

DEPARTMENT OF STATE

ELECTIONS & CAMPAIGN FINANCE

ELECTRONIC RETURN OF ABSENT VOTER BALLOTS BY ELIGIBLE VOTERS

(By authority conferred on the secretary of state by section 759a of the Michigan election law, 1954 PA 116, MCL 168.759a)

R 168.101 Definitions.

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

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

(b) “Clerk” means a city or township clerk, the clerk’s deputy clerk, or a sworn member of the clerk’s staff, including appointed election inspectors, assisting with the electronic return program.

(c) “Data” means verifying information about the voter’s identity, the voted ballot, timestamps, notifications sent from the portal, and other records or information.

(d) “Department” means the department of state.

(e) “Electronic return identity verification” means the United States Department of Defense verified electronic signature as defined in section 18a of the act, MCL 168.18a, or other forms of identity verification authorized by statute or court order for purposes of electronic return.

(f) “Electronic return program” means use of the portal by voters to either only electronically receive ballots or to both electronically receive ballots and electronically return voted ballots.

(g) “Eligible voter” means “eligible member” as defined in section 759a of the act, MCL 168.759a, and other individuals authorized by statute or court order to electronically return a voted ballot.

(h) “Portal” means the secure online system used to electronically send ballots, ballot instructions, and required certification to a voter, and to electronically return to the clerk voted ballots and signed certifications from eligible voters.

(i) “Secretary of state’s duly authorized agent” includes the bureau of elections, other necessary department staff, county clerks or the county clerk’s designees, and relevant department of technology, management, and budget staff as determined by the director of elections.

(j) “UOCAVA voter” means an absent uniformed services voter or overseas voter who receives specified registration and absentee voting protections under the uniformed and overseas citizens absentee voting act, Public Law 99-410; the military and overseas voter empowerment act, Public Law 111-84 ; and corresponding state law provisions under the act.

(k) “Verified user” means a clerk or a clerk’s designee responsible for electronically delivering ballots and receiving ballots through the portal, an authorized agent of the secretary of state, or a voter authorized to electronically receive or electronically receive and return a ballot by law.

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

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.102 Electronic delivery of ballots.

Rule 2. (1) Ballots must be transmitted through the portal to all eligible voters requesting to receive their ballot electronically.

(2) The portal may allow for delivery of ballots electronically to UOCAVA voters who are ineligible to return their ballots electronically but who request electronic delivery.

(3) Unless a different delivery preference is indicated, a voter who provides their email address on their absentee ballot application is presumed to request electronic delivery.

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.103 Clerk and administrator access to portal and identity verification.

Rule 3. (1) Clerks who have voters that may access the portal shall also have access to the portal and complete the security verification required by the department to enter the portal.

(2) The secretary of state's duly authorized agents shall have access to the portal and complete the security verification required by the department to enter the portal.

(3) The secretary of state's duly authorized agents may allow access to the portal's vendor, as specified by the executed contract.

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.104 Clerk responsibility to deliver ballots.

Rule 4. (1) All ballots must be transmitted not less than 45 days before an election through the portal to every eligible voter who requested electronic delivery of their ballot.

(2) All ballots must be transmitted not less than 45 days before an election through the portal to every UOCAVA voter who is able to receive a ballot through the portal and requested electronic delivery of their ballot.

(3) If the clerk does not electronically transmit the ballots to every voter identified under subrules (1) and (2) of this rule not less than 45 days before an election, the bureau of elections shall contact the clerk and may designate an authorized agent of the secretary of state to transmit the ballot to the voter.

(4) The reporting requirements under section 759a of the act, MCL 168.759a, apply to ballots that are electronically transmitted to voters using the portal.

(5) Delivery of ballots to additional voters authorized under a future statutory change or court order is governed by the authorizing legal authority.

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.105 Participation in electronic return.

Rule 5. (1) To participate in the electronic return program, an eligible voter shall elect to electronically receive their ballot and sign the voter application so the eligible voter's identity can be verified, as provided below:

(a) If the eligible voter is using the federal post card application, include the electronic return identity verification as indicated in the state-specific instructions.

(b) If the eligible voter is using the Michigan absent voter ballot application, include the electronic return identity verification as indicated on the application.

(c) If the eligible voter does not sign their absentee voter ballot application with their electronic return identity verification, they may still participate in the electronic return program if the electronic return identity verification is provided to the clerk not later than 2 p.m. on the Saturday before the election, as specified in section 759a(10) of the act, MCL 168.759a.

(d) As authorized under a future statutory change or court order.

(2) An eligible voter shall make this request annually.

(3) The waiver of the constitutional right to a secret ballot contemplated by section 759a(8) of the act, MCL 168.759a, applies to voters who participate in the electronic return program to the extent that the secrecy of the absent voter ballot may be compromised during the duplication process.

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.106 Voter access to the portal; electronic return of ballot.

Rule 6. (1) All eligible voters who have elected to electronically receive their ballot are able to access the portal when their ballot is available and shall receive an electronic notification when their ballot is ready.

(2) UOCAVA voters who are not eligible voters but receive their ballot electronically through the portal shall receive an electronic notification when their ballot is ready and are instructed to print their ballot and return it by mail.

(3) Eligible voters are instructed to vote their ballot in the portal and electronically return the ballot. To electronically return a voted ballot, the eligible voter shall sign the certification with their electronic return identity verification.

(4) Eligible voters shall receive electronic notifications from the portal reminding them to vote their ballot and return it before the close of polls in the time zone where they are registered to vote.

(5) Eligible voters shall return their ballot through the portal by the close of polls in the time zone where they are registered to vote for their ballot to be considered timely received.

(6) Eligible voters shall receive electronic notifications from the portal after the occurrence of any of the events in section 764c(2) of the act, MCL 168.764c, in satisfaction of that section's requirements.

(7) Other voters who become eligible under a future statutory change or court order are instructed to submit required electronic return identity verification on the certification to electronically return their ballot according to the law and receive all required electronic notifications.

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.107 Voter identity verification for electronic return program.

Rule 7. (1) The identity of an eligible voter is verified at the following times:

(a) When the eligible voter completes and submits an absent voter ballot application. The absent voter ballot application includes both the eligible voter's signature on file and the eligible voter's electronic return identity verification. When the eligible voter is an eligible member, the electronic return identity verification included is the eligible voter's United States Department of Defense verified electronic signature.

(b) When the eligible voter completes the certification that is submitted with their voted ballot to electronically return the ballot. The certification is completed by attaching the eligible voter's electronic return identity verification.

(2) The identity of any additional voters who participate in the electronic return program under a future statutory change or court order must be verified as required by law.

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.108 Clerk verification of voter identity on electronically returned ballots; processing of electronically returned ballots.

Rule 8. (1) The clerk shall comply with absent voter ballot return timelines and procedures set forth by sections 765 and 765a of the act, MCL 168.765 and 168.765a, as much as practicable, and do a final check for returned ballots in the portal at 8 p.m. on Election Day.

(2) The electronic return identity verification on the certification included with an electronically returned ballot is substituted for the signature on an absent voter ballot return envelope.

(3) The clerk shall examine the electronic return identity verification included on the certification and verify that the electronic return identity verification matches the electronic return identity verification on the voter's absent voter ballot application or other record as provided under R 168.105(1)(c).

(4) If the electronic return identity verification does not match, the clerk shall reject the ballot, notify the voter, and provide instructions on how to cure, following as near as is practicable the provisions of section 766a of the act, MCL 168.766a.

(5) If the electronic return identity verification is verified by matching it to the electronic return identity verification submitted on the voter's absent voter ballot application or other record on file in the clerk's office, the clerk shall accept the ballot.

(6) Accepted ballots must be tabulated as provided under section 759a(7) of the act, MCL 168.759a.

(7) Normal ballot storage and retention procedures apply.

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.109 Confidential voter information.

Rule 9. In the same manner as information protected under section 509gg of the act, MCL 168.509gg, and the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, the clerk shall maintain the confidentiality of a voter's United States Department of Defense verified electronic signature by taking all reasonable steps to prevent its disclosure.

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.110 Data retention.

Rule 10. All data in the portal is retained, to the extent required by law, in accordance with this state's records retention and disposal schedule.

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.111 Public inspection of portal prohibited.

Rule 11. (1) Except as provided in subrule (3) of this rule, only verified users of the portal may view the portal and any data in the portal.

(2) Except as provided in subrule (3) of this rule, verified users shall not provide access to the portal or any of its data to another individual who is not a verified user.

(3) As used in this rule, any individual assisting an eligible voter who requires assistance to vote their ballot as allowed under section 764a of the act, MCL 168.764a, may access and view the portal as necessary to assist the voter.

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.112 Absent voter procedures.

Rule 12. Except where superseded by these rules, the procedures provided for absent voters in the act also apply to absent voters who participate in the electronic return program.

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.113 Portal administration.

Rule 13. The department shall maintain the portal for electronic return of absent voter ballots by eligible voters and utilize security features determined appropriate by the secretary of state or the department of technology, management, and budget to prevent unauthorized access to data or information and to ensure that a user attempting to access the portal is an individual.

History: 2025 MR 18, Eff. Sept. 11, 2025.

R 168.114 Construction.

Rule 14. These rules must be liberally construed in favor of voters' rights and not be read to limit participation in the electronic return program if access to additional voters is authorized by future statute or court order.

History: 2025 MR 18, Eff. Sept. 11, 2025.