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One Hundred Seventeenth
Congress of the United States
House of Representatives

COMMITTEE ON HOUSE ADMINISTRATION

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October 20, 2022

The Hon. Frank LaRose
Secretary of State
State of Ohio
22 North Fourth Street, 16th Floor
Columbus, OH 43215

Dear Secretary LaRose:

The U.S. House Committee on House Administration, where I serve as Ranking Member, has broad jurisdiction over federal elections and is charged by House Rules¹ to exercise the House's constitutional responsibility to serve as the final "Judge of the Elections, Returns and Qualifications of its Members."² While the Constitution grants the House of Representatives this responsibility and authority, the Constitution grants the States primary authority over the administration of federal elections. Committee Republicans respect the limited nature of Congress' role in this space and are committed to safeguarding States' vital constitutional authority.

As in past elections,³ the House will use this legal authority to credential and deploy trained congressional staffers to serve as official House election observers in close, or particularly cumbersome congressional elections, in the coming weeks. This allows us to prepare for the possibility that a candidate could later contest the race in the House of Representatives.⁴ The Committee takes seriously its responsibility regarding federal elections, and we are committed to making sure all lawful ballots in congressional races are counted fairly, accurately, and according to law. I look forward to working with you to continue to highlight the professionalism of elections officials in your state and to ensure voters' confidence in the administration of the federal election and its outcome.⁵

Our credentialed observers have been trained by experts in election observation and instructed that they play no formal or advocacy role in the administration of the election or the vote counting process; they are to function exclusively as observers. The House's constitutional authority in this area supersedes state law, and House observers operate solely under this authority and must be granted access to view the process even if state law credentialing, partisan quota, or access requirements exist to the contrary.⁶ However, the Committee is aware of the recent difficulties elections officials have faced, and we wish to assure you that, in the unlikely event that a House election observer behaves in a way unbecoming of their training or position, we encourage you to report the incident to our office immediately for remediation.

¹ Rules of the United States House of Representatives, Rule X, <https://rules.house.gov/sites/democrats.rules.house.gov/files/117-House-Rules-Clerk.pdf>.

² U.S. Const. Art. 1, Sec. 5, cl. 1.

³ *House Election Observer Program*, Comm. on H. Admin. (Republicans), <https://republicans-cha.house.gov/election-observer-program>.

⁴ See Rita Hart, Notice of Contest, Comm. on H. Admin. (filed Dec. 22, 2021), https://cha.house.gov/sites/democrats.cha.house.gov/files/documents/committee_docs/Notice%20Of%20Contest%20Hart%20v%20Miller-Meeks.pdf.

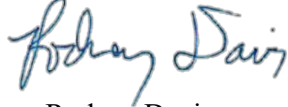
⁵ See *Faith in Elections Project*, Comm. on H. Admin. (Republicans), <https://republicans-cha.house.gov/subcommittee-elections/faith-elections-project>. (Ranking Member Davis and Republican staff have visited 19 states and territories so far to highlight the professionalism and success of elections officials across the country).

⁶ In general, this means that House election observers shall be admitted on the basis of their congressional observer credential, regardless of any state law provision to the contrary, even if state law otherwise prohibits election observation. Additionally, no House observer shall be admitted to fill any partisan political observer slot (e.g., on behalf of a candidate or political party).

Ohio Secretary of State Frank LaRose
House Election Observer Program
October 20, 2022
Page 2 of 2

Committee Republicans look forward to another effective House Election Observer Program this fall and thank you for accommodating our observers, as the Constitution requires. Should you have questions, please contact Caleb Hays, General Counsel and Deputy Staff Director, at Caleb.Hays@mail.house.gov.

Sincerely,

A handwritten signature in blue ink that reads "Rodney Davis". The signature is written in a cursive, flowing style.

Rodney Davis
Ranking Member
Committee on House Administration

Enclosure: House Election Observer Program Frequently Asked Questions

CC: The United States Election Assistance Commission
National Association of Secretaries of State
National Association of State Elections Directors
National Association of Counties
The Elections Center
Ohio Association of Elections Officials

Election Observer Program

COMMITTEE ON HOUSE ADMINISTRATION REPUBLICANS

Frequently Asked Questions

What is the Election Observer Program?

The Election Observer program exists to serve official interests of the House of Representatives in free and fair congressional elections. The purpose of the program is to have House of Representatives staffers, designated and credentialed by the Committee, on-site at the election office or facility in close or difficult elections to observe the election procedures to ensure the certified winner was chosen in a free and fair election. Election observers who are deployed are responsible for gathering information and monitoring the canvass, recount, or other stage of the election process taking place to build a factual record for the Committee in the event a contested election ensues but may not engage in political advocacy or interfere with the administration of the election.

What is the legal authority for the Committee's Election Observer Program?

States administer elections, but the House of Representatives has constitutional authority to serve as the final arbiter over any contest to the seating of any recognized Member-elect.

Article 1, Section 4 of the U.S. Constitution "The Times, Places and Manner of Holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof, but the Congress may at any time by Law make or alter such Regulations..."

Article 1 Section 5 of the U.S. Constitution "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members..."

The Federal Contested Elections Act of 1969 (FCEA) established procedures for how the U.S. House of Representatives handles election contests.

Rule X of the Rules of the House of Representatives delegates this authority to the Committee on House Administration.

Authorization by the Speaker of the U.S. House of Representatives.

Is the Election Observer Program a New Program?

No. The Election Observer program has been in place for decades.

What does an Election Observers Do?

Election observers are the on-the-ground representatives of the U.S. House present to ensure that conduct of the election was free and fair. Election observers are present at the election office or facility solely to observe, take notes, ask questions, and report back to the Committee. As official representatives of the House, election observers have the constitutional authority to be in the rooms where local elections officials process ballots and tabulate votes, to see where ballots are stored, and to observe other, non-public processes.

Election observers are prohibited from advocating for or against any candidate, political party, or ballot issue and from interfering with any aspect of the election administration process including handling ballots, election equipment, or taking any action to reduce ballot secrecy.

Who may serve as an Election Observer?

Only official, employees of the U.S. House of Representatives, paid with government funds, may serve as House election observers.

Are House Election Observers Partisan, Political Operatives?

No, House Election Observers are staff members employed by the House of Representatives, paid with government funds, who have volunteered to serve as an observer and who have been trained to do so.

Are House Election Observers Non-Partisan?

House Election Observers are prohibited from engaging in partisan, political activity while on government time and may not advocate for or against any candidate or ballot issue. Congressional staff members who volunteer as House Election Observers may be regularly employed by a Republican or Democrat congressional office.

Do Election Observers Advocate for or Represent Political Candidates?

No. Election observers are not campaign staff and may not advocate or represent any candidates or positions.

Can Election Observers Engage in Political Activity?

Election observers are not permitted by House Rules to engage in political activity while on official duty for the House of Representatives.

Who Determines When and Where Election Observers Deployed?

The Committee determines when and where election observers are deployed in close races.

Who Credentials House Election Observers?

The Chair or Ranking Member of the Committee on House Administration credential House Election Observers pursuant to the Committee's authority.

Do House Election Observers fill observer "slots" under state law?

No, House Election Observers exist independently of any state law access provisions. No House Election Observer, whether deployed by the Committee's Majority or Minority, fills any observer "slot" (e.g., for a particular candidate or political party) under state law.

What if my State does not permit observers? Can I refuse entry to House Election Observers based on state law?

No, you may not refuse entry to House Election Observers, even if your state law does not permit observers or does not specifically recognize House Election Observers. The Constitution grants the U.S. House of Representatives the authority to serve as the final "Judge of the Elections, Returns and Qualifications of its own Members", which includes the authority to observe the administration of congressional elections. This constitutional authority supersedes any state law to the contrary.

For more information, please contact Caleb Hays, General Counsel & Deputy Staff Director, at caleb.hays@mail.house.gov.