.
- **Email and phone number.** The voter's phone number and email are presented on the application as well as written to the voter's record.
- **Alternative address.** The voter's alternate address appears in the #2 section of the application in addition to being presented in AV Details.

Please also refer to the [Receiving and Printing AV Applications document](#) for greater details about the process. Clerks that previously encountered

- EPB Practice Day October 2019: **Preparing for 2020**
 - Hardware, software, best practices, and checklists
- EPB Practice Day July 2019: **Challenges and Solutions** (23 min.)
 - Pre-election preparation
 - Election Day scenarios
 - Post-election issues

Consider hosting an EPB Practice Day event by inviting your fellow clerks and/or staff to encourage collaborative learning! These can be done remotely, with everyone taking the course at the same time.



2020 Supply Order Form

We are pleased to announce that the [supplemental supply order form](#) is available.

This form allows clerks to use federal CARES funding to purchase additional supplies needed to process the expected increase in absentee balloting and other issues related to COVID-19. Purchases will be made through vendors with state contracts, which allows local clerks to receive supplies without navigating state and federal purchasing requirements paperwork.

Supplies available through this purchase order will be in addition to, not instead of, the PPE the Bureau of Elections is already providing to local jurisdictions.

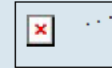
Separately, as announced Wednesday all jurisdictions may receive a ballot drop box at little or no cost to your jurisdiction. Please use [this survey](#) to inform the Bureau of Elections whether you are interested in a ballot drop box **as soon as possible**.

Funding is allocated to jurisdictions as follows. Please note that, instead of a drop box, single-precinct jurisdictions may elect to receive an additional \$500 toward purchasing other supplies. Multiple-precinct jurisdictions may elect to receive

problems printing the allocation should try reprinting with the "QVF Printed" option enabled (now the only option).



QVF Software Release



The QVF Software Release for June 19, 2020 is as follows:

AV Scan. Corrected AV scan pop up times so that it is equal to the number of seconds users select and mark in their preferences.

Inspector Reports. Adjusted the reports so page breaks occur according to the grouping.

Voting History. Expanded the time allowed to enter voting history for the March Presidential Primary and May election to June 30, 2020.

EPB Download. Added new setting during the process of downloading the EPB for new computers, allowing set-up files to be included in the download. More information on this feature will be included in the EPB Practice Day on Thursday, June 25, 2020 and in the EPB Manual, which is currently being drafted.



Are You Ready?

Many clerks have told us they use the [post-election audit checklist](#) to prepare for an election. It's a great way to make sure you've covered all of your bases

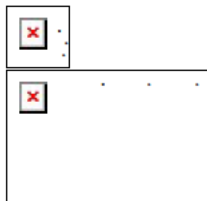
an additional \$500 toward purchasing other supplies if they already have at least one secure ballot drop box.

- 1 precinct: \$1,000 + drop box or \$500
- 2-9 precincts: \$2,500 + drop box or \$500*
- 10-99 precincts: \$4,500 + drop box or \$500*
- 100+ precincts: \$9,500 + drop box or \$500*

*Jurisdictions with multiple precincts may receive additional \$500 in lieu of drop box only if they already have at least one drop box.

We understand that items for purchase may not line up exactly with these figures. If you are interested in purchasing items that take you slightly over the allocated limit, we may be able to accommodate your request. We will try to get as many items as possible to you for the August election, but some may arrive only in time for the November election depending on availability. **Please submit your order form as soon as possible, but no later than June 30.** If you don't place an order by June 30, there will be an additional purchasing opportunity after the August election.

The Michigan House of Representatives Wednesday passed H.B. 5141, and the bill now goes to the Governor. Assuming the bill is enacted, the Bureau will evaluate additional purchasing and funding options available for counties in the event that local jurisdictions choose to process AV Ballots at the county level.



Other Reminders - Absentee Balloting

Since the passage of Proposal 18-3, voters no longer need to provide a reason to vote an AV ballot. This means any registered voter may request an AV ballot simply by submitting a signed request (application or note) to their local clerk.

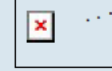
Remember - time frames for issuing ballots were also changed by the passage of Proposal 18-3 and subsequent legislation. Key times to note:

- **Last day to Issue an AV ballot by mail** –The deadline for voters to request an absent voter ballot by First-Class mail is the Friday prior to the

well before audit selection. Some items on the checklist are abbreviated. Review the [Post-Election Audit Manual](#) for full details.



June 25 Absent Voter Ballot Availability



Under the Michigan Constitution, AV ballots must be available to all voters by the 40th day prior to the election - Thursday, June 25. (As noted Wednesday, ballots must be available to military and overseas voters by the 45th day before the election). These constitutional requirements are in addition to the statutory requirement that county clerks deliver AV ballots to local clerks by the 45th day before the election.

In order to ensure that ballots are available on day 40, local and county jurisdictions should coordinate with vendors to avoid delays in ballot delivery or delivery of testing supplies. As a reminder, the Bureau recommends that jurisdictions conduct testing before the bulk of ballots have gone out, but it is not necessary to conduct testing before issuing any ballots. For example, if ballots are available and a voter makes an in-person request for an AV ballot on day 40, the local clerk should issue the ballot even if testing has not been completed.

BOE also understands that some jurisdictions were delayed in printing, or were required to make changes to, ballots later than the 60th day before the election as a result of litigation or other delays, and that as a result some local jurisdictions may not have ballots by

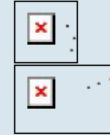
election at 5 p.m. Clerks must honor requests received by that time and mail ballots to voters. If the clerk does not maintain regular office hours, arrangements must be made to check incoming mail and email that Friday to ensure requests are honored.

- **AV emergency timeframe** – The timeframe in which voters may request emergency AV ballots now runs from 5 p.m. on the Friday prior to the election through 4 p.m. on Election Day.
- **Weekend hours** – The local clerk's office is required to be open at least 8 hours on the weekend prior to an election. These hours can be offered in any combination of Saturday and/or Sunday hours. Those times must be determined, posted, and entered in to QVF at least 30 days prior to the election.
- **Election Day** – a clerk or deputized staff member must be available from 7 a.m. to 8 p.m. in the clerk's office to register voters and issue absentee ballots.
- Ballots issued on Election Day must be delivered to the precinct or AVCB for processing as soon as possible after the polls close.

Voters may now register up until and including Election Day with their local clerk. Those same registrants can request an absentee ballot at the time of registration. Important points:

- Clerks must keep some AV ballots for each precinct at their office for issuance on Election Day.
- Same-day registrants have the option to vote an AV ballot in the clerk's office or vote in their precinct on Election Day. Registrants should be advised of poll closing times.
- Because voters can now register up to and including Election Day, there is an increased possibility that a voter who has been issued an AV ballot in one jurisdiction will move to a new jurisdiction in between applying for the ballot and Election Day, and apply to vote in the new jurisdiction instead. Election administrators must be cognizant of these scenarios and understand whether the ballot in the old jurisdiction or the new one will count. The Canceled/Rejected/ Moved Out Ballot List Report in QVF helps election administrators monitor these moves. See page [13 of Chapter 6 of the Election Officials' Manual](#) for a chart covering these scenarios.

June 25. We also understand some jurisdictions have a high volume of AV requests. We appreciate the work you put in to ensure ballots are available to voters.



Accessible AV Ballot

As a result of a court settlement, the Bureau of Elections will be making accessible absentee voter ballot applications and ballots available to voters with disabilities. These will allow voters with disabilities to apply for an absentee voter ballot that can be marked remotely using assistive technology such as screen readers. The ballot will then be printed and returned to the local clerk. For clerks, the ballot-issuing process will be similar to issuing an electronic MOVE ballot. We expect the accessible ballot to be available within the next week and will provide more details and instructions for issuing them closer to the launch date.

- AV and precinct ballots of those who register in days 0-14 and do not provide residency verification via a DL/state ID must be issued as a challenged ballot. QVF will also have a new report to help election administrators monitor these challenges for AV ballots. See [page 13 of Chapter 2 of the Election Officials' Manual](#) for determining the ballot type. Remember, QVF will keep track!

Spoiling AV Ballots

After issuance, an AV voter must request a new AV ballot in writing. For those who have already returned their AV ballot, these requests must be made no later than 2 p.m. the Saturday prior to the election to send the ballot by mail (this is later than the regular deadline for requesting an AV ballot by mail) or in person by 4 p.m. the day prior to the election. There is no remedy for this situation on Election Day – the voter's original AV ballot will be accepted. If you have many voters asking to spoil their ballot, you may need to order more before Election Day to ensure you have enough ballots in your polling place(s).

If the voter has not returned or received the AV ballot, the voter must also request a new ballot in writing. This is true even when the post office has simply not delivered the ballot. The time frames for this request are the same as above; however, the voter may also go to the precinct on Election Day and complete the [Affidavit of Lost or Destroyed AV Ballot](#) or surrender the original ballot to vote a regular ballot. More information on this process can be found on [page 8-9 of Chapter 6 of the Election Officials Manual](#).

Permanent Absent Voter Ballot Application (Automatic Application) Lists

Any voter may request to be placed on a permanent absent voter ballot application list, meaning that the voter will receive an AV ballot application prior to each election. Voters must ask to be placed on the permanent list. We strongly recommend that you use a permanent AV ballot application list. It allows clerks to manage AV ballots for repeat-requesters earlier in the process and gives voters more time to complete their ballots.

If you do NOT maintain a permanent AV ballot application list and you receive a request from a voter to be placed on that list (including by checking the box on the AV ballot application or the voter registration form), you should notify the applicant that you do not maintain a permanent AV ballot application list and the voter will have to request an AV ballot application for each election.

Use QVF in Real Time

The requirement to use QVF in real time has never been more important. The system guides you through these processes. When a voter has requested an AV ballot from you and then registers in another jurisdiction, or vice versa, you'll receive a notification of outstanding AV ballots. In the scenario where a voter has returned a ballot to you, that voter will be required to write to you to cancel that ballot so the voter can vote in the new jurisdiction.



Questions? Please contact the Bureau of Elections at 1-800-292-5973 or elections@michigan.gov.

The Bureau of Elections News Update will always be sent to the Clerk and Deputy Clerk email accounts. If other election administrators would like to receive this newsletter as well use the Subscribe link below to have it sent directly to another email account.

It is recommended that you add misos@govsubscriptions.michigan.gov and MISOS@public.govdelivery.com to your safe senders list.



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EXHIBIT 10

From: Michigan Bureau of Elections <MISOS@public.govdelivery.com>
Sent: Tuesday, June 23, 2020 6:46 PM
Subject: 6/23/2020 News Update - Funding and Reimbursement Programs, AV Ballot Application Mailing and List Maintenance, Accessible AV Options and more

Having trouble viewing this email? [View it as a Web page.](#)



Michigan Bureau of Elections News Update for Election Administrators

June 23, 2020



Funding and Reimbursement Programs

There are now several funding and reimbursement programs available to clerks. Below is a rundown of the programs available and what clerks need to do to take advantage of these opportunities.

(1) Reimbursement of qualifying expenses for jurisdictions that held (or canceled) May 5 elections. The reimbursement program for canceled elections was explained in the May 8 news update. Contact Lori Bourbonais at BourbonaisL@Michigan.gov with any questions. The reimbursement claim forms for [counties](#) and [local jurisdictions](#) are available in eLearning. The deadline to submit your request is July 1, 2020. The form to request reimbursement for postage was mailed on May 18. The deadline to submit the form is July 31, 2020. Contact Charamy Cleary at Clearyc@Michigan.gov with any questions.

(2) August absent voter ballot envelopes. This purchase and reimbursement program for custom-printed absent voter ballot envelopes was explained in the May 4 and May 13 news updates. For jurisdictions that ordered absent voter ballot envelopes sufficient to cover 40 percent of their registered voters after the May 4 news update, the Bureau of Elections will pay the vendor. Those jurisdictions don't need to take further action. Information will be coming soon for jurisdictions that had already purchased qualifying custom-printed absent voter ballot envelopes, or ordered envelopes for more than 40 percent of registered voters and are seeking reimbursement for qualifying

Table of Contents

- Funding and Reimbursement Programs
- Absent Voter Ballot Application Mailing and List Maintenance
- Accessible Absent Voter Ballot Options
- Absentee Ballot Processing
- Testing Voting Equipment
- August MOVE Compliance Report Reminder



Absentee Ballot Processing

As you begin issuing absentee ballots for the August election, it is important to review [Chapter 6 - Michigan's Absentee Voting Process](#) of the Election Officials' Manual.

Important reminders:

- Ballot-marking instructions specific to the August election should be included with AV ballots.

expenses. Please contact Charamy Cleary at Clearvc@Michigan.gov with any questions.

(3) Reimbursement for August AV application mailings. Information regarding this reimbursement program will be coming soon.

(4) State-provided personal protective equipment (PPE). The state is providing all jurisdictions with PPE including masks, gloves, hand sanitizer, and cleaning supplies. The state will ship supplies to the counties for distribution to local officials. Local jurisdictions don't have to do anything to receive supplies other than contact their county. Additional details on supplies and local distribution will be provided soon.

(5) Tabulator and software cost share. This program was explained in the June 10 newsletter. Local jurisdictions interested in a cost share with tabulators and software should fill out [the application](#) as soon as possible.

(6) Ballot drop boxes and (7) election supply form. These programs were explained in the June 17 and June 19 news updates. Clerks interested in a free ballot drop box should fill out [this form](#) as soon as possible. Clerks interested in purchasing supplies at no cost (using federal CARES funding) should fill out the [supply order form](#) by June 30. Clerks can choose additional funding rather than a free ballot drop box subject to some restrictions as explained on the ballot supply form.



Absent Voter Ballot Application Mailing and List Maintenance

The state mailing of absent voter ballot applications was completed last week. All registered voters who have not yet received an application should be receiving theirs by the end of the week. In some instances, voters have returned completed absent voter ballot applications to the state. The Bureau of Elections is forwarding these applications to local clerks.

When absent voter ballot applications are returned undeliverable, the Bureau of Elections will forward them to local clerks. Clerks should review the returned mail and process voter registration records using procedures for maintaining voter records on the Qualified Voter File. Clerks who receive undeliverable mail should use the following procedures for identifying individuals on the Qualified Voter File who have become ineligible to vote.

Election mail may be sent to registered voters who are inactive or who are on a "verify" or "challenge" status

- QVF must be used timely to track AV ballot processing for all voters.
- Picture ID must be requested from voters who request their ballot in person. Voters without picture ID in their possession may sign the Affidavit of Picture ID and receive a ballot. Picture ID isn't requested if the person applies for the AV ballot by mail.
- AV voters that need an AV ballot reissued, either because they spoiled their ballot or it wasn't received, must make a signed request (by mail, email, or in person) to the clerk for a new ballot to be issued.

Testing Voting Equipment – a Vital Piece of Security



Preliminary equipment testing should begin soon. Local election commissions are responsible for conducting accuracy tests in accordance with the procedures established by the Secretary of State. (MCL 168.794a(3), 798). The Bureau advises clerks to conduct testing before the bulk of ballots are issued, but it is not necessary to conduct testing before any ballots are issued. For example, if a voter makes a request for an in-person absent voter ballot, the clerk should issue the ballot even if

because a clerk has received information indicating that the voter may not be eligible. Voters on an inactive, verify, or challenge status are eligible to vote. However, voters with a verify or challenge status must confirm their eligibility in writing before being able to vote. Returning a complete, signed absent voter ballot application is sufficient to remove a verify or challenge status, but the clerk must, as always, review the application and signature before processing the application.

Consistent with United States Postal Service guidelines, the Bureau of Elections instructs residents who have received any election mail, including an absent voter ballot application, for an individual who no longer lives at that address to mark the envelope appropriately and put it back in the mail. Residents should write “no longer at this address” if the mail recipient no longer lives at the address, or “deceased” if the recipient is deceased. This will result in mail being returned as undeliverable. When undeliverable mail comes back to the Bureau of Elections, the Bureau will forward it to each local election jurisdiction as noted above.

Undeliverable mail is reliable third-hand initial evidence that a registered voter no longer lives at an address. Voter registration records cannot be canceled immediately based only on returned mail. However, you should begin voter list maintenance procedures based on this information.

Residency

If you receive mail returned undeliverable that is marked “no longer at this address,” or another similar message such as “no longer lives here” or “return to sender – bad address,” first look up the voter in QVF. If the voter is already marked as “verify” or “challenge,” based on residency, no further action is needed. The voter will be canceled after the appropriate number of federal elections has passed.

If the voter does not have a “verify” or “challenge” status, send the voter an NVRA confirmation notice. If the NVRA notice is also returned undeliverable, mark the record as “challenge.” If the NVRA confirmation notice is not returned, the voter is placed on “verify” status. If the voter returns the confirmation notice and confirms in writing that the voter has moved, mark the record as canceled.

Deceased

If you receive mail returned undeliverable that is marked “deceased” or something similar such as “died 2018,” you should first seek additional information to confirm that the individual has died. If you can confirm the individual has died based on county or state death records, a death notice printed in a newspaper, or personal firsthand knowledge, mark the voter as canceled – deceased. You

testing has not been completed.

Ensure you are following proper testing procedures by reviewing the [Test Procedures Manual](#). In addition, courses are available in the eLearning Center. [This course](#) walks you through creating a test deck for a special election. Another helpful course is [Preparing for and Conducting the Preliminary and Public Accuracy Tests](#).

Other Tasks: During the testing process, BOE also recommends:

- Verifying the date and time - [time adjustment instructions](#) are available
- Verifying all equipment tamper-evident seal numbers with the seal numbers on file

Test Decks Marked by a Printer: If a test deck includes ballots marked by a printer and those ballots did not come from the stock that will be used on Election Day, at least three should be replaced and hand-marked with Election Day ballots. This ensures testing of both the program and Election Day ballots.

Documenting the Process: Remember, testing materials must be kept under seal and the seal numbers must be recorded. Use the [Tabulator Program & Security Certification](#) form and the [VAT Testing & Security Certification](#) form to aid in properly documenting this process. We have discovered at post-election audits that these forms are sometimes misplaced. A Promulgated Rule requires this form to be sealed into the testing container and BOE recommends keeping an

should not cancel a voter based solely on the envelope being marked deceased – you must have additional evidence or firsthand knowledge as indicated above.

If you are unable to confirm whether the individual is deceased, follow the procedures for residency above.

Written confirmation from voter

You can also cancel a voter registration immediately upon a signed written request from a voter requesting cancellation. For example, if you have received reliable third-hand information that a voter has changed residency, and a family member also informs you that a registered voter has moved from the state, you can inform them that the voter is in (or will be placed in) the cancellation process and will be removed after the appropriate number of federal elections have passed. However, if the voter wants to be canceled immediately, he or she can send you a signed, written request to cancel the registration.

Instructions to residents who receive mailings

If a voter contacts you and says he or she has received election mail for another individual, instruct the resident on the proper procedure for marking the envelope and placing it back in the mail. [This document](#) is also available on eLearning:

If you receive election mail – such as an absent voter ballot application or a notice of a change in polling place – for a resident who no longer lives at the address to which the mail was sent, take the steps below to inform your local election clerk. Voters can receive absent voter ballots only after they have submitted a signed application and the clerk has reviewed the application, including the signature. An application being mailed to an out-of-date record does not mean that person will get an actual ballot. However, by informing your local clerk that a registered voter no longer lives at the address, you can help election officials maintain the voter registration list and keep it up to date.

(1) If the voter has moved, write “no longer at this address” on the envelope and place it back in the mail. Your election clerk will then send a confirmation notice to the voter, as required by law. If the voter does not respond to this notice and does not have other voter activity for a period of two consecutive federal elections, your clerk will cancel the voter registration. The clerk will also place the voter on a “verify” status, which requires the voter to fill out a form confirming eligibility before voting. If a voter wishes to have his or her registration canceled immediately, the voter can make a signed, written request to cancel the registration to the local clerk.

(2) If the voter has died, write “deceased” on the envelope and place it back in the mail. Your election clerk will review

additional copy on file in the office.

The Public Accuracy test must be conducted by a quorum of the election commission no later than Thursday, July 30. The meeting must be posted at least 48 hours before the test (MCL 168.798) and held in accordance with the Open Meetings Act.

Important Notice to Jurisdictions Using 3rd Party Vendors for Testing:

If you are using the same vendor that programmed the county's memory devices to prepare the test deck and/or conduct the preliminary testing, the election commission must also complete the Election Commission Certification form at the public test.

Designating a single vendor to create and then test the performance of memory cards they programmed removes critical checks and balances from the logic and accuracy testing process. The integrity of the testing process may come into question if one party is responsible for both developing and testing the accuracy of the program.

Note: A vendor isn't an authorized assistant within the meaning of the election law or corresponding administrative rules.



August MOVE Compliance Report Reminder

You must log in to QVF and complete the survey pop-up that appears.

To make the reporting process more efficient, the ballot sent dates recorded

the record as required by law and will cancel the voter registration record upon confirming that the voter is deceased. If you have information confirming the voter is deceased such as a county health office record or an obituary, you may provide that information to your local clerk if you choose to do so. If you choose to do this, provide a copy – not the original document.



Accessible Absent Voter Ballot Options

Voters who have requested absent voter ballots prior to June 25, the 40th day before the August 4 election, should be issued absent voter ballots on June 25. Additionally, starting on June 25, voters may request absent voter ballots in person and be issued absent voter ballots in person. Whether requesting an absent voter ballot in person or by mail, clerks should be prepared to ensure voters with disabilities have accessible options for marking these ballots.

During hours in which absent voter ballots are issued in person, clerks should have Voter Assist Terminals available in the event that a voter would like to use the VAT to mark in in-person absent voter ballot. VAT's should be available when in-person AV ballots are issued whenever possible.

Additionally, as discussed in last week's news update, voters will have an additional option for an accessible absent voter ballot starting in August. Under a federal court settlement, the Bureau of Elections has developed an electronic absent voter ballot that voters with disabilities may mark remotely using assistive technology. The voter can then print the ballot and mail or deliver the ballot to the clerk. These ballots should be processed in the same manner as printed ballots sent by military and overseas (MOVE) voters.

Voters with disabilities will be able to apply for an accessible electronic absent voter ballot by completing a specific accessible AV application that will be available on the Bureau of Elections website. Voters may submit applications on paper or electronically. When a voter submits an accessible AV application to the local clerk, the clerk will issue an accessible AV ballot to the voter electronically.

The accessible ballot is available in the Qualified Voter File (QVF) AV Details screen. Clerks can fulfill the accessible ballot request by downloading the ballot and returning it as an attachment to the email request, similar to the MOVE Ballot process. The ballot is laid out in a linear fashion to

in QVF will be used to report ballots sent on time and ballots sent after the 45-day deadline. Once you confirm the total military and overseas voters count in the QVF, we will report the required information to the appropriate entity.

If you haven't submitted this report, please log in to the QVF and complete it now.

ensure that it reads well with the accessible software used by voters with disabilities.

The process is outlined below:



Below are the details:

1. Within AV Details, check the ACCESSIBLE box

BALLOTS

SENT: [] BALLOT NUMBER: [] RECEIVED: [] FWAB RECEIVED: []

*DELIVERY METHOD: [POSTAL MAIL] EMAIL ADDRESS: [] PHONE NUMBER: []

BALLOT STATUS: ☐ UNDELIVERABLE ☐ REJECT ☐ SURRENDER ☐ SPOIL ☐ ACCESSIBLE

BALLOT REJECTION REASON: [SELECT]

[BALLOT ADDRESS] [ACCESSIBLE BALLOT]

2. Click the ACCESSIBLE BALLOT button

BALLOTS

SENT: 06/23/2020 [] BALLOT NUMBER: A0000001 [] RECEIVED: [] FWAB RECEIVED: []

*DELIVERY METHOD: [EMAIL] EMAIL ADDRESS: SAMPLE@EMAIL.ORG [] PHONE NUMBER: []

BALLOT STATUS: ☐ UNDELIVERABLE ☒ SPOIL ☐ SURRENDER ☒ REJECT ☐ ACCESSIBLE

BALLOT REJECTION REASON: [SELECT]

[BALLOT ADDRESS] [ACCESSIBLE BALLOT] [DYM LABEL]

3. When the ballot is ready, click OK

ACCESSIBLE BALLOT

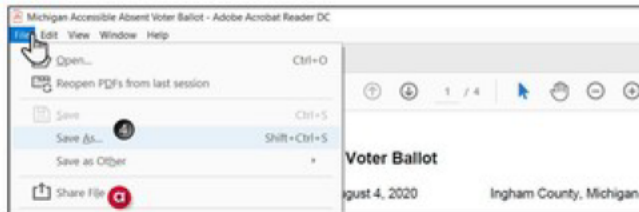
The accessible ballot is ready

3 [OK] [CANCEL]

Click to edit this placeholder text.

4. A PDF file of the accessible ballot will open. Save this file to your computer temporarily so that you may attach it to the email to be sent to the voter.

- a. As an alternative, if you have a default email program like Outlook, you can click the SHARE button and it will create an email with the file attached for you.



5. Don't forget to record the ballot in AV Details

- a. Ballot Number: Use the letter "A" as a prefix to a ballot number, like when you record a MOVE ballot.
- b. Delivery Method: Email
- c. Email Address

A screenshot of a web form titled "BALLOTS" with a tab indicator "5". The form contains several input fields and checkboxes. The "SENT" field has a date "06/23/2020". The "BALLOT NUMBER" field contains "A0000001", with a red circle 'a' next to it. The "RECEIVED" and "FWAB RECEIVED" fields are empty. The "DELIVERY METHOD" dropdown is set to "EMAIL", with a red circle 'b' next to it. The "EMAIL ADDRESS" field contains "SAMPLE@EMAIL.ORG", with a red circle 'c' next to it. The "PHONE NUMBER" field is empty. Under "BALLOT STATUS", there are checkboxes for "UNDELIVERABLE", "SURRENDER", "SPOIL", and "REJECT". To the right is a "BALLOT REJECTION REASON" dropdown set to "SELECT". At the bottom are three buttons: "BALLOT ADDRESS", "ACCESSIBLE BALLOT", and "DYNMO LABEL".

We expect the accessible AV application and accessible AV ballot to be available as soon as Friday, June 26. Under the court settlement, this is an interim process that will be replaced by a permanent accessible remote ballot-marking solution starting in November, which will be implemented following a public bidding process.

Questions? Please contact the Bureau of Elections at 1-800-292-5973 or elections@michigan.gov.

The Bureau of Elections News Update will always be sent to the Clerk and Deputy Clerk email accounts. If other election administrators would like to receive this newsletter as well use the Subscribe link below to have it sent directly to another email account.

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EXHIBIT 11

From: Michigan Bureau of Elections <MISOS@public.govdelivery.com>
Sent: Thursday, September 3, 2020 9:49 AM
Subject: 9/3/2020 News Update - Nov. 3, 2020 Ballot Certification, Reminder - Submit Ballot Proofs, Center for Tech and Civic Life Grant Funding and more

Having trouble viewing this email? [View it as a Web page.](#)



Michigan Bureau of Elections News Update for Election Administrators

September 3, 2020



Nov. 3, 2020 Ballot Certification

Yesterday, the Bureau of Elections released the official Nov. 3, 2020 Candidate List. Counties should have received an email consisting of several items, including the Candidate List, formal Call of Election, statewide proposal language, and other pertinent information and instructions related to the Nov. 3 election. An Official Candidate List is also available on the BOE website. Counties should take note of the following updates:

- (1) The language approved for Proposal 20-1 is slightly different than the draft language that was circulated last week.
- (2) After further review of the issue, the Bureau determined that Libertarian Party candidates have the third position on the ballot in 2020. Counties should verify that their final ballots reflect this order.
- (3) The Michigan Republican Party is expected to name a replacement for a Wayne State Board of Governors candidate who was disqualified. We hope to have this candidate certified to the Bureau tomorrow.

IN THIS ISSUE

- Nov. 3, 2020 Ballot Certification
- Reminder - Submit Ballot Proofs to the Bureau of Elections
- Center for Tech and Civic Life Grant Funding is Available
- Reminder - Polling Place Change Deadline is Sept. 4
- BOE is Hiring



Reminder - Submit Ballot Proofs to the Bureau of Elections

Counties – please forward your ballot proofs to Carol Pierce at PierceC1@Michigan.gov for approval. Ballots should be submitted as soon as possible to ensure that absent voter ballots are available for voters starting Sept. 24 or earlier.



Center for Tech and Civic Life Grant Funding is Available!

As shared by the Secretary of State Tuesday, the Center for Tech and Civic Life announced a grant of \$250 million that it will be making directly available **to local election jurisdictions** throughout the country to support your election infrastructure needs. **These funds can support voter education efforts, including mailings and public service announcements, and can also be used to directly purchase additional technology, tabulators, and the like.**

You can find more information and request an application on the [Center for Tech and Civic Life's COVID-19 Response Grant webpage](#). Jurisdictions should act quickly if they are interested in this funding. Please note that this funding is provided by a nonprofit organization and is totally separate from BOE grants and reimbursement programs – you can apply for both!

The Nov. 3, 2020 ballot will include two statewide proposals. As noted, the Board of State Canvassers certified the language yesterday. The language for the proposals was sent to the counties.

Under the Michigan Constitution and Michigan Election Law, it is technically possible that ballot contents could change as late as Sept. 4. BOE is not aware of any additional statewide proposals expected to be added to ballots other than the two listed above; however, as noted, there may be an additional Wayne State University Board of Governors candidate. When ballot contents are finalized, please inform BOE as soon as possible, especially if there are any changes to or mistakes identified on ballots.



Reminder – Polling Place Change Deadline is Sept. 4

The final date cities and townships can establish, move, or abolish a polling location for November is this Friday, Sept. 4. Clerks with polling place changes should remember to add this information to QVF and provide notice to voters. For more information, see the Aug. 28 News Update.

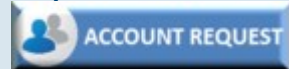


BOE is Hiring

The Bureau of Elections is hiring for 3 positions – 2 Division Administrators and

an Analyst. Please use [this link](#) to apply.

Helpful Links



Questions? Please contact the Bureau of Elections at 1-800-292-5973 or elections@michigan.gov.

The Bureau of Elections News Update will always be sent to the Clerk and Deputy Clerk email accounts. If other election administrators would like to receive this newsletter as well use the Subscribe link below to have it sent directly to another email account.

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