

HAVA- Help America Vote Act of 2002

Presented By:

Pennsylvania Department of State
Bureau of Commissions, Elections &
Legislation

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Congress enacted HAVA to improve the administration of elections and to standardize the electoral process, both within the States and across the country.



To implement the requirements of HAVA, the Pennsylvania Legislature in 2002 enacted Act 150. Act 150 amended the PA Election Code to incorporate into PA law many of the requirements of HAVA, as well to impose additional responsibilities upon county boards of elections & district election officials.

There are four significant changes that immediately affect Pennsylvania elections:

- 1. HAVA Title III Complaints.**
- 2. Voter Identification.**
- 3. Posting of Voting Information.**
- 4. Provisional Voting.**

HAVA Title III Complaints

HAVA requires the Commonwealth to establish and maintain State-based administrative complaint procedures that are uniform and nondiscriminatory.

The complaint procedures under the PA Election Code allow a person who believes that a violation of Title III of HAVA has occurred, is occurring, or is about to occur, to file a complaint with the PA Department of State.

Title III Complaint Forms and Process

Complaint forms, with instructions, are available from the Department of State (including through its web site), as well as from the county elections offices. Forms are included in the Election Day supply package.

For a complaint made about an elections official or employee, the validity of the complaint and appropriate remedy would be determined by the Department of State.

District Election Official Instructions

- When requested, election officials should provide an individual with a complaint form.
- If no forms are available at the election district, the election officials should refer the individual to the County Board of Elections or to the Department of State.

Pennsylvania Department of State

210 North Office Building

Harrisburg, PA 17120

(717) 787-5280

www.hava.state.pa.us

Example of the Complaint Form

(FOR OFFICIAL USE ONLY)



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
Harrisburg

**STATEMENT OF COMPLAINT – VIOLATIONS OF TITLE III
OF THE HELP AMERICA VOTE ACT OF 2002
(PUBLIC LAW 107-252, 42 U.S.C. § 18301 ET SEQ)**

Under section 402(a)(2) of the Help America Vote Act of 2002 (HAVA) (42 U.S.C. § 18312(a)(2)) and section 1206.2(a) of the Pennsylvania Election Code (25 P.S. § 3046.2(a)), any person who believes that a violation of any provision of Title III of HAVA (42 U.S.C. §§ 18301-18303) that occurred, is occurring, or is about to occur, may file a complaint with the Department of State, Bureau of Commissions, Elections and Legislation. Complaints made against a local or county official or employee will be processed and considered by the Department of State under section 1206.2(a) of the Election Code (25 P.S. § 3046.2(a)). Complaints made against the Department of State will be processed and considered by the Commonwealth's Office of General Counsel under section 1206.2(c) of the Election Code (25 P.S. § 3046.2(c)).

In order for the Department of State or the Office of General Counsel to initiate a complaint processed under section 402(a) of HAVA and section 1206.2 of the Election Code to consider possible violations of Title III of HAVA, a complaint must complete both sides of this complaint form. Complaints should be typewritten or clearly printed in black or blue ink. Please state the facts briefly, and clearly, and be sure to submit any documents you have to substantiate your claim.

YOU MUST SIGN THIS FORM, COMPLETE THE PRESCRIBED AFFIDAVIT BEFORE A LICENSED NOTARY PUBLIC OR OTHER PERSONS AUTHORIZED UNDER PENNSYLVANIA LAW TO ADMINISTER OATHS, AND RETURN THE FORM WITH TWO COPIES TO THE DEPARTMENT OF STATE, BUREAU OF COMMISSIONS, ELECTIONS AND LEGISLATION, 210 North Office Building, Harrisburg, PA 17120.

THIS FORM MUST BE SIGNED UNDER OATH, NOTARIZED, AND FILLED OUT COMPLETELY IN ORDER TO BE PROCESSED. TO ASSURE PROMPT PROCESSING OF THE COMPLAINT, PLEASE FILE THE ORIGINAL AND TWO COPIES OF THE COMPLAINT WITH THE BUREAU OF COMMISSIONS, ELECTIONS AND LEGISLATION.

TYPE OF COMPLAINT (PLEASE CHECK ONE):

- ALLEGATIONS MADE AGAINST COUNTY OR LOCAL OFFICIAL (S) OR EMPLOYEE (S)
- ALLEGATIONS MADE AGAINST THE DEPARTMENT OF STATE

A. COMPLAINANT INFORMATION

LAST NAME	FIRST NAME	MIDDLE INITIAL
STREET ADDRESS (Number and Name)		
CITY	COUNTY	STATE
ZIP CODE		
TEL. (Include Area Code) (HOME)		(WORK)

B. COMPLAINANT'S ATTORNEY, IF ANY

LAST NAME	FIRST NAME	MIDDLE INITIAL
STREET ADDRESS (Number and Name)		
CITY	COUNTY	STATE
ZIP CODE		
TEL. (Include Area Code)		FIRM NAME

C. NAME AND ADDRESS OF WITNESS, IF ANY

LAST NAME	FIRST NAME	MIDDLE INITIAL
STREET ADDRESS (Number and Name)		
CITY	COUNTY	STATE
ZIP CODE		
TEL. (Include Area Code)		If needed, indicate how willing to support your complaint by appearing at a hearing: <input type="checkbox"/> YES <input type="checkbox"/> NO

D. NAME AND ADDRESS OF SECOND WITNESS, IF ANY

LAST NAME	FIRST NAME	MIDDLE INITIAL
STREET ADDRESS (Number and Name)		
CITY	COUNTY	STATE
ZIP CODE		
TEL. (Include Area Code)		If needed, indicate how willing to support your complaint by appearing at a hearing: <input type="checkbox"/> YES <input type="checkbox"/> NO

NOTE: If additional witnesses are available, list names, addresses, and other pertinent data in a manner similar to above on 8 1/2" x 11" paper.

Frequently Asked Questions

HAVA Title III Complaints

Q: What must an individual do with the complaint form once he/she has completed it?

A: The complainant must sign the complaint form before a notary public and send the original and two copies to the Pennsylvania Department of State.

Q: What is considered a valid complaint?

A: Any complaint that relates to the requirements imposed by Title III of HAVA that will be subject to the formal complaint procedures.

Frequently Asked Questions

HAVA Title III Complaints

Q: What is Title III of HAVA?

A: Title III of HAVA establishes numerous requirements for uniform and nondiscriminatory administrative requirements for the conduct of elections.

Frequently Asked Questions

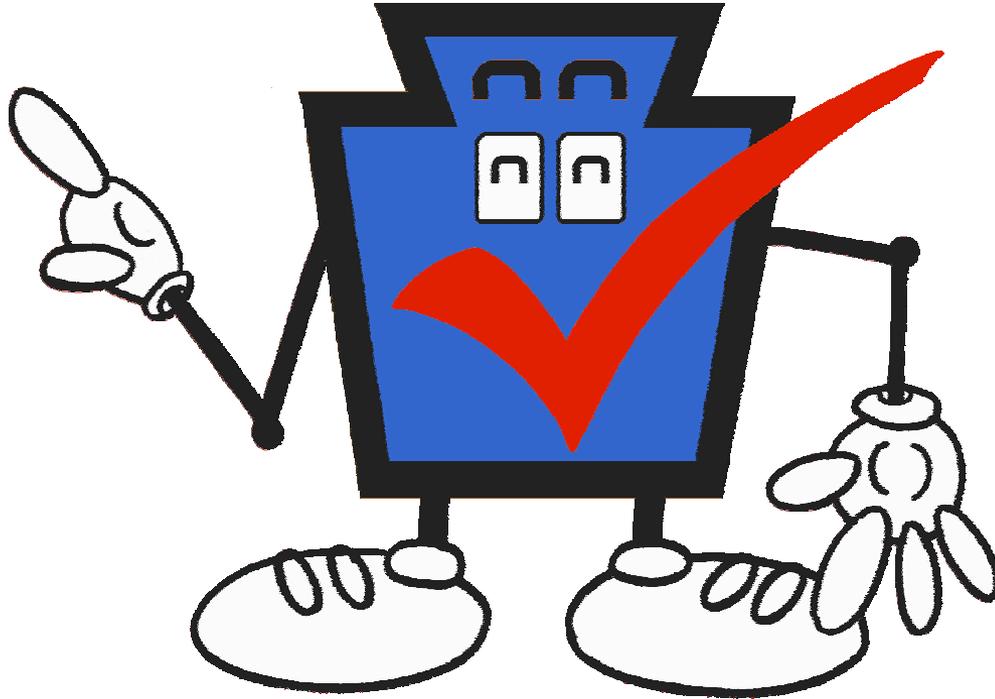
HAVA Title III Complaints

Q: What are some examples of possible Title III violations about which individuals might complain?

A:

- An individual has been denied the right to cast a provisional ballot as required by HAVA.
- Required voting information has not been posted at the polling place on Election Day as mandated by HAVA.
- An individual required to show appropriate identification was not asked to provide a valid identification.

Any Questions?



HAVA Title III Complaints

Voter Identification

HAVA requires States, *in a uniform and nondiscriminatory manner*, to require certain first-time voters to present or submit appropriate identification before they may cast a ballot.

Under the PA Election Code, individuals who appear to vote in the election district for the first time must present to an election official an approved form of photo identification or, if the voter does not have appropriate photo identification, another approved form of identification that shows the name and address of the voter.

The county board of elections will notify district election boards about who must show identification on Election Day.

The county board of elections may:

- Provide the district election board with a list of voters who must show identification on Election Day.
- Indicate in the district register who must provide identification on Election Day.
- Require district election boards to ask every individual who appears to vote on Election Day whether the individual has previously voted in the election district.

Approved forms of photo identification:

(ID must be current and valid)

- PA driver's license or ID card issued by PennDOT
- ID issued by any other Commonwealth agency.
- United States passport.
- ID issued by the U.S. Government.
- U.S. Passport.
- U.S. Armed Forces ID.
- Student ID card.
- Employee ID

Approved forms of non-photo identification:

*(ID must be current and show the name and address
of the elector)*

- Voter's Identification Card issued by the voter registration commission.
- Non-photo ID issued by any Commonwealth agency.
- Non-photo ID issued by any agency of the U.S. Government.
- A firearm permit.
- A current utility bill.
- A current bank statement.
- A paycheck; or
- A government check.

Frequently Asked Questions

Voter Identification

Q: Who must show identification?

A: An individual who registered to vote in the election district after January 1, 2003, and who is voting in the election district for the first time.

Frequently Asked Questions

Voter Identification

Q: Must an individual show identification every time he/she appears to vote?

A: No. Identification is required only the first time that an individual appears to vote in the election district.

Frequently Asked Questions

Voter Identification

Q: When must an individual show identification?

A: An individual must show identification on Election Day at the election district polling place before he/she may cast a conventional ballot.

Frequently Asked Questions

Voter Identification

Q: What happens if an individual is unable to present valid identification the first time that he/she appears to vote in an election district?

A: An individual who is unable to present appropriate identification when required must be afforded the opportunity to cast a provisional ballot.

Frequently Asked Questions

Voter Identification

Q: If an absentee voter appears to vote in the election district and cancels his/her absentee ballot, is the voter required to provide identification even if they provided the identification with their absentee ballot?

A: Yes. If the district register (or supplemental list) indicates he/she must provide identification, the voter MUST provide identification.

Absentee Voters and Voter Identification

- HAVA requires certain voters who vote by mail to submit appropriate identification before their ballots may be processed as provided by law. If an absentee voter has not provided identification as required by HAVA, the county board of elections will retain the absentee ballot and treat the absentee ballot as a provisional ballot.

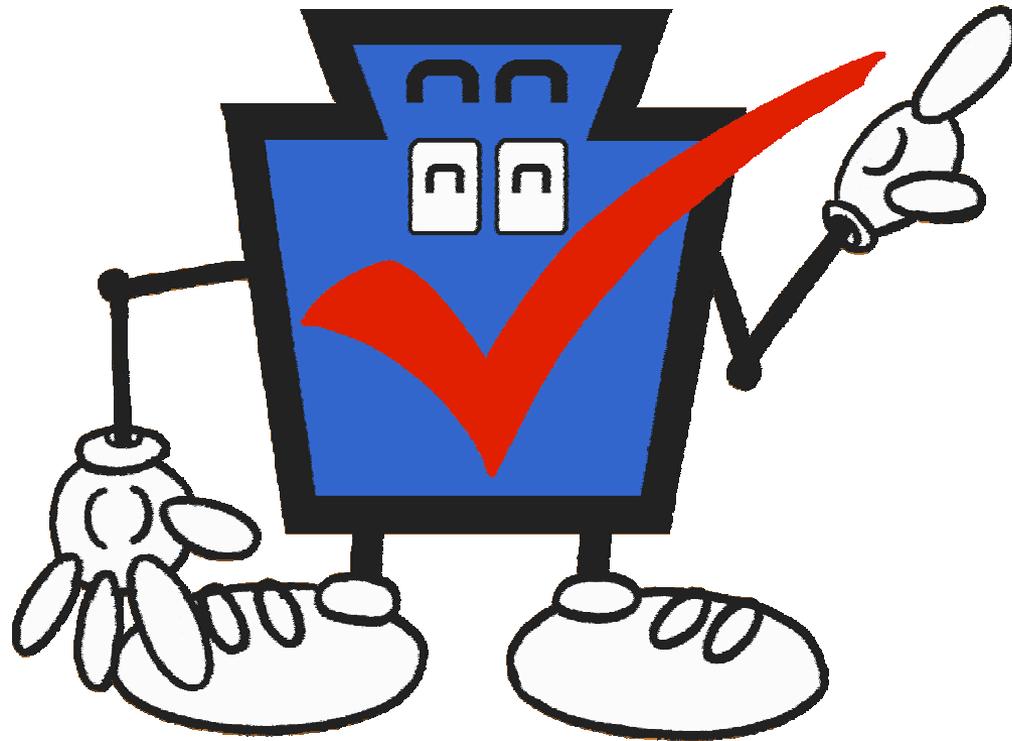
Absentee Voters and Voter Identification

- In the event that an absentee ballot has been retained and designated as a provisional ballot, the county board of elections will so indicate in, or as a supplement to, the Absentee Voters' Files and/or Absentee Voters' List.

Absentee Voters and Voter Identification

- In the event that an absentee voter should appear to vote in the election district and is permitted to cast a regular ballot at the polling place after completing the required affidavit requesting that his absentee ballot be cancelled, the judge of elections should note that the absentee ballot of the voter who has appeared and voted in person be declared cancelled.

Any Questions?



Voter Identification

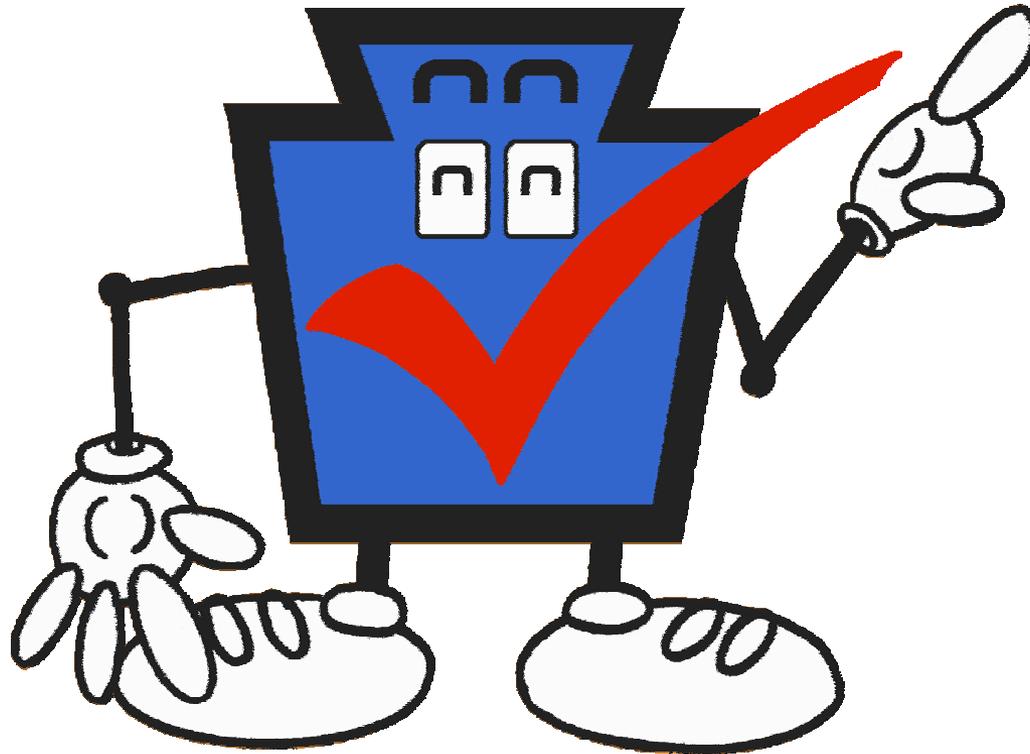
Posting of Voter Information

HAVA requires election officials to display
postings in the polling place on
Election Day.

The following is the complete list of information to be posted in each polling place on Election Day:

- **Poster: “Election News—Important information for you!”.**
- **Supplement to penalties and instructions cards.**
- Penalties card.
- Instructions card.
- Sample ballot.
- Plain English statements for ballot questions.
- List of absentee voter’s.

Any Questions?



Posting of Voter Information

Provisional Voting

A Provisional Ballot is cast by an individual who is prevented from casting a conventional ballot for any reason, including (i) an individual whose name does not appear on the general register; (ii) individuals who do not have proper identification when required; and (iii) those who are voting by an order of court.

NOTE: All Provisional Ballot materials will have a GREEN indication for ease of recognition.

Individuals **may** cast a Provisional Ballot if:

1. Required voter identification cannot be provided:

Regardless of whether the individual's name appears on the general register, a voter who (i) registered to vote after January 1, 2003; (ii) claims to be registered and eligible to vote at the election district; (iii) is appearing to vote in the election district for the first time; and (iv) is unable to present an approved form of identification, *must be afforded the opportunity to cast a provisional ballot*. A voter who lacks required identification may choose to leave the polling place and return with appropriate identification or to vote by provisional ballot.

Individuals **may** cast a Provisional Ballot if:

2. The individual's name does not appear on the general register:

An individual (i) who appears to vote and claims to be registered and eligible to vote at the election district; (ii) whose name does not appear on the general register; and (iii) whose registration cannot be determined by the inspectors of election or the county board of elections, *must be afforded the opportunity to cast a provisional ballot.*

Individuals **may** cast a Provisional Ballot if:

3. The judge of election challenges an individual's identification or for any reason asserts that the individual is not eligible to vote.

[In a Primary Election, if a voter claims to be enrolled in a particular political party and eligible to vote in that party's primary, but the general register indicates that the voter is not so enrolled, the individual must be offered the opportunity to cast his vote by provisional ballot in the primary of the political party in which he claims the right to vote. However, the judge of election should warn the voter that if the county board of elections should be unable to determine that the voter was in fact properly registered and enrolled in the political party whose ballot he should cast provisionally, the ballot would not be counted.]

Individuals are **required** to cast a Provisional Ballot
if:

1. The individual is voting as a result of a federal or state court order.
2. The individual is voting as a result of an order extending the time established for closing polls by State law that is in effect 10 days before an election.

Before the polls open...

- Reconcile your Provisional Voting Materials.

Reconcile your Provisional Voting materials!

1. Ensure you received the number of provisional ballots indicated on the front of the Provisional Voting—Materials Envelope (Part A #1).

While the polls are open...

- Provide individuals the opportunity to cast a Provisional Ballot using the Provisional Voting Procedure when necessary.
- Maintain your Provisional Voting materials.

Provisional Voting Procedure

1. The individual must complete and sign the Provisional Ballot Affidavit on the **BACK** of the Provisional Ballot Affidavit Envelope in the presence of the Judge of Election & the Minority Inspector **before** the ballot is completed.
2. The Judge of Election & the Minority Inspector must sign the Provisional Voter Affidavit portion of the envelope **before** the ballot is completed.

Example: Back of Provisional Ballot Affidavit Envelope

B

BACK OF PROVISIONAL BALLOT ENVELOPE

**PROVISIONAL VOTER AFFIDAVIT
PLEASE PRINT CLEARLY**

I do solemnly swear or affirm that my name is _____, that my date of birth is _____, and at the time that I registered I resided at _____ in the municipality of _____ in _____ County of the Commonwealth of Pennsylvania and that this is the only ballot that I have cast in this election.

Signature of Voter/Elector:

Current Address: _____

Signature of the Judge of Elections:

Signature of the Minority Inspector:

Election District: _____

HAVA-PB01

**AFFIDAVIT DEL VOTANTE PROVISIONAL
FAVOR DE ESCRIBIR CLARAMENTE
EN LETRA DE MOLDE**

Juro o afirmo solemnemente que mi nombre es _____, que mi fecha de nacimiento es _____, y que cuando me inscribí residía en _____ en la municipalidad de _____ en el Condado de _____ del Estado de Pennsylvania y que esta es la única papeleta que he emitido en esta elección.

Firma del Votante/Elector:

Dirección Actual: _____

Firma del Juez de Elecciones:

Firma del Inspector Minoritario:

Distrito Electoral: _____

3. The individual is to be directed to an accessible voting area in the polling place to complete the ballot in private.
4. After the ballot is completed, the individual must place the ballot in the Secrecy Envelope and place the Secrecy Envelope in the Provisional Ballot Affidavit Envelope.
5. The individual must seal the Provisional Ballot Affidavit Envelope and sign the **FRONT** of the Provisional Ballot Affidavit Envelope.
6. The individual must return the completed materials to the Judge of Election.

Example: Front of Provisional Ballot Affidavit Envelope

B

FRONT OF PROVISIONAL BALLOT ENVELOPE

OFFICIAL ELECTION BALLOTING MATERIAL	MATERIAL OFICIAL DE VOTACION ELECTORAL
<p>INSTRUCTIONS:</p> <ol style="list-style-type: none"> 1. Complete ALL PARTS of the Provisional Voter Affidavit on the BACK of this envelope. 2. Cast your votes using the Provisional Ballot. 3. After voting, place the Provisional Ballot in the secrecy envelope. 4. Place the sealed secrecy envelope in this envelope. 5. Seal the envelope and place your signature on the line below. 6. Return this envelope to the Judge of Election prior to leaving the polling place. <p>The undersigned declares, under penalty of law, that he/she is a properly registered elector in the election district indicated in my affidavit, and that he/she is eligible to vote in this election in this election district.</p> <p>Signature of Voter/Elector: _____ Date: _____</p>	<p>INSTRUCCIONES:</p> <ol style="list-style-type: none"> 1. Complete TODAS LAS PARTES del Affidavit del Votante Provisional al DORSO de este sobre. 2. Emita sus votos usando la Papeleta Provisional. 3. Después de votar, coloque la Papeleta Provisional en el sobre confidencial. 4. Coloque el sobre confidencial dentro de este sobre. 5. Cierre el sobre y ponga su firma en el renglón abajo. 6. Devuelva este sobre al Juez de Elecciones antes de partir del colegio electoral. <p>El/la suscrito(a) declara, bajo penalidad, que es un(a) elector(a) debidamente inscrito(a) en el distrito electoral indicado en mi affidavit, y que él/ella es elegible para votar en estas elecciones en este distrito electoral.</p> <p>Firma del(la) Votante/Elector(a): _____ Fecha: _____</p>

FOR OFFICIAL USE ONLY! THE FOLLOWING IS TO BE COMPLETED BY THE JUDGE OF ELECTION!

CHECK ALL THAT APPLY:

- Voter's name not on list
 Voter identification not supplied
 Court order (voting hours)
 Court order (voter)
 Voter's eligibility is challenged by an election official
 Party (Primary only) _____
 (WHICH PARTY BALLOT IS ENCLOSED?)

THIS SPACE IS RESERVED FOR VOTER REGISTRATION VERIFICATION BY COUNTY BOARD OF ELECTIONS

AFFIX BALLOT ID NUMBER
HERE

7. The Judge of Election must affix the Ballot Identification Number to the Provisional Ballot Affidavit Envelope in the space provided and give the receipt with the corresponding number to the individual.
8. The Judge of Election must inform the individual of the toll-free number (**1-877-VOTES-PA**) and the Internet website (www.HAVA.state.pa.us) where the individual can determine if his/her ballot was counted.
9. The Judge of Election must indicate why the individual cast a Provisional Ballot in the space provided in the Provisional Ballot Affidavit Envelope.

10. The Judge of Election must verify that the individual has not cast an Absentee Ballot for that election district using the district or general register and/or Absentee Voter's List.
11. If the voter has cast an Absentee Ballot for that election, the Judge of Election will cancel the Absentee Ballot.
 - 11a. In the event that an absentee ballot has been retained and designated as a provisional ballot, the county board of elections will so indicate in, or as a supplement to, the Absentee Voters' Files and/or Absentee Voters' List.

Note: An individual voting a Provisional Ballot does not sign the voter certificate and is not recorded on the numbered list of voters.

Maintain your Provisional Voting Materials.

1. When a Provisional Ballot is cast, deposit the completed and sealed Provisional Ballot Affidavit Envelope into the Provisional Voting—Return Envelope.

After the polls are closed...

1. Reconcile your Provisional Voting materials.
2. Record the number of Provisional Ballots cast on the return sheet.
3. Return your Provisional Voting materials to the county board of elections.

Reconcile your Provisional Voting materials.

1. Ensure all completed and sealed Provisional Ballot Affidavit Envelopes are in the Provisional Voting—Return Envelope, and that none remain in the Provisional Voting—Materials Envelope.
2. Complete Part B of the Provisional Voting-Materials Envelope.
3. The Judge of Election and the Minority Inspector must sign and seal the Provisional Voting—Materials Envelope.
4. Complete the the Provisional Voting—Return Envelope.
5. The Judge of Election and the Minority inspector must sign and seal the Provisional Voting—Return Envelope.

Return your Provisional Voting materials to the county board of elections.

1. The Provisional Voting—Materials Envelope and the Provisional Voting—Return Envelope must be returned to the county board of elections **separate from all other election materials.**

Frequently Asked Questions

Provisional Voting

Q: Does an individual sign the general register, and is his/her name recorded on the numbered list of voters if he/she votes a Provisional Ballot?

A: No. If an individual votes a Provisional Ballot, he/she never signs the register or gets counted on the numbered list of voters.

Frequently Asked Questions

Provisional Voting

Q: What is a Provisional Ballot

A: A Provisional Ballot is a ballot cast by an individual who is prevented from casting a Conventional Ballot for any reason, including an individual whose name does not appear on the district or general register, an individual who does not have proper identification when required, and an individual who is voting by a court order.

Provisional Ballots are not opened or counted at the election district polling place. Within three (3) days of the election, the county board of elections will examine the provisional ballots to determine whether the individuals who have cast a provisional ballot are eligible to vote in the election and will count only those ballots found to be properly cast.

Frequently Asked Questions

Provisional Voting

Q: How will an individual know if his/her Provisional Ballot was counted?

A: An individual can check the status of his/her Provisional Ballot by accessing the website or by calling the toll-free number using the Ballot Identification Number Receipt that the provisional voter was given at the election district.

Any Questions?



Provisional Voting & Procedures