

Qualifying Voters on Election Day
Handbook for Election
Judges and Clerks
2006-2007

FOR USE IN GENERAL, PRIMARY, AND
OTHER ELECTIONS BY
ALL POLITICAL SUBDIVISIONS

Issued by
The Office of the Texas Secretary of State, Elections Division
1-800-252-VOTE(8683) or (512) 463-5650
<http://www.sos.state.tx.us>

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INTRODUCTION

The Elections Division of the Secretary of State's Office has prepared this handbook for use on election day by election judges and clerks serving in precinct polling places. This handbook contains a thorough outline of polling place procedures for all elections. It incorporates changes in the election law, which will be effective or before January 1, 2006.

The handbook starts at the beginning of election day and covers voter qualification and assistance, as well as the basics for closing the polling place. Throughout the handbook, references are made to the appropriate section in the Texas Election Code or the Texas Administrative Code, unless otherwise indicated. Information in italics relates to primary elections.

The Elections Division of the Secretary of State's Office is open during the hours that the polls are open for voting on all uniform election dates. Answers to questions on election law and procedures may be obtained by telephoning the Elections Division toll-free at 1-800-252-VOTE(8683) or direct at (512) 463-5650.

Please visit us at our Internet home page for additional election information at <http://www.sos.state.tx.us>.

The Office of the Secretary of State does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of services.

2006 UPDATE

Effective January 1, 2006, every polling place must be equipped with at least one voting system that is accessible to voters with disabilities. This requirement applies to all political subdivisions for all elections

of the publication date of this handbook, there are five voting systems (four direct record electronic systems ("DRES") and one accessible ballot marker) that have been certified by the state to be accessible. This handbook is written generally to apply to all five systems. Please contact the entity conducting the election for specific instructions for the system used in your political subdivision.

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CHAPTER 1

THINGS TO DO BEFORE THE POLLS OPEN

SECTION A. PREPARE THE POLLING PLACE

1. The presiding judge administers the election officials' oath to himself or herself and to the clerks. [Sec. 62.003]

"I swear (or affirm) that I will not in any manner request or seek to persuade or induce any voter to vote for or against any candidate or measure to be voted on, and that I will faithfully perform my duty as an officer of the election and guard the purity of the election."

2. The presiding judge and clerks must wear name tags or official badges while on duty, which indicate the person's name and title or position as an election officer. If there are no name tags in your election kit, you may make your own. (State and federal election inspectors are also required to wear name tags, as are peace officers assigned to the polling place.) [Sec. 61.010(b)]

3. The judge reviews a work schedule and assignments with the clerks. [Sec. 32.072] The presiding judge may allow some clerks to end their service at the polling place before the polls close (i.e., work in shifts), but may not allow clerks to leave the polling place after the counting of ballots has begun, except for temporary absences. [Sec. 32.073] Additionally, the presiding judge may allow some clerks to begin their service at the polling place later than 7:00 a.m. on election day. [Sec. 32.072(b)] The presiding judge may permit temporary absences for meals or other necessary activities. [Sec. 32.073(a)] The judge must treat clerks uniformly in designating their working hours and duties and in regulating temporary absences. [Secs. 32.072(c), 32.073(c)]

4. The list of registered voters must be prepared by the election judge before voting begins on election day to indicate voters whose names appear on the precinct early voting list. [Sec. 62.014(b)]

NOTE: In a primary election, a second list of registered voters is provided at the polling place and must also be marked to indicate who voted, including those whose names appear on the precinct early voting list. This second list is given to the precinct chair after the polls close and is used to qualify precinct convention participants. [Sec. 172.1141]

5. If a registration correction list is provided, an election official must change the list of registered voters to make it conform to the registration correction list. [Sec. 62.014(a)]

6. Physically arrange the polling place.

a. Arrangement of tables and chairs.

(1) Place table(s) and chairs near the entrance to the polling place for the clerks who will be accepting the voters.

(2) Post the required sample ballot in one or more locations where it can be read by persons waiting to vote.

(3) Establish a voting area.

-- Voting booths that provide voters privacy while voting must be provided at all polling places.

Voting booths must meet the regulatory specifications for voting booths, or have been approved for use by the Secretary of State. [Sec. 51.032; 1 TAC § 81.70]

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-- Arrange the voting booths in such a way that they are in view of the election officials, watchers, and persons waiting to vote but are separated from voters who are waiting to vote. They must be arranged to prevent access to the voting area through any entrance other than the one designated. [Sec. 62.004]

-- Make sure voting area is adequately lighted. [Sec. 62.004(3)]

-- Place Voting Information Posters in each voting booth and in other locations in the polling place where it can be read by persons waiting to vote. [Sec. 62.011(a)]

-- For the primary election for the office of precinct chair and county chair, the November general election, city council officer elections, independent school district trustee elections, special elections for state representative and state senator, and other elections required by law, the list of declared write-in candidates must be posted next to each instruction poster. [Secs. 144.006, 146.031(d), 146.055, 146.082, 171.0231 Election Code; Secs. 11.056(c), 130.081, 130.0825, Education Code; Secs. 36.059, 49.101, 63.0945, Water Code; Sec. 285.131, Health and Safety Code]

NOTE: In a primary election, write-in voting is not permitted except for the party offices of county chair and precinct chair. A write-in vote may not be counted unless the name appears on the list of write-in candidates. If no candidate filed for the office of precinct chair or county chair, then that office is not printed on the ballot. [Secs. 171.0231, 172.112]

If only one candidate files for precinct chair (for the ballot or as a write-in) the election for that office is not held, and the county chair shall prepare a sign notifying voters that the candidate will be declared elected to the office at the time of the local canvass. An election officer shall post the sign in one or more locations in the polling place. [Sec. 171.0221]

-- Place indelible markers (makes marks that cannot easily be removed or erased) in each voting booth where voters will be preparing their ballots. [Sec. 62.015]

-- Establish an area convenient to the voting booths, in view of election officials, for placement of the locked ballot box (Ballot Box No. 1) in which voters will deposit their voted ballots. [Sec. 62.006]

(4) Establish an area for counting voted ballots.

-- This area should be in a separate room from the voting area, or removed from the voting area as much as possible, so that individuals counting ballots cannot be heard nor the voted ballots seen by voters.

b. Prepare the table(s) for accepting and qualifying voters.

NOTE: More than one qualifying table may be set up by dividing the list of registered voters into sections of the alphabet, for example, A-G and H-Z.

(1) Place the following election forms and supplies on each table:
-- Lists of registered voters, including supplemental and correction lists, or a revised original list. [Secs. 18.001, 18.002, 18.003, 18.004]
-- Registration omissions list. [Sec. 63.005]
-- Combination form (combination of two or more of the forms below denoted by an "*"). [Sec. 63.004]

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-- Poll list. [Sec. 63.003]*
-- Signature roster. [Sec. 63.002]*
-- Affidavits.
(a) Voter without certificate who is on list.*
(b) Voter with incorrect certificate who is not on list.*
(c) Provisional Ballot Affidavit Envelope. [Sec. 63.011]
-- List of Provisional Voters. [1 T.A.C. §§ 81.172 - 81.174]
-- Notice to Provisional Voter. [1 T.A.C. §§ 81.172 - 81.174]
-- List of First Time Voters. [1 T.A.C. §§ 81.172 - 81.174]
-- Statement of Residence. [Secs. 11.004, 63.0011] Voter signs this statement if the voter has moved within the county to another election precinct in the same county and the same political subdivision for which the voter offers to vote. The voter may vote a full ballot in the election precinct of former residence, regardless of how long ago the voter moved.
-- The "voted" stamp and stamp pad for stamping the list of registered voters. While it is not necessary that the election officials use a stamp pad and "voted" stamp, they must make a notation on the list of registered voters that a person has voted. [Sec. 63.001]
NOTE: In a primary election, the presiding judge is given two lists of registered voters. The second list is given to the precinct chair after the polls are closed and is used to qualify participants in the precinct convention. The election judge of a primary election must indicate each voter that has been accepted (by, e.g., stamping "VOTED" next to the voter's name on the list) on the second list as well as the list that is returned to the voter registrar. [Sec. 172.1141]
-- The party affiliation stamp for stamping registration certificates in a primary election. [Sec. 162.004(b)]
-- Certificates of party affiliation in a primary election for those voters who do not have a registration certificate. [Sec. 162.004(c)]
-- Official ballots. An election official must disarrange a supply of numbered ballots, all face down, so that they are no longer in numerical order. [Sec. 62.009(a), (b)]
-- Provisional ballots. An election official must set aside a sufficient number of provisional ballots and stamp or write on the back of each ballot "Provisional" next to the Judge's signature. [1 T.A.C. §§ 81.172 - 81.174]
-- Provisional Stamp. [1 T.A.C. §§ 81.172 - 81.174]
-- Register of spoiled ballots. [Sec. 64.007(c)]
-- Request to cancel application to vote by mail. [Sec. 84.032]
-- Envelope No. 5. In a primary election, it is addressed to the County Chair.
(2) Recommended order and/or position of forms and supplies on table:
-- Lists of registered voters (including any supplemental and correction lists), "voted" stamp, and stamp pad.
-- Registration omissions list.

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-- Combination form (combination of two or more of the forms below denoted by an "*"). [Sec. 63.004]
-- Poll list.*
-- Signature roster.*
-- Affidavits:
(a) Voter without certificate who is on list.*
(b) Voter with incorrect certificate who is not on list.*
(c) Provisional Ballot Affidavit Envelope. [Sec. 63.011]
-- Statement of Residence. [Sec. 63.0011]
-- Party affiliation stamp and certificates of party affiliation in a primary election. [Sec. 162.004(b)]
-- Official ballots.
-- Register of spoiled ballots. [Sec. 64.007(c)]
-- Request to cancel application to vote by mail. [Sec. 84.032]
-- Supply of official ballots stamped "Provisional." [1 T.A.C. §§ 81.172 - 81.174]
-- Provisional Stamp. [1 T.A.C. §§ 81.172 - 81.174]
-- Supply of white secrecy envelopes for provisional ballots. [1 T.A.C. §§ 81.172 - 81.174]
-- Supply of "Notice to Provisional Voter" forms.
c. Post distance markers and sample ballots.
(1) Post distance markers 100 feet in each direction from all entrances through which voters may enter the building in which the polling place is located. [Secs. 61.003(a), 62.010(a)] Distance marker must include in large letters, "DISTANCE MARKER. NO ELECTIONEERING OR LOITERING BETWEEN THIS POINT AND THE ENTRANCE TO THE POLLING PLACE."
(2) Post instruction posters and lists of declared write-in candidates (for the primary election for the offices of precinct chair and county chair, the November general election, city council officer elections, independent school district trustee elections, special elections for state representative and state senator, and other elections required by law) in each voting station and in one or more other locations in the polling place where they can be read by persons waiting to vote. [Secs. 62.011(a), 144.006, 146.031(c), 146.055, 146.082, 171.0231 Election Code; Secs. 11.056(c), 130.081, 130.0825, Education Code; Secs. 36.059, 49.101, 63.0945, Water Code; Sec. 285.131, Health and Safety Code]
NOTE: In a primary election, write-in voting is not permitted except for the party offices of

county chair and precinct chair. A write-in vote may not be counted unless the name appears on the list of write-in candidates. If no candidate filed for the office of precinct chair or county chair, then that office is not printed on the ballot. [Secs. 171.0231, 172.112]

If only one candidate files for precinct chair (for the ballot or as a write-in) the election for that office is not held, and the county chair shall prepare a sign notifying voters that the candidate will be declared elected to the office at the time

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of the local canvass. An election officer shall post the sign in one or more locations in the polling place.

(3) Post the party sign over the entrance to the polling place in a primary election.

(4) Post the required sample ballots in easily observed locations within the polling place. [Sec. 62.012]

(5) No election material may be posted at a polling place, including the area within a 100 foot radius of an outside door through which a voter may enter the building where the polling place is located, unless it is required or allowed by law. [Sec. 62.013]

(6) No person other than an election judge or clerk may post materials in a polling place or within 100 feet radius of the entrance to the polling place. [Sec. 62.013]

(7) A notice of the number of voters who have voted must be posted at an outside door to the polling place every two hours, beginning at 9:30 a.m. and running through 5:30 p.m., on a form prescribed by the Secretary of State, unless that form is unavailable. [Sec. 61.007]

(8) For the general primary election, a notice of the time and place of the precinct convention must be posted at each door through which a voter may enter the polling place. [Sec. 172.1111]

d. Open and inspect all ballot boxes, if paper or optical scan ballots are used in the election. [Sec. 62.005]

(1) Make sure that each ballot box is empty.

(2) Make sure that each ballot box has a working lock and a key that opens the lock, unless prelocked, pre-sealed boxes are used for central counting. [Sec. 51.034(a)]

e. Prepare the official ballots, if paper or optical scan ballots are used in the election.

(1) Record the total number of ballots received on the "Register of Official Ballots" form. [Sec. 65.013]

(2) Inspect the official ballots to see that they are properly printed and numbered. [Sec. 65.013]

-- Remove any ballot that is not numbered or that is otherwise defectively-printed. [Sec. 62.007]

-- Count the defective and/or unnumbered ballots and enter this number on the Register of Official Ballots form. [Sec. 65.013(b)(2)]

-- Place defective and/or unnumbered ballots in Ballot Box No. 4 (or other designated container). [Sec. 62.007(b)]

-- Place Ballot Box No. 4 in a protected place near the clerks at the qualifying table so that any mutilated ballot returned by a voter for a new ballot can be easily deposited in this ballot box.

NOTE: Ballot Box 4 is used for delivering defectively printed, spoiled, or unused ballots and, in paper ballot elections, the ballots sealed in the Provisional Voter Affidavit Envelope. [Sec. 66.026]

(3) Place the presiding judge's full name on the back of each ballot. [Sec. 62.008]

-- If a stamp of the judge's signature is provided, a clerk may stamp the back of each ballot with this signature stamp. An election clerk may not forge the signature of the judge. [Sec. 62.008(b)]

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-- Ballots may be signed or stamped as needed throughout the day. Unsigned ballots may not be made available for selection by voters. [Sec. 62.008(c)]

(4) Mix the signed or stamped ballots so that they are not in numerical order. [Sec. 62.009(a)]

(5) Place the mixed ballots face down on the acceptance table(s). [Sec. 62.009(b)]

(6) Set aside a sufficient number of official ballots and stamp or write on each ballot "Provisional" next to the judge's signature. Also set aside a sufficient number of "Notices to Provisional Voter." Alongside these provisional ballots, keep a sufficient number of provisional voter affidavit envelopes.

NOTE: If, before the last voter has voted, the supply of official ballots is exhausted, destroyed, or lost, or if the presiding judge determines that the official ballots are erroneously printed so that they may not be used in the election, the presiding judge should immediately contact the authority responsible for distributing the supplies for the election and obtain additional official ballots for use at the polling place. If official ballots are unavailable, the presiding judge must create emergency ballots himself or herself. The makeshift ballots must contain all of the offices and/or propositions to be voted on, must be numbered consecutively with unique numbers, and must be designed in the same format as the official ballot. [Sec. 52.001(b)] The judge may make copies of sample ballots after blocking out the words "Sample Ballot," number the copies, and provide these copies for voters to mark ballots. It is recommended that the judge indicate, in a memorandum attached to the Register of Official Ballots, if he or she has provided or been provided with ballots other than those initially supplied to the polling place, set forth the circumstances necessitating their use, and record the numbers of the ballots.

f. Placement of the remaining ballot boxes, if paper or precinct optical scan ballots are used in the election.

(1) Lock Ballot Box No. 1 and place it in the area established for depositing voted ballots. [Sec. 62.006]

(2) Place Ballot Box No. 2 in a protected place which is in public view and convenient for the interchange with Ballot Box No. 1. [Sec. 65.003]

-- Ballot Boxes Nos. 1 and 2 are used on a rotating basis for the deposit of ballots by the voters.

-- Each time the ballot boxes are changed, make sure the ballot box replacing the ballot box containing the voted ballots is empty and locked before it is put into place for use by voters.

g. For elections using direct record electronic devices ("DREs"), follow the instructions from the authority conducting the election concerning the placement of DREs and any associated procedures.

h. The presiding judge must secure the polling place if it is left unattended at anytime after the preparation for voting begins. [Sec. 62.001(b)]

SECTION B. POLL WATCHERS

1. A watcher who presents himself or herself at any time on election day with a certificate of appointment must be accepted for service unless the person is ineligible to serve or the number of appointees to which

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the appointing authority is entitled has already been accepted. [Sec. 33.051(c)] To be eligible to serve as a poll watcher, a person must:

-- be a registered voter of the territory covered by the election (of the county for November general elections, primary elections, or other countywide elections); [Sec. 33.031]

-- not be a candidate for public office in an election held on the day the watcher seeks to serve; [Sec. 33.032]

-- not hold an elective public office; [Sec. 33.033]

-- not be an employee of an election judge or clerk serving at the same polling place; [Sec. 33.035]

-- not be finally convicted of an offense in connection with conduct directly attributable to an election; [Sec. 33.035] and

-- not be related within the second degree of consanguinity or affinity (as determined by Tex. Govt. Code, Chapter 573, Subchapter B, Secs. 573.022 - 573.025) to an election judge or clerk serving at that polling place. A watcher may be related to the candidate the watcher is representing. [Sec. 33.033]

A candidate on the ballot, a campaign treasurer of a specific-purpose political action committee in an election on a measure, or a political party in the November general election may appoint up to two watchers per polling place. A write-in candidate whose name appears on the list of declared write-in candidates may also appoint poll watchers, and a group of registered voters may appoint a watcher for an undeclared write-in candidate for elections where declaration is not required. [Secs. 33.002 - 33.005]

2. A poll watcher that serves for more than five continuous hours may serve at the polling place during the hours the watcher chooses, except that if the watcher is present when ballots are counted, the watcher may not leave and return until the counting is complete. [Sec. 33.052]

3. A poll watcher may not be accepted for service if he or she possesses any mechanical or electronic means of recording images or sound. The presiding judge may inquire whether a watcher has possession of any prohibited recording device before accepting the watcher for service. [Sec. 33.051(c)]

4. The poll watcher must present his or her poll watcher's certificate of appointment to the presiding judge when he or she reports for service. [Sec. 33.051(a)]

a. The certificate must be in writing and must include the following: [Sec. 33.006]

(1) Name, residence address, and voter registration number of the poll watcher;

(2) The election and the number of the precinct where the poll watcher is to serve;

(3) The signature of the person(s) making the appointment;

(4) The signature of the poll watcher;

(5) An indication of the capacity in which the appointing authority is acting;

(6) In an election on a measure, an identification of the measure (if more than one is to be voted on) and a statement of which side the appointee represents; and

(7) An affidavit executed by the poll watcher that the poll watcher will not have possession of any mechanical or electronic means of recording images or sound while serving as a watcher.

b. The presiding judge must require the poll watcher to countersign his or her signature on the certificate of appointment and compare and verify the signatures. [Sec. 33.051(b)] The completion of the affidavit in front of the presiding election judge serves as the counter signature.

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NOTE: It is not necessary to notarize a certificate of appointment.

c. The judge must keep the certificate of appointment in Envelope No. 2 for return to the custodian of election records after the election. [Sec. 66.023(7)]

d. If a watcher is not accepted for service, the presiding judge must return the certificate of appointment to the watcher with a signed statement of the reason for the rejection. [Sec. 33.051(e)]

5. Poll watchers are NOT permitted to wear name tags. [Sec. 61.010(a)] An election judge or clerk, inspector, or peace officer shall wear a name tag indicating his or her position, as long as there is no symbol, language, design, color, or other feature of the name tag or badge which could be construed as a position for or against a candidate, party, or measure on the ballot. Wearing an unauthorized name tag or badge within the polling area while on duty is a Class C misdemeanor. [Sec. 61.010]

6. Service, duties, and privileges of poll watchers.

a. A watcher may not leave the polling place while the polls are open and be readmitted unless the watcher has served for five continuous hours.

EXCEPTION: If the watcher is present when ballots are counted, the watcher may not leave and return until the counting is complete. [Sec. 33.052]

b. A watcher must be permitted to observe all election activities performed by the election judge and clerks and to inspect the returns and other records prepared by the election judge and clerks. [Sec. 33.056]

(1) A watcher is entitled to sit or stand conveniently near the election officials conducting the observed activity. [Sec. 33.056(a)]

(2) A watcher is entitled to sit or stand near any member of the counting team to verify that the ballots are read correctly and/or that they are tallied correctly. [Sec. 33.056(b)]

(3) A watcher may make written notes while on duty. However, if the watcher leaves the polling place while the polls are open, he or she may be required to leave his or her written notes with another person selected by the watcher, who is on duty at the polling place. [Sec. 33.056(d)]

c. A watcher may not talk with the judge, clerks, or voters regarding the election while it is in progress, except to point out to an election judge and/or clerk any observed irregularity or violation of the law. [Sec. 33.058]

-- If a watcher points out to an election clerk an occurrence that the watcher believes to be irregular

and the clerk refers the watcher to the presiding judge, the watcher may not discuss the matter further with the clerk unless the presiding judge invites the discussion. [Sec. 33.058]
d. A watcher who asks to accompany the election official who delivers election records must be permitted to do so. [Sec. 33.060(a)]
-- If the delivery is made in a vehicle, it is sufficient to allow the watcher to follow in a different vehicle and to drive in such a manner that the watcher may keep the delivery vehicle in sight. [Sec. 33.060(b)]
e. Preventing a watcher from observing any activity the watcher is entitled to observe is a Class A misdemeanor. [Sec. 33.061]
f. A watcher is not permitted to converse with any voter, or communicate with or signal to any voter in any manner regarding the election. [Sec. 33.058(a)]

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g. A watcher may not watch a voter vote except when a voter is being assisted by election officials. A watcher may not watch a voter vote if the voter is being assisted by a person other than an election official. [Sec. 33.057]

SECTION C. ELECTION INSPECTORS

1. Inspectors are appointed by the Secretary of State and are responsible to the Secretary of State. [Sec. 34.001]
2. An inspector must wear an identifying name tag or badge while on duty at a polling place. [Sec. 61.010(b)]
3. Inspectors must be permitted to observe all election activities performed by the election judges and clerks. [Sec. 34.002]
4. Inspectors are not required to be at the polling place when the polls open or remain in the polling place until the polls close.
5. Inspectors are not required to take an oath administered by the election judge.
6. Inspectors will have identification cards issued by the Secretary of State. The presiding judge should request identification from the inspector. Anyone purporting to be an inspector who cannot produce identification as an inspector should not be permitted in the polling place. Please note that the SOS inspector will be wearing a name tag that will also serve as their identification card.
7. Federal observers may also be appointed under 42 U.S.C.A. § 1973f. These observers will produce appropriate identification. Federal observers must also wear a name badge.

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CHAPTER 2

QUALIFYING THE VOTER

PROCESSING THE VOTER

Open the doors to the polling place at 7:00 a.m. and direct voters to the voter acceptance table. [Sec. 41.031]

- a. An election official at the acceptance table should ask the voter to present a voter registration certificate. [Sec. 63.001(b)]
-- If the voter presents a certificate, the election official should check the effective date on the certificate to determine if the voter is qualified to vote in the election.
 - b. If the voter does not have a registration certificate, then the voter must present identification. [Secs. 63.009, 63.0101] Acceptable forms of identification include:
 - (1) a driver's license or personal identification card issued by the Texas Department of Public Safety or similar documents from other states;
 - (2) a form of identification containing a photograph that establishes a person's identity (such as an employee identification card);
 - (3) a birth certificate or other document confirming birth that is admissible in a court of law and establishes a person's identity;
 - (4) United States citizenship papers;
 - (5) a United States passport;
 - (6) official mail addressed to the person by name from a governmental agency;
 - (7) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or
 - (8) any other form of identification presented by the Secretary of State's office.
- NEW: The entity conducting the election may authorize an election officer to access electronically readable information on a driver's license or personal identification card for proof of identification when determining whether a voter shall be accepted for voting. [Sec. 63.0102]
- c. The election official checks the list of registered voters to see if the voter's name appears on the list. The judge must also determine if the voter voted during the early voting period either by mail or personal appearance. [Sec. 63.001(c)]. See Situations 10 and 11.
 - d. After determining that the voter is registered, the voter must be asked if the residence address on the list of registered voters has changed. An "S" notation by a voter's name means that the voter may have moved. If the voter has moved within the county, or is on the S-list, the voter must sign the Statement of Residence before being permitted to vote. A voter who has moved within the county must vote in their former precinct of residence, according to their "old" registration address.
NOTE: If the election is conducted for a city, school district, or other political subdivision, in addition to residing in the county, the voter must still reside in the city, school district, or other political subdivision in order to be eligible to vote.
 - e. SUMMARY: These are the basic steps that apply to every voter:
 - (1) Ask for voter registration certificate or identification;

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- (2) Check voter registration list for:
 - (a) voter's name;
 - (b) registration status;
 - (c) early voting status;
 - (d) suspense list status (on "S-list"); and
 - (e) ID status
- (3) If not on suspense list, ask voter if the residence address on the list of registered voters has changed.

NOTE: A qualified voter is defined by Section 11.002 as a person who:

- a. Is 18 years of age or older;
- b. Is a citizen of the United States;
- c. Has not been determined mentally incompetent by a final judgment of a court;
- d. Has not been finally convicted of a felony or, if so convicted, has:
 - (1) been fully discharged of any corresponding sentence, including any term of incarceration, parole or supervision, or completed a period of probation ordered by any court; or
 - (2) been pardoned or otherwise released from the resulting disability to vote;
- e. Is a resident of the state; and
- f. Is a registered voter.

At this point, determine which of the situations below applies to the voter and follow the steps outlined after particular situation to process the voter.

SITUATION 1. The Ideal Voter

The voter presents a current voter registration certificate indicating he or she is registered to vote in the precinct and the voter's name appears on the precinct's list of registered voters.

-- Ask the voter if the voter's residence address on the precinct list of registered voters is current and whether the voter has changed residence within the county. [Sec. 63.0011] In an ideal voter situation, the voter's address will be current and the voter will not have changed residence within the county.

-- Stamp "voted" or place some other notation next to the voter's name on the list of registered voters to indicate that the voter has been accepted for voting. [Sec. 63.001(e)]

-- In a primary election, stamp "voted" in the same manner on the second list of registered voters that is to be given to the precinct chair for use at the precinct convention after the polls close. [Sec. 172.1141]

-- In a primary runoff election, only one list of registered voters is used. This list will indicate voters who voted in the first primary of the opposite party. If a voter attempts to vote in a party primary runoff of a different party than the one in which the voter voted in the first primary, the voter is ineligible to vote. A voter becomes affiliated with a political party when the voter votes in that party's primary. A person

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commits an offense if the voter votes or attempts to vote in a primary election after having voted in a primary election of another party during the same voting year. (The voting year is January 1 through December 31.) [Sec. 162.014]

-- The voter is required to sign his or her registration certificate in the appropriate place upon receipt. [Sec. 15.003]

-- Have the voter sign the signature roster or combination form. [Sec. 63.002(b)]

-- If the voter cannot sign his or her name, an election officer shall enter the voter's name with a notation of the reason for the voter's inability to sign the roster. [Sec. 63.002(c)]

-- Legibly enter the name of the voter on the poll list. [Sec. 63.003(c)]

-- If a combination form is not used, the names on the poll list must be entered in the same order as the names on the signature roster. [Sec. 63.003(c)]

-- Stamp the voter's registration certificate with the party affiliation in a primary election. [Sec. 162.004(b)]

-- Return the registration certificate to the voter. [Sec. 63.001(f)]

-- Have the voter pick up a ballot and proceed to the voting area or direct the voter to an available DRE, as appropriate. [Sec. 64.001]

SITUATION 2. No Certificate, But Name on List

The voter does not have a registration certificate, but his or her name appears on the precinct's list of registered voters.

-- The voter must present identification (refer to the list of acceptable identification on page 11) in order to be able to vote. If the voter does not present a voter registration certificate or a form of identification listed on page 11, then the voter may wish to vote a provisional ballot. See Situation 8. [Secs. 63.008(a)(2)]

-- Ask the voter if the voter's residence address on the precinct list of registered voters is current and whether the voter has changed residence within the county. [Sec. 63.0011]

-- If the voter meets the identification requirement, the voter shall be accepted for voting. Stamp "voted" or place some other notation next to the voter's name on the list of registered voters to indicate that the voter has been accepted for voting. [Sec. 63.001(e)]

-- In a primary election, stamp "voted" in the same manner on the second list of registered voters that is to be given to the precinct chair for use at the precinct convention after the polls close. [Sec. 172.1141]

-- In a primary runoff election, only one list of registered voters is used. This list will indicate voters who voted in the first primary of the opposite party. If a voter attempts to vote in a party primary runoff of a different party than the one in which the voter voted in the first primary, the voter is ineligible to vote. A voter becomes affiliated with a political party when the voter votes in that party's primary. A person commits an offense if the voter votes or attempts to vote in a primary election after having voted in a primary election of another party during the same voting year. (The voting year is January 1 through December 31.) [Sec. 162.014]

-- Have the voter complete an affidavit of voter without certificate who is on list. If a combination form is used, have the voter check the box for voter without certificate. [Sec. 63.008]

-- Have the voter sign the signature roster. [Sec. 63.002(b)]

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-- If the voter cannot sign his or her name, an election official shall enter the voter's name with a notation of the reason for the voter's inability to sign the roster. [Sec. 63.002(c)]

-- Legibly enter the name of the voter on the poll list. [Sec. 63.003(c)]

-- If a combination form is not used, the names on the poll list must be entered in the same order as the names on the signature roster. [Sec. 63.003(c)]

-- Give the voter a party affiliation certificate at a primary election. [Sec. 162.004(c)]

NOTE: The party affiliation certificate is not required to be issued to a voter in a runoff primary unless he or she requests it. [Sec. 162.004(c)]

-- Have the voter pick up a ballot and proceed to the voting area or direct the voter to an available DRE, as appropriate. [Sec. 64.001]

SITUATION 3. The Voter Has Moved

The voter has changed his or her residence to a different precinct.

-- The voter must present a voter registration certificate or other proper identification (refer to list of

acceptable identification on page 11) in order to be able to vote. If the voter does not present a voter registration certificate or a form of identification listed on page 11, then the voter may wish to vote a provisional ballot. (See Situation 8.) [Secs. 63.008]

a. Move To Another Precinct Within County (Voter shows up to vote in old precinct): The voter's name and address are the same on both the list of registered voters and the voter registration certificate, but the voter says that he or she has moved within the county or is on the S-list and is no longer a resident of the precinct. [Sec. 11.004]

-- He or she may vote a full ballot in this precinct if:

- (1) He or she completes and signs a Statement of Residence; and
- (2) The voter's present residence is in the territory of the political subdivision holding the election.

NOTE: A registered voter who changes his or her residence to another election precinct within the same county may vote a full ballot in his or her former precinct, if otherwise qualified, regardless of how long ago the voter moved, as long as voter lives in the same political subdivision conducting the election. In primary elections and the November election for state and county officers, the voter must still reside in the county.

b. Move From Another Precinct Within County (Voter shows up to vote in new precinct): The voter's name is not on the list of registered voters and the registration certificate shows that the voter is not registered to vote in the precinct, and, if available, the voter registrar confirms by telephone that the voter is not registered in that precinct.

-- The voter says he or she is a resident of the precinct, but he or she did not transfer his or her registration to the new precinct of residence by the 30th day before the election.

-- The presiding judge must direct the voter to vote in his or her previous precinct if the voter is registered to vote there. If polling location information is available from a computer at the polling place, the election officer shall provide that information to assist voters in finding his or her correct polling place.

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-- If the voter refuses to go to the correct precinct, the election judge must inform the voter of their right to vote a provisional ballot. The election judge will check reason #4 on the Provisional Affidavit Envelope form. (See Situation 8)

c. Move to Another County: A voter who has moved from one county to another may NOT vote on election day in the county of his or her new residence, unless the voter is registered in the new county. If the voter insists on voting in their new county of residence on election day, the election judge must inform them of their right to a provisional ballot.

NOTE: A voter who has moved from one county to another may, under some circumstances, be eligible to vote a limited ballot in the new county of residence before his or her registration in the new county is effective, but voting under this procedure may only be done by personal appearance or by mail during the early voting period. [Sec. 112.001, et seq.] The voter must have been a registered voter in his or her county of former residence when the voter changed residence to be eligible to vote a limited ballot.

d. If the election official determines that a voter has qualified to vote in this precinct, follow the standard procedures for processing the voter.

-- Stamp "voted" or place some other notation next to the voter's name on the list of registered voters to indicate that the voter has been accepted for voting. [Sec. 63.001(e)]

-- In a primary election, stamp "voted" in the same manner on the second list of registered voters that is to be given to the precinct chair for use at the precinct convention after the polls close. [Sec. 172.1141]

-- In a primary runoff election, only one list of registered voters is used. This list will indicate voters who voted in the first primary of the opposite party. If a voter attempts to vote in a party primary runoff of a different party than the one in which the voter voted in the first primary, the voter is ineligible to vote. A voter becomes affiliated with a political party when the voter votes in that party's primary. A voter commits an offense if the voter votes or attempts to vote in a primary election after having voted in a primary election of another party during the same voting year. (The voting year is January 1 through December 31.) [Sec. 162.014]

-- Have the voter sign the signature roster. [Sec. 63.002(b)]

-- If the voter cannot sign his or her name, an election official shall enter the voter's name with a notation of the reason for the voter's inability to sign the roster. [Sec. 63.002(c)]

-- The voter is required to sign his or her registration certificate in the appropriate place upon receipt. [Sec. 15.003]

-- Legibly enter the name of the voter on the poll list (a typewriter may also be used). [Sec. 63.003(c)]

-- If a combination form is not used, the names on the poll list must be entered in the same order as the names on the signature roster. [Sec. 63.003(c)]

-- Stamp the voter's registration certificate, if available, with the party affiliation in a primary election. Otherwise, give voter a certificate of party affiliation. [Sec. 162.004(b)]

-- Return the registration certificate to the voter. [Sec. 63.001(f)]

-- Have the voter pick up a ballot and proceed to the voting area or direct the voter to an available DRE, as appropriate. [Sec. 64.001]

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SITUATION 4. First Time Voter Who Has Not Been Issued

A Texas Driver's License or Social Security Number

NOTE: Those voters who register to vote by mail and who have not been issued a Texas driver's license or personal ID number or a social security number, must provide identification when they present themselves for voting.

The annotation "ID" appears next to the voter's name on the list of registered voters. "ID" indicates that the voter has registered to vote for the first time in this county and did not provide a driver's license or personal number or the last four digits of their social security number on the voter's application to register to vote. [13.122(d) and 18.005(a)(4)]

a. The voter must present identification before the voter may be accepted for voting. Acceptable forms of identification are listed on page 11. [Sec. 13.122(d)]

b. The voter's registration certificate is not sufficient identification for a first time voter. [Secs. 13.122(c) and 63.0101]

c. If the first time voter does not present acceptable identification, then the voter may wish to vote a provisional ballot, but should be warned that the ballot will not be counted since the voter did not present ID as required. (See Situation 8.) [Sec. 63.011]

d. If the first time voter presents acceptable identification, then follow the standard procedures for processing a voter.

- Stamp "voted" or place some other notation next to the voter's name on the list of registered voters to indicate that the voter has been accepted for voting. [Sec. 63.001(e)]
- In a primary election, stamp "voted" in the same manner on the second list of registered voters that is to be given to the precinct chair for use at the precinct convention after the polls close. [Sec. 172.1141]
- In a primary runoff election, only one list of registered voters is used. This list will indicate voters who voted in the first primary of the opposite party. If a voter attempts to vote in a party primary runoff of a different party than the one in which the voter voted in the first primary, the voter is ineligible to vote. A voter becomes affiliated with a political party when the voter votes in that party's primary. A voter commits an offense if the voter votes or attempts to vote in a primary election after having voted in a primary election of another party during the same voting year. (The voting year is January 1 through December 31.) [Sec. 162.014]
- Have the voter sign the signature roster. [Sec. 63.002(b)]
- If the voter cannot sign his or her name, an election official shall enter the voter's name with a notation of the reason for the voter's inability to sign the roster. [Sec. 63.002(c)]
- The voter is required to sign his or her registration certificate in the appropriate place upon receipt. [Sec. 15.003]
- Legibly enter the name of the voter on the poll list (a typewriter may also be used). [Sec. 63.003(c)]
- Legibly enter the name of the voter on the List of First Time Voters.
- If a combination form is not used, the names on the poll list must be entered in the same order as the names on the signature roster. [Sec. 63.003(c)]

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- Stamp the voter's registration certificate, if available, with the party affiliation in a primary election. Otherwise, give voter a certificate of party affiliation. [Sec. 162.004(b)]
- Return the registration certificate to the voter. [Sec. 63.001(f)]
- Have the voter pick up a ballot and proceed to the voting area or direct the voter to an available DRE, as appropriate. [Sec. 64.001]

SITUATION 5. Expired Voter Registration Certificate

The voter presents an expired certificate.

- The voter must present identification (refer to the list of acceptable identification on page 11) in order to be able to vote. [Secs. 63.008, 63.009(a)] Because the expired certificate is a government mailing to the voter, it may be used as a form of identification.
- Check to see if the voter's name appears on the list of registered voters. If it does not, follow the procedures in Situation 8.
- If the voter's name does appear on the list of registered voters, ask the voter if the voter's residence address on the precinct list of registered voters is current and whether the voter has changed residence within the county. [Sec. 63.0011]
- (a) If an "S" notation appears next to the voter's name on the list of registered voters and/or the voter has indicated he or she has moved but is a resident of the county, have the voter complete and sign a Statement of Residence. [Secs. 15.112, 63.0011]

NOTE: If a political subdivision is a unit other than the county, the voter must reside in the political subdivision served by the authority ordering the election. In a less-than-countywide election ordered by the governor or a county authority, the voter must reside in the territory covered by the election.

- Stamp "voted" or place some other notation next to the voter's name on the list of registered voters to indicate that the voter has been accepted for voting. [Sec. 63.001(e)]
- In a primary election, stamp "voted" in the same manner on the second list of registered voters that is to be given to the precinct chair for use at the precinct convention after the polls close. [Sec. 172.1141]
- In a primary runoff election, only one list of registered voters is used. This list will indicate voters who voted in the first primary of the opposite party. If a voter attempts to vote in a party primary runoff of a different primary than the one in which the voter voted in the first primary, the voter is ineligible to vote. A voter becomes affiliated with a political party when the voter votes in that party's primary. A voter commits an offense if the voter votes or attempts to vote in a primary election after having voted in a primary election of another party during the same voting year. (The voting year is January 1 through December 31.) [Sec. 162.014]
- Have the voter sign the signature roster. [Sec. 63.002(b)]
- If the voter cannot sign his or her name, an election official shall enter the voter's name with a notation of the reason for the voter's inability to sign the roster. [Sec. 63.002(c)]
- Legibly enter the name of the voter on the poll list. [Sec. 63.003(c)]

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- If a combination form is not used, the names on the poll list must be entered in the same order as the names on the signature roster. [Sec. 63.003(c)]
- Give the voter a party affiliation certificate in a primary election. [Sec. 162.004(c)]

NOTE: The party affiliation certificate is not required to be issued to a voter in a runoff primary election unless the voter requests it. [Sec. 162.004(c)]

- Return the voter's expired certificate to him or her. [Sec. 63.001(f)]
- Have the voter pick up a ballot and proceed to the voting area or direct the voter to an available DRE, as appropriate. [Sec. 64.001]
- (b) If the voter's name appears on the list of registered voters with an "S" notation beside his or her name and the voter is not a resident of the county.
- The voter may not vote in a county or political subdivision of which he or she is not a resident. [Sec. 11.001(2)]

-- The voter must register to vote in the county of residence and vote in the political subdivision of which he or she is a resident. [Secs. 11.001, 11.002]

SITUATION 6. The Voter Presents a Valid Certificate, But the Voter's Name Is Not On the List of Registered Voters

The voter presents a current registration certificate indicating he or she is eligible to vote in the precinct in which the voter is offering to vote, but his or her name does not appear on the precinct's list of registered voters. If possible, contact the voter registrar to determine if the voter's registration has been cancelled for some reason. Check the precinct number on the certificate to ensure the voter is in the proper precinct. Check the address on the certificate to ensure that the address is located in the precinct. If the voter registrar does not verify the registration status of the voter by phone, the voter must vote a provisional ballot. (See Situation 8). If the voter registrar is contacted and verifies the voter should be on the list in the precinct where the voter is offering to vote, proceed as follows:

-- Ask the voter whether he or she has changed residence within the county. If the voter has moved, but is still a resident of the county, have the voter complete and sign a Statement of Residence. [Secs. 15.112, 63.0011]

-- Enter the voter's name, address, and certificate number indicated on the certificate on the registration omissions list (and on the second list of registered voters in a general primary election) and indicate there that the voter was accepted under Section 63.006. [Secs. 63.005(b), 63.006(a)]

-- Have the voter sign the signature roster. [Sec. 63.002(b)]

-- If the voter cannot sign his or her name, an election official shall enter the voter's name with a notation of the reason for the voter's inability to sign the roster. [Sec. 63.002(c)]

-- The voter is required to sign his or her registration certificate in the appropriate place upon receipt. [Sec. 15.003]

-- Legibly enter the name of the voter on the poll list and indicate there that the voter was accepted under Section 63.006. [Secs. 63.003(c), 63.006(b)]

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-- If a combination form is not used, the names on the poll list must be entered in the same order as the names on the signature roster. [Sec. 63.003(c)]

-- Stamp the voter's registration certificate, if available, with the party affiliation in a primary election. Otherwise, give voter a certificate of party affiliation. [Sec. 162.004(b)]

-- Return the registration certificate to the voter. [Sec. 63.001(f)]

-- Have the voter pick up a ballot and proceed to the voting area or direct the voter to an available DRE, as appropriate. [Sec. 64.001]

SITUATION 7. Incorrect Precinct Number

The voter's registered residence address on the certificate does not match the precinct number on the certificate. As a result, either (a) the voter is at the polling place indicated on their voter registration certificate, but registration residence address in a different precinct, or (b) the voter is at the polling place that matches the residence address but is not on the list because the certificate number is incorrect.

-- First, determine the registered residence address. Then see which of the following apply:

a. The precinct number on the certificate matches the precinct in which the voter attempts to vote, but the registered residence address is not in the precinct.

-- If the residence address under which the voter is registered to vote is not within the precinct, the voter is not eligible to vote in that precinct and should be sent to the correct precinct polling place. [Sec. 63.0011] If the voter insists on voting in the wrong precinct, the election judge must inform the voter of his or her right to vote a provisional ballot. If polling location information is available from a computer at the polling place, the election officer shall provide that information to assist voters in finding their correct polling place.

b. The registered address is within the precinct, but the precinct number on the certificate is wrong and the voter is not on the list.

NOTE: If the voter has moved within the county or is on the S-list, follow the procedures in Situation 3.

-- Have the voter complete an affidavit of voter with incorrect certificate who is not on the list. [Sec. 63.007(a)] This affidavit is used only when the precinct number is incorrect. If other information is incorrect, tell the voter to correct it on the back of the certificate, sign it, and return it to the voter registrar. The voter registrar will then mail the voter a corrected certificate.

-- Enter the voter's name, address, and certificate number indicated on the certificate on the registration omissions list (and on the second list of registered voters in a general primary election) and indicate there that the voter was accepted under Section 63.007. [Secs. 63.005(b), 63.007(b)(2)]

-- Have the voter sign the signature roster. [Sec. 63.002(b)]

-- If a voter is unable to sign his or her name, an election official shall enter the voter's name with a notation of the reason for the voter's inability to sign the roster. [Sec. 63.002(c)]

-- The voter is required to sign his or her registration certificate in the appropriate place upon receipt. [Sec. 15.003]

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-- Legibly enter the name of the voter on the poll list and indicate there that the voter was accepted under Section 63.007. [Secs. 63.003(c), 63.007(b)(1)]

-- If a combination form is not used, the names on the poll list must be entered in the same order as the names on the signature roster. [Sec. 63.003(c)]

-- Stamp the voter's registration certificate, if available, with the party affiliation in a primary election. Otherwise, give voter a certificate of party affiliation. [Sec. 162.004(b)]

-- Return the registration certificate to the voter. [Sec. 63.001(f)]

-- Have the voter pick up a ballot and proceed to the voting area or direct the voter to an available DRE, as appropriate. [Sec. 64.001]

The voter has no certificate or other identification or his or her name does not appear on the list of registered voters.

SECTION A. VOTER WITH NO EVIDENCE OF REGISTRATION

-- The voter must be asked to present identification (refer to the list of acceptable identification on page 11. [Secs. 63.008, 63.009(a)] If the voter has no identification, he or she is still eligible to vote a

provisional ballot, but the ballot will not be counted if the provisional voter presents no identification. [1 TAC 81.172]

-- When the voter's name does not appear on the list, a voter must complete a provisional voter affidavit, which states the facts necessary to support the voter's eligibility to vote. (See SECTION B for the provisional affidavit procedures.) The provisional affidavit procedure is not necessary if the registrar can confirm by telephone that the voter is registered. See below. [Sec. 63.009(a)]

-- If an election official can determine from the voter registrar that the voter is a registered voter of the county (usually by telephone), and the voter has proper identification, the voter must be accepted for voting and the provisional ballot affidavit procedure is not needed. In this case, the following affidavits in sections (a) and (b) below should be completed in lieu of the provisional voter affidavit. [Sec. 63.009(b)] [Note: The affidavits to be used in sections (a) and (b) below do not fit the situation exactly as described by the title of the affidavits; however, they are the affidavits required to be used by Section 63.009(b).]

(a) Affidavit of voter with incorrect certificate who is not on the list, which should state that the voter [Sec. 63.007]:

(1) is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct;

(2) was a resident of the precinct in which he is offering to vote at the time that information on the voter's residence address was last provided to the voter registrar;

(3) did not deliberately provide false information to secure registration in a precinct in which the voter does not reside; and

(4) is voting only once in the election.

(b) Affidavit of voter without certificate who is on list. This affidavit should state that the voter does not have a voter registration certificate in the voter's possession at the polling place at the time of offering to vote. [Sec. 63.008]

SITUATION 8. Provisional Voter

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(c) After the voter is accepted under this section, an election officer shall:

(1) make a notation that the voter was accepted under Section 63.009 next to the voter's name on the poll list. [Sec. 63.009]

(2) Enter the voter's name, address, and certificate number indicated on the certificate on the registration omissions list (and on the second list of registered voters in a general primary election), and indicate there that the voter was accepted under Section 63.009(b).

-- Have the voter sign the signature roster. [Sec. 63.002(b)]

-- If the voter cannot sign his or her name, an election official shall enter the voter's name with a notation of the reason for the voter's inability to sign the roster. [Sec. 63.002(c)]

-- Legibly enter the name of the voter on the poll list. [Sec. 63.003(c)]

-- If a combination form is not used, the names on the poll list must be entered in the same order as the names on the signature roster. [Sec. 63.003(c)]

-- If the voter votes a provisional ballot, check the column labeled "Provisional" besides the voter's name on the poll list. [Sec. 63.011(d)] Also, enter the voter's name on the List of Provisional Voters. If the voter votes by using an affidavit listed under sections (a) or (b) above, indicate beside the voter's name on the poll list that the voter was accepted pursuant to Section 63.009. [Sec. 63.009(b)] See Section B for procedure.

-- Give the voter a party affiliation certificate at a primary election. [Sec. 162.004(c)]

NOTE: The party affiliation certificate is not required to be issued to a voter in a runoff primary election unless he or she requests it. [Sec. 162.004(c)]

-- Have the voter pick up a ballot marked "provisional" or direct the voter to the DRE designated for the provisional voter, as appropriate.

-- Have the voter pick up a ballot and proceed to the voting area. [Sec. 64.001]

SECTION B. PROVISIONAL VOTER [Sec. 63.010; T.A.C. §§ 81.172 - 81.174]

1. The following individuals are eligible to vote a provisional ballot, in which case a Provisional Voter Affidavit Envelope must be completed: [Sec. 63.010]

(a) An individual who claims to be properly registered and eligible to vote, but whose name does not appear on the list of registered voters and whose registration cannot be determined by the voter registrar; or

(b) An individual who is designated as a first time voter on the list of registered voters, but who is unable to produce the required identification; or

(c) An individual who has applied for a ballot by mail, but has not returned the ballot by mail or cancelled the ballot with the main early voting clerk; or

(d) An individual who votes during extended polling hours ordered by a state or federal court; or

(e) A voter who is registered to vote, but is attempting to vote in a precinct other than the precinct in which the voter is registered; or

(f) An individual who is required to present a form of identification on page 11 because the individual did not present a voter registration certificate; or

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(g) A voter who is registered in the precinct but whose registered residence address is not located in the political subdivision conducting the election.

(h) A voter who voted in another party's primary.

2. If a voter is eligible to vote a provisional ballot, the presiding judge must immediately inform the voter of his or her right to cast a provisional ballot. [1 T.A.C. §§ 81.172-81.74]

3. If the voter's name does not appear on the list of registered voters and the voter claims to be a registered voter, the presiding judge shall call the voter registrar to determine if the voter is registered (if a phone is available in the polling place). If the voter is in fact registered in the precinct, follow procedures in Situation 2. If the voter is registered in another precinct, advise the voter of the correct polling place.

4. The presiding judge must also inform the voter that the voter's provisional ballot will not be counted if the voter is registered in a different precinct or if there is an indication on the list of registered voters that the voter has voted by mail. [1 T.A.C. §§ 81.172-81.74]

5. The presiding judge shall request that the voter present proof of identification (refer to list of acceptable identification on page 11). If the voter has no identification, he or she may still be permitted to vote a provisional ballot, but the presiding judge must inform the provisional voter that the provisional ballot will

not be counted. [1 T.A.C. §§ 81.172-81.74]

6. Prior to casting a provisional ballot, the voter must sign an affidavit on the provisional ballot envelope. The presiding judge must inform the voter to complete and sign the affidavit. [1 T.A.C. §§ 81.172-81.74]

7. The presiding judge shall enter the provisional voter's name on the List of Provisional Voters. [1 T.A.C. §§ 81.172-81.74]

8. The presiding judge shall add the name of provisional voter to the poll list and check the column labeled "Provisional." [1 T.A.C. §§ 81.172-81.74]

9. Have the provisional voter sign the signature roster. [1 T.A.C. §§ 81.172-81.74]

10. The presiding judge shall check the reason under which the voter voted provisionally on the provisional affidavit envelope. The presiding judge must check one of the following reasons:

(a) Voter not on list of registered voters, voter registrar could not be reached;

(b) Voter not on list of registered voters and could not be verified by voter registrar;

(c) Voter not on list of registered voters and presented no identification;

(d) Voter not on list, registered in another precinct;

(e) Voter on list of registered voters, but did not provide voter registration certificate or other form of identification;

(f) Voter on list of persons who voted early by mail, voter says he/she did not apply for or return ballot, and refuses to cancel ballot with the early voting clerk;

(g) Voting after 7:00 p.m. due to court order;

(h) Voter on list, but registered residence address outside the political subdivision;

(i) Voter voted in another party's primary; or

(j) Other: _____ (please explain) .

11. The presiding judge shall sign the provisional ballot envelope. [1 T.A.C. §§ 81.172-81.74]

12. The presiding judge shall direct the voter to choose a ballot from a stack of official ballots stamped or marked "provisional" or shall direct the voter to a DRE designated for the provisional voter, as appropriate. [1 T.A.C. §§ 81.172-81.74]

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13. The presiding judge shall direct the voter to place the voted provisional ballot into the white secrecy envelope, and then into the provisional ballot envelope. The presiding judge must inform the voter that any provisional ballots placed into the ballot box that are not sealed in a provisional ballot envelope will not be counted. If DREs are not used, then this step does not apply. [1 T.A.C. §§ 81.172-81.74]

14. The presiding judge shall give the voter the "Notice to Provisional Voter" form, which explains that the voter will receive notice in the mail informing the voter about whether the provisional ballot was counted. [1 TAC 81.172]

15. The voter deposits the provisional ballot sealed in the provisional ballot envelope into the ballot box number 1 or other authorized container or votes directly on a DRE, as appropriate.

NOTE: If a state or federal judge orders the polls to remain open after 7 p.m., all voters who vote during the extended hours must vote a provisional ballot in the manner described above, regardless if they are on the list of registered voters.

The voter has no certificate and no identification but his or her name appears on the precinct's list of registered voters.

-- The voter must present identification in order to be able to vote (refer to the list of acceptable identification on page 11).

-- If the voter fails to present the required proof of identification, or the presiding judge cannot verify the voter's identity from the proof presented, the voter may wish to vote a provisional ballot. (See Situation 8.)

If a voter whose name appears on the precinct list of early voters who had been sent an early voting ballot by mail presents himself or herself for voting at the polling place, the election official may not allow the voter to vote until the voter has cancelled his or her mail ballot application. The voter may cancel his or her application to vote by mail at the polling place if the voter surrenders his or her mail ballot to the presiding judge. [Sec. 84.032] If the voter never received the mail ballot, then the election official should direct the voter to contact the early voting clerk and to complete the procedures with the clerk for canceling his or her early voting mail ballot application before returning to vote. [Sec. 84.031(b)]

-- To cancel an application to vote by mail at the polling place, the voter must complete the "Request to Cancel Application to Vote by Mail" and surrender his or her mail ballot to the election official. The presiding election judge must review the request and write "CANCELLED" on the returned ballot. The judge should place the cancelled ballot and the request in the envelope for cancelled applications. If the voter's request to cancel does not comply, the election judge must state on the request the reason it was denied and place the request in the envelope for requests of cancelled applications. The judge must then deposit the envelope in Ballot Box No. 4 or other container approved by the Secretary of State prior to delivering the box to the general custodian of election records.

-- If the voter insists they did not apply, receive, or vote a ballot by mail and insist on voting at the polling place, the election judge must inform the voter of their right to vote a provisional ballot. (See Section B. Provisional Voter)

SITUATION 9. No Certificate, No Identification, But Name On List

SITUATION 10. Early Voting - Cancellation

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Additionally, if a voter whose name appears on the precinct list of early voters who had been sent an early voting ballot by mail presents himself or herself for voting at the polling place, the election official may allow the voter to vote if the voter presents a "Notice of Defective Delivery". This form indicates that the voter attempted to vote by mail and the mail ballot was rejected because it was delivered to the early voting clerk improperly. If the voter presents you with the Notice, you should qualify the voter and allow him or her to vote in the normal manner. The Notice itself is placed in Envelope No. 2 and returned to the general custodian of election records. [Sec. 86.006(h)]

SITUATION 11. Early Voting - Notice of Defective Delivery

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CHAPTER 3

VOTING

The voter must be allowed to cast his or her vote in a voting booth that provides privacy for him or her while

marking his or her ballot. [Sec. 51.032]

SECTION A. PERSONS ALLOWED INSIDE THE POLLING PLACE

1. Election judge and clerks. [Secs. 32.071, 32.072]
2. Poll watchers and inspectors. [Secs. 33.052, 34.002]
3. Officers specially appointed to assist in running student elections. [Sec. 276.007]
4. Peace officers summoned or appointed by the presiding judge to preserve order. [Sec. 33.075]
5. Persons admitted to vote. [Sec. 63.001]
6. Children under 18 years old who are accompanying a parent who is admitted to vote. [Sec. 64.002(b)]
7. Persons admitted to provide assistance to or to interpret for a voter who is entitled to assistance or to an interpreter. [Secs. 61.032, 64.032(c), and 42 U.S.C.A. § 1973aa-6.]
8. Secretary of State and Staff. [Sec. 34.004]
9. Federal Observers. [Voting Rights Act, 42 U.S.C.A., Sec. 1973(f)]
10. Persons accompanying disabled voter (curbside voting). [Sec. 64.009]
11. Election staff people delivering necessary supplies. [Sec. 51.004]
12. Sheriff delivering election supplies. [Sec. 51.009]
13. Student participating in student election. [Sec. 276.007]

NOTE: No one may be permitted to be inside the polling place unless specifically authorized by law. [Sec. 61.001] Election officials (other than the precinct election judge and clerks), party officials, or members of the media are not permitted to be in the polling place unless they are voting or fall into one of the other groups of persons listed above, who are permitted to be in the polling place. Loitering within 100 feet of an outside door through which a voter may enter during the voting period is prohibited. [Sec. 61.003]

It is a Class C misdemeanor for a candidate to be present in a polling place during early voting or on election day, unless the candidate is voting, assisting a voter, or conducting official business within the building in which the polling place is located. If the candidate is not in the building for one of these reasons, they will not violate the section if they are not engaged in campaign activity, and are not within plain view or hearing of persons waiting to vote or persons voting. [Sec. 61.001]

SECTION B. GENERAL INSTRUCTIONS TO A VOTER

1. Any voter may ask any election official for information on voting procedures within the polling place or on how to prepare the ballot. [Sec. 61.009]
2. The voter should be cautioned that the use of any other voting equipment and/or markers not provided by the election officials may warrant his or her ballot invalid, except when write-in votes are permitted.

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3. Election officials should provide required information in such a way as not to suggest by word, sign, or gesture how the voter should vote. A person commits a Class B misdemeanor offense if he or she knowingly suggests to a voter how to vote. [Sec. 61.008]
4. Poll watchers and inspectors are allowed to observe any instructions given by election officials. [Secs. 33.056(a), 34.002(a)]

SECTION C. RENDERING ASSISTANCE TO A VOTER

1. Voters who are eligible for assistance.
 - a. Any voter who is physically unable to mark his or her ballot. [Sec. 64.031, 42 U.S.C.A. § 1973aa-6]
 - b. Any voter who cannot read the ballot. [Sec. 64.031, 42 U.S.C.A. § 1973aa-6]
2. Manner of rendering assistance.
 - a. A voter entitled to assistance may choose any person as his or her assistant except the voter's employer, or agent of that employer, or officer or agent of the voter's union. [Sec. 64.032(c); 42 U.S.C.A. § 1973aa-6] Such person must be permitted to serve as an assistant regardless of:
 - The fact that that person has already assisted another voter;
 - The residence of that person;
 - The citizenship of that person;
 - The voter registration status of that person; or
 - The age of that person.
 - (1) No other person except for the person rendering assistance is permitted to be present while the voter prepares his or her ballot. [Secs. 33.057(b), 34.002(b), 64.002, 64.032]
 - (2) The person who is to provide assistance must first take an oath of assistance administered by one of the election officials. [Sec. 64.034]

"I swear (or affirm) that I will not suggest, by word, sign, or gesture, how the voter should vote; I will confine my assistance to answering the voter's questions, to stating propositions on the ballot, and to naming candidates and, if listed, their political parties; and I will prepare the voter's ballot as the voter directs."
 - (3) The name and address of the person rendering assistance must be entered next to the voter's name on the poll list. However, the name and address of election officials assisting voters do not have to be recorded on the poll list. [Sec. 64.032(d)]
 - (4) An election official must ask the voter if he or she wants to have the entire ballot read, and if he or she does, the official must instruct the person who is rendering assistance to read the entire ballot to the voter. [Sec. 64.033(b)]
- b. Definition of Assistance: [Sec. 64.0321]
 - (1) reading the ballot to the voter;
 - (2) directing the voter to read the ballot;
 - (3) marking the voter's ballot; or
 - (4) directing the voter to mark the ballot.

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- c. A voter who is eligible for assistance but who does not choose a person to assist him or her may receive assistance from two election officials. [Sec. 64.032(a)]
 - (1) These election officials must be administered an oath of assistance before rendering assistance. Election officials only have to take the oath once, and it can be administered along with the oaths of election officers at the beginning of the day. [Sec. 64.034]

"I swear (or affirm) that I will not suggest, by word, sign, or gesture, how the voter should vote; I will confine my assistance to answering the voter's questions, to stating propositions on the ballot, and to naming candidates and, if listed, their political parties; and I will prepare the

voter's ballot as the voter directs."

(2) When two election officials assist a voter, the entire ballot must be read to the voter unless the voter tells the officials that he or she desires to vote only on certain offices or measures. [Sec. 64.033(a)]

(3) Poll watchers and inspectors can observe the assistance rendered by election officials, and a watcher may inspect the ballot before it is deposited in the ballot box to determine if it was prepared in accordance with the voter's wishes. [Secs. 33.057(a), 34.002]

(5) If the election is a November general election, each election official providing assistance must be of a different political party unless there are not two or more officials serving the polling place aligned with different parties. [Sec. 64.032(b)]

NOTE: It is recommended that one of the two election officials rendering assistance be the presiding judge.

d. Curbside voting.

(1) If a voter is physically unable to enter the polling place without assistance or likelihood of injury to his or her health, one election official may deliver a ballot to the voter at the entrance or curb of the polling place. [Sec. 64.009(a)]

-- Poll watchers and inspectors must be allowed to accompany the election official. [Secs. 33.056(a), 34.002(a)]

-- The voter must be qualified by the election official before the voter can receive the ballot. [Sec. 64.009(b) and (c)]

-- Once the voter has marked his or her ballot, the election official casts the ballot for the voter. [Sec. 64.009(c)]

NOTE: On the voter's request, a person accompanying the voter to the polling place must be permitted to select the voter's ballot and to deposit the ballot in the ballot box after the voter has voted. [Sec. 64.009(d)]

(2) If the voter is not only physically unable to enter the polling place, but is also eligible for voter assistance in marking his or her ballot:

-- Two election officials may assist the voter; [Sec. 64.032(a)] or

-- The voter may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union. [Sec. 64.032(c); 42 U.S.C.A. 1973aa-6]

SECTION D. USING ENGLISH AND INTERPRETERS

1. All election officials, while on duty at the polling place, must use English, except when helping a voter who does not understand English. Whenever English is not used either by a voter or by an election official, any

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other election official or a poll watcher, upon request, must receive an English translation of anything spoken. [Secs. 61.031, 61.036]

2. If a voter cannot communicate in English, an election official may communicate with the voter in a language the official and the voter understand. [Sec. 61.031(b)]

3. An interpreter may be used when the voter and the election official(s) attending to the voter cannot speak the same language. [Sec. 61.032]

a. The voter may select an interpreter who must be a registered voter of the county. [Sec. 61.033]

(1) An interpreter may interpret for any number of voters.

(2) For each voter, the interpreter must take the oath of interpreter. [Sec. 61.035]

b. The interpreter may be a person provided by the authority conducting the election. However, even if an interpreter is provided, a voter may use an interpreter of his or her own choosing. [Sec. 61.032]

4. If no interpreter is available at the polling place, the authority responsible for appointing the election judge may have appointed a bilingual clerk to serve at a central location to provide assistance for Spanishspeaking voters. [Sec. 272.009]

NOTE: In a primary election, the county chairs of each party holding the primary shall each appoint one bilingual clerk to serve at a central location. [Sec. 272.009(b)]

SECTION E. MISCELLANEOUS PROVISIONS

Written Communication

Written communications are allowed to be used by voters inside the polling place. Election officials must periodically check each voting station and common areas of the polling place for sample ballots or other written materials pertaining to the election that may have been discarded by previous voters. [Sec. 61.011]

Electioneering and Loitering

It is unlawful for any person to do any electioneering or loitering within the boundary established by the distance markers. An offense is a Class C misdemeanor. [Secs. 61.003]

1. It is the duty of the presiding judge to prevent unlawful electioneering or loitering. [Sec. 32.075(a)]

2. A special peace officer may be appointed by the presiding judge to preserve order. [Sec. 32.075(b)]

3. Approval of the appointment of the special peace officer by the presiding officer of the local canvassing authority is needed before this officer can enforce electioneering and loitering laws. [Sec. 32.075(b)]

NOTE: Our office has interpreted that exit polling without electioneering is permissible outside the polling place but within the distance markers. However, the judge has discretion to tell persons conducting exit polls to go outside the distance markers if their activities are disruptive to voters.

4. Election judges, clerks, state or federal election inspectors, and peace officers must wear name tags or official badges while on duty to indicate the person's name and title or position. [Sec. 61.010(b)] The tags should be in your election kit. If you do not have tags, you may create your own. Please note that poll watchers are not allowed to wear name tags.

Except for the individuals listed above, a person may not wear a badge, insignia, emblem, or other similar communicative device relating to a candidate, measure, or political party appearing on the ballot, or to the conduct of the election, in the polling place or within 100 feet of any outside door

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through which a voter may enter the building in which the polling place is located. Therefore, election judges and clerks, federal and state inspectors, and peace officers are the only persons allowed to wear a badge. Wearing an unauthorized name tag or badge within the polling area is a Class C misdemeanor. [Sec. 61.010]

Revealing Information

1. It is unlawful for any person connected with the conduct of the election to reveal any of the following information while the polls are open:

-- The names of voters who have or have not voted in the election. [Sec. 61.007(a)(4)]

-- The number of votes cast that have been received by individual candidates and/or for or against propositions. [Sec. 61.007(a)(1)]

-- A candidate's position relative to other candidate's in the tabulation of the votes or whether a measure is passing or failing. [Sec. 61.007(a)(2) and (3)]

2. Election judges are required to post information about the number of voters who have voted at two-hour intervals beginning at 9:30 a.m. and running through 5:30 p.m. The notice is posted next to the entrance to the polling place. [Sec. 61.007(c)]

Influencing a Voter

1. No election official or person connected with the conduct of the election should indicate by sign, symbol, word, or writing to any citizen how he or she shall or should not vote. [Sec. 61.008] This includes:

-- interpreters;

-- assistants; [Sec. 64.034]

-- poll watchers; and [Sec. 33.058(a)]

-- inspectors.

2. An offense under this section is a Class B misdemeanor. [Sec. 61.008(b)]

Unlawful Use of a Sound Amplification Device

It is unlawful for a person to use any sound amplification device (e.g., loudspeaker) within 1,000 feet of the polling place.

SECTION F. CASTING THE BALLOT

1. A voter who makes a mistake while marking his or her ballot may take the spoiled ballot to an election official and exchange it for a new ballot. [Sec. 64.007(a)]

NOTE: A voter is not entitled to receive more than three ballots using this procedure. [Sec. 64.007(b)]

2. The election official shall put the name of the voter and the ballot number on the register of spoiled ballot indicate on the ballot it is spoiled, and place the spoiled ballot in Ballot Box No. 4.

3. After the voter has prepared his or her ballot, the voter is to fold the ballot in such a way that the back of ballot, which contains the presiding judge's signature, is exposed. [Sec. 64.008]

4. The voter is to deposit the folded ballot into the ballot box provided for the deposit of voted ballots and leave the polling place. [Sec. 64.008]

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CHAPTER 4

EXAMINING, PREPARING, AND COUNTING VOTED BALLOTS

SECTION A. PROCEDURES FOR COUNTING OPTICAL SCAN BALLOTS, INCLUDING WRITE-IN

BALLOTS, AT POLLING PLACE USING PRECINCT BALLOT COUNTERS

1. After the polls close, the election judge must close the precinct ballot counter machine and secure it so that no additional ballots may be deposited.

2. The election judge must produce five copies of the election returns from the machine.

3. After the returns have been produced, the election judge must secure the machine with lock and seal.

4. If votes are accumulated at a central counting station, the election judge must remove the prom pack (device which stores the election totals) from the machine and place one copy of the returns and the prom pack into the appropriate envelope. The election judge must seal the envelope and sign across the seal. One election official and at least one poll watcher, if applicable, must sign the envelope. See Chapter 5, Section D.

5. (a) The counted ballots must first be reviewed for irregularly marked ballots after tabulation. If the election officials reviewing the ballots discover more than one irregularly marked ballot that the tabulator could not accurately tabulate, then the election officials must separate all the irregularly marked ballots from the others, and bring all the ballots to the central counting station, where the irregularly marked ballots must be duplicated. The duplicated ballots must then be substituted for the original ballots and automatically counted with the rest of the ballots at the central counting station.

(b) If one ballot has been irregularly-marked, then that ballot must be placed in an envelope prescribed by the Secretary of State and delivered to the central counting station. The election officials at central count must examine this irregularly-marked ballot and make adjustments to the totals certified by the precinct election judge to indicate the intent of the voter. The election results for this precinct are then manually entered into the election processing system. The envelope containing the irregularly-marked ballot must be placed in the ballot box with the regularly-marked ballots and preserved for the preservation period. [Sec. 127.157]

(c) Below are examples of irregularly-marked ballots:

Candidates for

PARTY A

PARTY B

PARTY C

INDEPENDENT

WRITE-IN

First Office

Candidate

Candidate

Candidate

Candidate

Second Office *

Candidate

Candidate

Candidate

Third Office *

Candidate

Candidate

Candidate

Fourth Office *
Candidate
Candidate
Fifth Office *
Candidate
Sixth Office *
Candidate
Seventh Office *
Candidate
Candidate
Eighth Office *
Candidate
Candidate
Candidate
Etc.

Example 1. Illustration of the scratch method.
(The asterisks indicate the candidates for whom the ballot is counted.)

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Candidates for PARTY A
PARTY B
PARTY C
INDEPENDENT
WRITE-IN
First Office Candidate
Candidate Candidate
Candidate

Second Office Candidate Candidate
Candidate

Third Office
Candidate Candidate Candidate * Joe Doe
Fourth Office Candidate Candidate
Fifth Office Candidate Candidate
Sixth Office
Candidate Candidate Candidate
Seventh Office Candidate Candidate
Eighth Office Candidate Candidate
Candidate
Etc.

Example 2. Illustration of lack of knowledge of intent of voter.
(No portion of this ballot is counted.)

Candidates for
PARTY A PARTY B
PARTY C
INDEPENDENT
WRITE-IN
First Office
Candidate *
Candidate
Candidate

Second Office
Candidate *
Candidate

Third Office
Candidate
Candidate * Joe Doe
Fourth Office
Candidate *
Candidate
Fifth Office * Candidate
Sixth Office * Candidate
Seventh Office
Candidate *
Candidate
Eighth Office
Candidate *
Candidate
Etc.

Example 3. Illustration of voter voting straight party but votes for a declared write-in.
(The asterisks indicate the candidates for whom the ballot is counted)

Candidates for
PARTY A PARTY B
PARTY C
INDEPENDENT
WRITE-IN
First Office
Candidate
Candidate

Candidate *
Joe Doe
Second Office
Candidate * Candidate

Third Office
Candidate *
Candidate

Fourth Office Candidate Candidate

Fifth Office
Candidate

Sixth Office
Candidate

Seventh Office
Candidate *
Candidate

Eighth Office
Candidate *
Candidate

Etc.

Example 4. Illustration of voter failing to mark an "X" in the write-in box. The write-in vote may be counted if the presiding judge can determine intent of voter.

(The asterisks indicate the candidates for whom the ballot is counted)

6. Manually Counting Ballots

-- If the tabulating equipment is not working and if the presiding judge concludes that it will not be possible to use a precinct ballot counter, the election officials must either manually count all voted ballots or deliver the ballots for tabulation at a central counting station. At the direction of the authority conducting the election, write-in voting may be counted at the polling place. The rules for manually counting ballots are listed below:

(a) If the counting officers have not taken the oath administered to election judges and clerks, they must do so before counting voted ballots. (See oath on page 2.)

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(b) Three original tally lists are required. [Sec. 65.004] These tally lists should be completely filled out, which includes the following:

- names and offices of candidates; and/or
- date;
- propositions;
- precinct number;
- type of election;
- name of presiding judge; and
- signature of the person keeping the tally list.

(c) Before the counting begins, the ballot box or other designated container should be inspected to ensure that it is empty. It should then be locked and remain locked (except as authorized by the presiding judge) and within view of the counting officers. [Sec. 62.005]

(d) If a ballot is not counted because two or more marked ballots were folded together or because the judge determines the ballot was not provided to the voter at the polling place, an election official must indicate on the back of the ballot the reason for not counting it. [Sec. 65.010(e)]

NOTE: If you have a marked ballot folded along with a blank ballot, you should still count the marked ballot. The voter may have unintentionally picked up two ballots, but only voted one.

(e) The counting officials should open the ballot box containing voted ballots as soon as it is received.

(f) The official designated as the reader should remove the ballots from the ballot box. [Sec. 65.005]

(g) The reader must read and distinctly announce, to the officers keeping the tally lists, each name of a candidate or proposition for which there is a vote. [Sec. 65.005(a)]

-- The failure of a voter to mark his or her ballot in strict conformity with the law does not invalidate the ballot. [Sec. 65.009]

-- The failure of a voter to vote a full ballot does not invalidate the ballot. [Sec. 65.009]

-- A ballot shall be counted on all races and propositions where the intent of the voter is clearly ascertainable, except where the law expressly prohibits the counting of the ballot. [Sec. 65.009]

-- If a provisional ballot is found outside a provisional ballot affidavit envelope, the ballot shall not be counted. [Sec. 65.005(d)]

-- An individual vote is not counted if:

(1) The intent of the voter cannot be determined. [Sec. 65.009]

(2) The voter marked more than one candidate for one race, except in municipal, school board, or other political subdivision elections where it is possible to vote for more than one candidate in the same race. [Sec. 65.011]

(3) The voter voted for more candidates than the number of persons to be elected to an office in a municipal, school board, or other political subdivision election where he or she was entitled to vote for more than one candidate in the same race. [Sec. 65.011]

(4) The voter used a sticker or rubber stamp with the name of a write-in candidate printed or written on it. [Sec. 65.008(b)]

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(5) The election is the primary election for the office of precinct chair or county chair, a November general election, city council officer elections, an independent school district trustee election, special elections for state representative and state senator, or other elections where declaration of write-in is required and the voter writes in the name of a person whose name is not on the list of declared write-in candidates. [Secs. 146.031(d), 146.055, 146.082, Election Code; Secs. 11.056(c), 130.081, 130.0825, Education Code; Secs. 36.059, 49.101, 63.0945, Water Code; Sec. 285.131, Health and Safety Code]

(6) The election is a primary and the voter writes in a vote for a candidate for public office; only

write-in votes for declared candidates for party officer of county chair and precinct chair may be counted. See below, (3) Write-in Votes. [Sec. 172.112]

(7) The election is a runoff election and the vote is a write-in. [Sec. 146.002]

(8) The voter did not vote for both the presidential and vice-presidential candidate of the same party, except when the voter writes in the name of a declared write-in presidential candidate the vote shall be counted even if the name of the corresponding vice-presidential candidate is not written in. [Sec. 192.037]

-- A ballot is not counted if:

(1) The intent of the voter cannot be determined for any races or propositions on the ballot. [Sec. 65.009]

(2) Two or more marked ballots are folded together. [Sec. 65.010]

(3) The ballot is not numbered and the presiding judge determines that the ballot was not provided at the polling place. [Sec. 65.010]

(4) The ballot was not deposited in the ballot box. [Sec. 65.010]

-- Failure to mark a ballot in strict conformity with this code does not invalidate the ballot. A vote shall be counted if the voter's intent is clearly ascertainable unless other law prohibits counting the vote. [Sec. 65.009]

(h) As each vote is read, a tally mark is made by the corresponding name or number on the tally sheets. [Sec. 65.005(a)]

(i) The tally lists should be compared periodically and any errors or discrepancies corrected. [Sec. 65.005(b)]

(j) When the reader has completely read and announced all votes on the ballot, he or she deposits the ballot in the ballot box or other designated container. [Sec. 65.012(a)]

(k) Any voted ballot not counted is deposited in the ballot box or other designated container. [Sec. 65.012(b)]

NOTE: The presiding judge or the counting clerk(s) must make a note on the back of any voted ballot not counted indicating why that ballot was not counted. [Sec. 65.010(c)]

(l) Tallying straight ticket votes.

-- Count a straight ticket ballot by tallying the party receiving the vote instead of tallying each party's candidate. [Sec. 65.007(b)]

-- A straight ticket ballot is one where the voter marks a party with the intent that all candidates of the party will receive his or her vote. [Sec. 1.005(20)]

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SECTION B. PRE-LOCKED, PRE-SEALED BALLOT BOX PROCEDURES FOR OPTICAL SCAN BALLOTS COUNTED AT A CENTRAL COUNTING STATION [Sec. 127.061]

1. Locked ballot box(es) are not opened at the polling at the polling place for any reason. [Secs. 127.066(c), 127.068(a)]

2. The voters deposit their ballots directly into ballot boxes. It may be necessary to shake the box to allow the ballots to settle to the bottom.

3. After the polls close, insert the ballots attached to form labeled Thrown Out Ballots into the ballot box through the ballot box slot. The ballot box should remain locked.

4. Seal the ballot box slot with a paper seal. The presiding judge, election clerk, and two poll watchers of opposing interests, if present, sign the seal. [Sec. 127.066(b)] If the box is designed so that a wire hasp seal is needed to seal the ballot box, the serial number must also be included on the ballot and seal certificate.

5. The examination and processing of ballots takes place at the central counting station rather than at the polling place. [Sec. 127.069]

6. The authority conducting the election may provide by order, resolution, or other official action that the processing of optical scan ballots will begin while the polls are open for voting on election day and may have the ballot boxes containing voted ballots delivered to the central counting station at stated intervals during the day or at one time after the polls close. [Sec. 127.124]

SECTION C. RULES GOVERNING THE COUNTING PROCEDURE FOR PAPER BALLOTS

1. The presiding judge may tell the counting officers to start counting ballots if it is after 8:00 a.m. and there are more than 10 ballots in the box containing voted ballots. [Sec. 65.002(a), (b)]

a. If the counting of ballots has not started, it must start at 7:00 p.m. and continue without interruption until all ballots are counted. [Sec. 65.002(c)]

b. Each counting team must consist of at least two people. [Sec. 65.001]

NOTE: You may keep track of the number of ballots cast by noting on the poll list when Ballot Boxes No. 1 and No. 2 are interchanged.

2. If the counting officers have not taken the oath administered to election judges and clerks, they must do so before counting voted ballots. [Sec. 62.003(b)] (See oath on page 2 or in Section 62.003 of the Texas Election Code.)

3. Three original tally lists are required. [Sec. 65.004] These tally lists should be completely filled out and include the following:

- names and offices of candidates; and/or
- propositions;
- date;
- precinct number;
- type of election;
- name of presiding judge; and
- signature of the person keeping the tally list.

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4. Before the counting begins, Ballot Box No. 3 should be inspected to ensure that it is empty. It should then be locked and remain locked (except as authorized by the presiding judge) and within view of the counting officers.

5. No marks should be made on any ballot by an election official, except that if a ballot is not counted, an election official must indicate on the back of the ballot the reason for not counting it. [Sec. 65.010(c)]

SECTION D. THE COUNTING PROCEDURE FOR PAPER BALLOTS

1. The counting officers should open the ballot box containing voted ballots as soon as it is received.

2. Provisional ballot envelopes, if any, must be separated from the ballots and placed in Ballot Box No. 4. [T.A.C. §§ 81.172-81.174]

3. The officer designated as the reader should remove the ballots from the ballot box. [Sec. 65.005]
4. The reader must read and distinctly announce, to the officers keeping the tally lists, each name of a candidate or proposition for which there is a vote. [Sec. 65.005]
5. Failure to mark a ballot in strict conformity with the Texas Election Code does not invalidate the ballot. A vote shall be counted if the voter's intent is clearly ascertainable unless other law prohibits counting the vote. [Sec. 65.009]
6. As each vote is read, a tally mark is made by the corresponding name or number on the tally lists. [Sec. 65.005]
7. The tally lists should be compared periodically and any errors or discrepancies corrected. [Sec. 65.005(b)]
8. When the reader has completely read and announced all the votes on the ballot, he or she deposits the ballot in Ballot Box No. 3. [Sec. 65.012(a)]
9. Any voted ballot that is not counted is also deposited in Ballot Box No. 3 with an indication on the back of the ballot as to the reason. [Sec. 65.012(b)]

SECTION E. RULES FOR COUNTING PAPER BALLOTS

(See generally Chapter 65 and Sections 64.003-64.006.)

1. The voter should mark his or her ballot by placing an "X" or other mark in the square beside each candidate, proposition, or party column for which he or she wishes to vote (See Figure 1). [Sec. 64.003]

(Primary Election Ballot)

For Governor

Candidate A

Candidate B
 * Candidate C
 * * *

(General Election Ballot)

Candidates for

PARTY A
 PARTY B
 PARTY C
 Independent
 Write-In

Governor

Candidate A
 Candidate B * Candidate C

Figure 1. Illustrations of marked ballots.

(The asterisks indicate the candidates for whom the ballot is counted.)

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2. Election officials may not refuse to count a ballot because the voter marked his or her ballot by scratching out the names of candidates for whom, or the statement of propositions for which he or she did not want to vote (See Figure 2). [Sec. 65.009(b)]

Candidates for

PARTY A
 PARTY B
 PARTY C
 INDEPENDENT
 WRITE-IN

First Office

Candidate
 Candidate
 Candidate
 Candidate

Second Office *

Candidate
 Candidate
 Candidate

Third Office *

Candidate
 Candidate
 Candidate

Fourth Office *

Candidate
 Candidate

Fifth Office *

Candidate

Sixth Office *

Candidate

Seventh Office *

Candidate
 Candidate

Eighth Office *

Candidate
 Candidate
 Candidate

Etc.

Figure 2. Illustration of the scratch method.

(The asterisks indicate the candidates for whom the ballot is counted.)

3. In the general election, if a ballot indicates a straight-party vote and a vote for an opponent of one or mo

of that party's nominees, a vote shall be counted for that opponent and for each of the party's other nominees whether or not any of those nominees have received individual votes. [Sec. 65.007(c)] (See Figures 3 and 4).

Candidates for PARTY A
PARTY B
PARTY C
INDEPENDENT
WRITE-IN
First Office
Candidate
Candidate * Candidate
Candidate

Second Office
Candidate * Candidate
Candidate

Third Office *
Candidate
Candidate
Candidate

Fourth Office *
Candidate
Candidate

Fifth Office *
Candidate

Sixth Office *
Candidate

Seventh Office *
Candidate
Candidate

Eighth Office
Candidate * Candidate
Candidate

Etc.

Figure 3. Illustration of ballot with one party square marked and individual candidates marked in one or more other columns. (The asterisks indicate the candidates for whom the ballot is counted.)

Candidates for PARTY A
PARTY B
PARTY C
INDEPENDENT
WRITE-IN
First Office
Candidate
Candidate
Candidate * Candidate

Second Office *
Candidate
Candidate
Candidate

Third Office * Candidate
Candidate
Candidate

Fourth Office * Candidate
Candidate

Fifth Office *
Candidate

Sixth Office * Candidate

Seventh Office *
Candidate
Candidate

Eighth Office
Candidate * Candidate
Candidate

Etc.

Figure 4. Illustration of Guideline No. 1. One party square marked and individual candidates marked in both that column and one or more other columns. (The asterisks indicate the candidates for whom the ballot is counted.)

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Guideline No. 1. Where both the party square and individual candidates are marked in the same party column, and individual candidates are marked in some other column, the election official must count a vote for all the party's candidates except for those whose opponents in other columns received individual votes, in which case the votes for the individuals in the other columns are counted.

Note: Individual marks always override the straight party mark. Individual marks are counted in lieu of straight party marks. In both Figures 3 & 4, individual tally marks are made for

candidates rather than making a tally mark for the party.

4. Ballots not marked in conformity with the law.

a. A vote must be counted if the intent of the voter is clearly ascertainable. [Sec. 65.009(c)] (See Figure 5).

Candidates for PARTY A PARTY B
PARTY C
INDEPENDENT
WRITE-IN

First Office * Candidate
Candidate
Candidate
Candidate

Second Office
Candidate * Candidate
Candidate

Third Office * Candidate
Candidate
Candidate

Fourth Office
Candidate
Candidate

Fifth Office
Candidate

Sixth Office * Candidate

Seventh Office
Candidate
Candidate

Eighth Office
Candidate * Candidate
Candidate

Etc.

Figure 5. Illustration of Guideline No. 2.

Two party squares marked and individual candidates also marked in one or more columns.

(The asterisks indicate the candidates for whom the ballot is counted.)

Guideline No. 2. Where more than one party square is marked, those votes may not be tallied, and the ballot may be counted only for candidates individually marked, if any. (If there are no candidates individually marked, no portion of the ballot is counted.) [Sec. 65.007(d)]

b. An entire ballot cannot be voided if the intent of the voter can be determined for any one race or proposition on the ballot. [Sec. 65.009(c)]

c. An individual vote is not counted in the following situations (see next two pages also):

(1) An individual vote is not counted if the intent of the voter cannot be determined [Sec. 65.009(c)]

(2) An individual vote is not counted if the voter marked more than one candidate for one race.

In municipal, school board, or other political subdivision elections where it is possible to vote for

more than one candidate in the same race, a ballot may not be counted if a voter has marked more

candidates than are to be elected. [Sec. 65.011] A ballot is not invalid if the voter has marked

fewer candidates than the number to be elected. [Sec. 65.009]

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VOTE FOR NONE, ONE, TWO, OR THREE

Candidate
Candidate

Candidate

Candidate
Candidate
Candidate

Figure 6. Illustration of over-voting; voter has voted for more candidates than are to be elected. (No portion of this ballot is counted.)

VOTE FOR NONE, ONE, TWO, OR THREE

* Candidate

Candidate
* Candidate

Candidate

Candidate

Candidate

Figure 7. Illustration of under-voting, by which voter has voted for fewer candidates than are to be elected. (A vote is counted for each candidate receiving a vote.)

(3) An individual vote is not counted if:

(a) The voter used a sticker or rubber stamp with the name of a write-in candidate printed or written on it. [Sec. 65.008(b)]

(b) The election is the primary election for the office of precinct chair or county chair, a November general election, city council officer elections, an independent school district trustee election, special elections for state representative and state senator, or other elections where declaration of write-in is required and the voter writes in the name of a person whose name is not on the

list of declared write-in candidates. [Secs. 146.031(d), 146.055, 146.082, Election Code; Secs. 11.056(c), 130.081, 130.0825, Education Code; Secs. 36.059, 49.101, 63.0945, Water Code; Sec. 285.131, Health and Safety Code]

(c) The election is a primary and the voter writes in a vote for a candidate for public office; only write-in votes for declared candidates for party officer of county chair and precinct chair may be counted. See below, (3) Write-in Votes. [Sec. 172.112]

(d) The election is a runoff election and a voter writes in any candidate's name; no write-in votes may be counted at a runoff election. [Sec. 146.002]

(e) The voter voted for the presidential candidate of one party and the vice-presidential candidate of another party or voted for the presidential or vice-presidential candidate of one party and wrote in the name of a candidate he or she desires to vote for instead of that candidate's running mate. [Sec. 192.037]

d. A ballot is not counted in the following situations:

(1) A ballot is not counted if the intent of the voter cannot be determined. [Sec. 65.009] (See Figure 9).

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Candidates for PARTY A
PARTY B
PARTY C
INDEPENDENT
WRITE-IN
First Office Candidate
Candidate Candidate
Candidate
Second Office Candidate Candidate
Candidate
Third Office
Candidate Candidate Candidate Joe Doe
Fourth Office Candidate Candidate
Fifth Office Candidate Candidate
Sixth Office
Candidate Candidate Candidate
Seventh Office Candidate Candidate
Eighth Office Candidate Candidate
Candidate
Etc.

Figure 8. Illustration of lack of knowledge of intent of voter.

(No portion of this ballot is counted.)

Candidates for PARTY A PARTY B
PARTY C
INDEPENDENT
WRITE-IN
First Office
Candidate
Candidate
Candidate
Candidate
Second Office
Candidate
Candidate
Candidate
Third Office
Candidate
Candidate
Candidate
Fourth Office
Candidate
Candidate
Fifth Office
Candidate
Sixth Office
Candidate
Seventh Office
Candidate
Candidate
Eighth Office
Candidate
Candidate
Candidate
Etc.

Figure 9. Illustration of Guideline No. 3.

Two party squares marked and no individual candidates marked.

(No portion of this ballot is counted.)

Guideline No. 3. Where more than one party square is marked, there is a contradiction as to party markings, and no portion of the ballot is counted.

(2) A ballot is not counted if two or more marked ballots are folded together in a manner that indicates they were folded together when deposited in the ballot box by the voter. [Sec. 65.010(a)(2)]

NOTE: If you have a marked ballot folded along with a blank ballot, you should still count the marked ballot. The voter may have unintentionally picked up two ballots, but only voted one.

(3) A ballot is not counted if the ballot is not numbered or not signed by the judge and the judge determines the ballot was not provided at the polling place. A ballot that is unnumbered or unsigned may be counted if the judge determines that it was provided at the polling place. [Sec. 65.010(a)(1) and (b)]

(4) If a marked ballot is found in a location other than inside the ballot box, the entire ballot may not be counted. The election judge must make a notation on the back of the ballot as to the reason it was not counted. This ballot is then placed in Ballot Box No. 3 with other ballots that have been counted. [Sec. 65.010(a)(4)]

(5) A provisional ballot is not counted if it is found by an election worker in the ballot box and it is not sealed in the provisional voter affidavit envelope. [T.A.C. §§ 81.172-81.174]

e. Tallying straight-party vote (See Figures 10, 11 and 12).

(1) Count a straight-party vote by tallying for the party receiving the vote instead of tallying for each party candidate(s). [Sec. 65.007(b)] However, if a ballot indicates a straight-party vote and a vote for an opponent of one or more of that party's nominees, a vote shall be tallied for the opponent and

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for each of the party's other nominees whether or not any of those nominees have received individual votes (See Figures 3 and 4). [Sec. 65.007(c)] Do not tally a straight-party vote.

(2) A straight-party vote is one where the voter marks a party with the intent that all candidates of this party will receive his or her vote. [Sec. 64.004]

Candidates for PARTY A

PARTY B

PARTY C

INDEPENDENT

WRITE-IN

First Office *

Candidate

Candidate

Candidate

Candidate

Second Office *

Candidate

Candidate

Candidate

Third Office *

Candidate

Candidate

Candidate

Fourth Office *

Candidate

Candidate

Fifth Office *

Candidate

Sixth Office *

Candidate

Seventh Office *

Candidate

Candidate

Eighth Office *

Candidate

Candidate

Candidate

Etc.

Figure 10. Casting a straight-party vote by marking the party square.

(The asterisks indicate the candidates for whom the ballot is counted.)

Candidates for

PARTY A

PARTY B

PARTY C

INDEPENDENT

WRITE-IN

First Office

Candidate * Candidate

Candidate

Candidate

Second Office

Candidate * Candidate

Candidate

Third Office

Candidate * Candidate

Candidate

Fourth Office

Candidate * Candidate

Fifth Office
Candidate
Sixth Office
Candidate
Seventh Office
Candidate * Candidate
Eighth Office
Candidate * Candidate
Candidate
Etc.

Figure 11. Casting a straight-party vote by marking individual squares of all nominees of a party.
(The asterisks indicate the candidates for whom the ballot is counted.)

Candidates for PARTY A

PARTY B
PARTY C
INDEPENDENT
WRITE-IN

First Office *
Candidate
Candidate
Candidate
Candidate

Second Office * Candidate
Candidate
Candidate

Third Office *
Candidate
Candidate
Candidate

Fourth Office *
Candidate
Candidate

Fifth Office *
Candidate

Sixth Office *
Candidate

Seventh Office * Candidate
Candidate

Eighth Office *
Candidate
Candidate
Candidate

Etc.

Figure 12. Illustration of Guideline 4.

One party square marked and individual candidates in the party's column also marked.
(The asterisks indicate the candidates for whom the ballot is counted.)

Guideline No. 4. Where only one party square is marked, and names of any or all of that party's nominees are marked individually, but no candidate outside that party is marked, the ballot must be

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counted as a vote for all nominees of that party whose square is marked. But do not count double the votes. This is often referred to as an "emphasis vote." Make a tally mark for the party.

(3) Write-in Votes.

(a) In the primary election for the office of precinct or county chair, a November general election, city council officer elections, an independent school district trustee election, special elections for state representative and state senator, or other elections where declaration of write-in is required and the voter writes in the name of a person whose name is not on the list of declared write-in candidates, the vote is not counted. [Secs. 144.006, 146.031(c), 146.055, 146.082, 171.0231 Election Code; Secs. 11.056(c), 130.081, 130.0825, Education Code; Secs. 36.059, 49.101, 63.0945, Water Code; Sec. 285.131, Health and Safety Code]

In a primary election, only count write-ins for declared write-in candidates for party offices, i.e., precinct and county chair. [Sec. 172.112]

If only one candidate files for precinct chair (for the ballot or as a write-in) the election for that office is not held, and the county chair shall prepare a sign notifying voters that the candidate will be declared elected to the office at the time of the local canvass. An election officer shall post the sign in one or more locations in the polling place. [Sec. 171.0221]

(b) In a runoff election, no write-ins are counted. [Sec. 146.002]

(c) The first time a name is read, enter it on the tally list and also make a tally mark by the name.

Each subsequent time the name is read, make a tally mark by the name. [Sec. 65.005(a)]

Candidates for

PARTY A PARTY B
PARTY C
INDEPENDENT
WRITE-IN

First Office
Candidate *
Candidate
Candidate

Second Office
Candidate *
Candidate

Third Office
Candidate
Candidate * Joe Doe

Fourth Office
Candidate *
Candidate

Fifth Office * Candidate
Sixth Office * Candidate

Seventh Office
Candidate *
Candidate

Eighth Office
Candidate *
Candidate

Etc.

Figure 13. Casting a write-in vote. Illustration of Guideline 5.

(The asterisks indicate the candidates for whom the ballot is counted.)

Guideline No. 5. Where voter marks straight party but votes for a declared write-in, the write-in vote is counted.

Candidates for
PARTY A PARTY B
PARTY C
INDEPENDENT
WRITE-IN

First Office
Candidate
Candidate
Candidate *
Joe Doe

Second Office
Candidate * Candidate

Third Office
Candidate *
Candidate

Fourth Office Candidate Candidate

Fifth Office
Candidate

Sixth Office
Candidate

Seventh Office
Candidate *
Candidate

Eighth Office
Candidate *
Candidate

Etc.

Figure 14. Casting a write-in vote. Illustration of Guideline 6.

(The asterisks indicate the candidates for whom the ballot is counted.)

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Guideline No. 6. Where voter fails to properly mark an "X" in the write-in box, the write-in vote may be counted if the voter has written in the name of the declared write-in candidate for elections where declarations are required or name of person in elections where they are not required and the presiding judge can determine the intent of the voter. [Sec. 65.009]

A ballot voted where the voter only marked an "X" in the write-in square and did not write-in the name of a declared write-in candidate may not be counted.

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CHAPTER 5

CLOSING AND SECURING THE POLLING PLACE

SECTION A. CLOSING THE POLLING PLACE

Officially close and lock the door to the polling place at 7:00 p.m. [Sec. 41.031(a)]

-- If people are waiting in line to vote at 7:00 p.m., they must be allowed an opportunity to present themselves for voting. [Sec. 41.032]

1. Have all the people enter the polling place, if possible, and lock the door.

2. If it is not possible to get all of the people waiting in line into the polling place, position an election official after the last person in line at 7:00 p.m., or

3. Distribute numbered identification cards or tokens to people waiting in line at the time for official closing of the polls. [Sec. 41.032(b)]

-- After the polling place is officially closed and the last person has voted, the presiding judge may from time to time make a correct, but unofficial, announcement of the total number of votes counted for each candidate and/or for or against each proposition in the order that they appear on the ballot. [Sec. 65.015(a)]

NOTE: The authority conducting the election may require or prohibit such announcements. [Sec. 65.015]

-- After the polls close in the general primary election, the presiding judge delivers the second list of registered voters to the precinct chair for use in qualifying precinct convention participants. [Sec.

SECTION B. DISTRIBUTION OF ELECTION RECORDS WHEN OPTICAL SCAN BALLOTS ARE
TABULATED AT POLLING PLACE

1. After the polls close, the presiding judge must close the machine to prevent the depositing of any additional ballots and follow the procedures outlined in Section D above.
2. The election records are placed in the appropriate envelopes or containers as prescribed in section E, above, and Envelope Nos. 1, 2, and 4 are not placed in Ballot Box No. 3, but are kept separate.
3. The presiding judge must deliver the prom pack from the precinct ballot counter, precinct returns, Envelope Number 2, Ballot Box No. 3, and Ballot Box No. 4 with its key to the general custodian of election records. [Sec. 66.051(b)]
4. The presiding judge must deliver Envelope No. 1 to the presiding officer of the local canvassing authority. If that officer is unavailable, the envelope shall be delivered to the general custodian of election records for delivery to the presiding officer before the time set for the local canvass of the election. [Sec. 66.051(a)]
5. The presiding judge shall retain Envelope No. 3. [Sec. 66.051(c)]
6. The presiding judge must deliver Envelope No. 4 to the Voter Registrar, or if that officer is unavailable, to the general custodian of election records for later delivery to the Voter Registrar. [Sec. 66.051(d)]
7. The presiding judge delivers Envelope No. 5 to the county chair in a Primary Election.
8. The presiding judge must deliver the keys for Ballot Box No. 3 to:
 - a. The sheriff for an election ordered by the governor or a county authority or for a primary election. [Sec. 66.060(a)(1)]

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NOTE: In a year in which the office of sheriff appears on the ballot, the key is delivered to the county judge, unless the office of county judge is also on the ballot, in which case the key is delivered to the county auditor, or to a member of the commissioners court who is not on the ballot and who is appointed by the court, if the county does not have a county auditor. [Sec. 66.060(a)(1)]

- b. The chief of police or city marshal for an election ordered by a city authority. [Sec. 66.060(a)(2)]
- c. The constable of the justice precinct in which the governing body's office is located, or if the constable's office is vacant, to the sheriff of the county for an election ordered by a political subdivision other than a county or city. [Sec. 66.060(a)(3)]
9. Poll watchers may accompany election officials delivering election records. [Sec. 33.060]
 - If delivery is made in a vehicle, it is sufficient to allow the watcher to follow in a different vehicle and to drive in such a manner that the watcher is able to keep the delivery vehicle in sight.
10. Records must be delivered to the appropriate authorities immediately after the precinct returns are completed and in any case not later than 24 hours after the polls close. [Sec. 66.053(c)]

SECTION C. DISTRIBUTION OF ELECTION RECORDS WHEN BALLOTS ARE
TABULATED AT CENTRAL COUNTING STATION

1. Copies of poll lists.
 - There must be three copies of the poll list (four copies of combination form if used). [Sec. 63.003(b)]
2. Five envelopes for distribution of election records are furnished with the supplies. [Sec. 66.003(a)] (The fifth envelope is for the Statement of Compensation and is delivered to the county chair, along with Envelope No. 1).
 - a. Envelope No. 1 addressed to the presiding officer of the local canvassing authority. [Sec. 66.003(b)(1)]
 - County judge (general election or election held by the county).
 - County chair (primary election).
 - Mayor (municipal election).
 - Presiding officer of the governing board (other elections).
 - b. Envelope No. 2 is addressed to the general custodian of election records. [Secs. 66.001, 66.003(b)(2)]
 - County clerk or county elections administrator (general election, election held by the county, or primary election).
 - City clerk or secretary (municipal election).
 - The secretary of the governing board, or if none, the presiding officer of the governing board, or as designated (other elections).
 - c. Envelope No. 3 is addressed to the presiding judge. [Sec. 66.003(b)(3)]
 - d. Envelope No. 4 is addressed to the Voter Registrar. [Sec. 66.003(b)(4)]
 - e. Envelope No. 5 is addressed to the County Chair.
 - f. Envelope containing cancellation requests is addressed to the general custodian of election records. [Secs. 66.026, 66.051(b)]
3. The records of the election must be distributed as follows:

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- a. Contents of Envelope No. 1: [Sec. 66.022]
 - No records from election precinct since no votes are counted at the precinct.
- b. Contents of Envelope No. 2: [Sec. 66.023]
 - (1) The original of the poll list;
 - (2) Original of List of Provisional Voters; [T.A.C. §§ 81.172-81.174]
 - (3) The signature roster;
 - (4) The precinct early voting list;
 - (5) Any certificates of appointment of poll watchers;
 - (6) Affidavit of Voter Without Registration Certificate;
 - (7) Original copy of Statement of Compensation (in some circumstances); [Sec. 32.094]

NOTE: The presiding judge must follow the instructions of the authority responsible for delivering the election supplies with respect to the time by which and the authority to whom the Statement of Compensation is delivered. The time designated for delivery may not be later than 5:00 p.m. of the third day after election day. If the authority responsible for delivering the election supplies does not indicate to whom the Statement of Compensation should be returned, place it in Envelope No. 2 for return to the custodian of election records. The election judge may also keep a copy of the Statement of Compensation.

- (8) The notice of the number of voters who voted during the day; and
- (9) Notice of Defective Delivery.

c. Contents of Envelope No. 3: [Sec. 66.024]

- (1) A copy of the poll list;
- (2) Copy of List of Provisional Voters;
- (3) A copy of the ballot register;
- (4) A copy of the ballot and seal certificate; and
- (5) A copy of the Statement of Compensation.

d. Contents of Envelope No. 4: [Sec. 66.0241]

- (1) Precinct list of registered voters;
- (2) The registration correction list, if any;
- (3) The registration omissions list;
- (4) Affidavits of voter with incorrect certificate who is not on list [Sec. 63.007]);
- (5) Any Statements of Residence completed at the polling place; and
- (6) List of First Time Voters.

e. Contents of Envelope No. 5:

-- Original of the Statement of Compensation in a Primary Election.

f. Contents of Pre-locked, Pre-sealed Ballot Box: [Sec. 66.025]

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- (1) Voted ballots;
 - (2) Provisional Ballots and provisional ballot affidavit envelopes;
- NOTE: Provisional ballots may be stored in a separate container that meets the requirements of Section 51.034 of the Code or has been approved by the Secretary of State.
- (3) A copy of the poll list; and
- NOTE: If the poll list is too large for the pre-locked, pre-sealed ballot box, it may be placed in another secure container if such placement has been approved by the Secretary of State.

[Sec. 66.025]

- (4) The original of the ballot and seal certificate.

g. Contents of Ballot Box No. 4: [Sec. 66.026]

- (1) The original of the ballot register;
- (2) The register of spoiled ballots;
- (3) Any spoiled ballots;
- (4) Any defectively-printed ballots;
- (5) Any envelope containing cancellation requests and cancelled ballots; and
- (6) Any other unused ballots.

NOTE: For the general primary election, the second list of registered voters is given to the precinct chair for use in qualifying precinct convention participants. [Sec. 172.1141]

4. The presiding judge must deliver Envelope No. 1, which will be empty, seal Envelope No. 2, seal the opening slot to Ballot Box No. 3, and lock box 4 as soon as they are ready for distribution. [See generally, Chapter 66]

5. Delivery of Ballot Boxes.

a. A certificate (seal certificate) stating the number of the seal to be placed on the pre-locked, pre-sealed ballot box and the number of voted ballots placed in the container must be made out in duplicate (2 copies), signed by the presiding judge, election clerk, and two poll watchers of opposing interest (if present). [Sec. 127.036]

-- Place the original of this certificate in the pre-sealed, pre-locked ballot box.

-- Retain the other copy of the certificate with the election records in Envelope No. 3.

NOTE: If pre-locked, pre-sealed ballot boxes are used, you must still complete the ballot and seal certificate. This form notifies the central counting station personnel of how many ballots were cast at the polling place. Therefore, if the machine ballot count is different from the number of ballots cast, central count personnel will be on notice that there may be a tabulating problem.

b. Seal the slot of the pre-sealed, pre-locked ballot box. If the container is a ballot box with an opening through which voted ballots can be deposited, the opening must be sealed with a paper seal and signed by the presiding judge, an election official, and two watchers of opposing interest (if present). [Sec. 127.036 (for prepared ballot boxes) and Sec. 127.066 (for sealed ballot boxes)] If the box is designed so that a wire hasp seal is needed to seal the ballot box, the serial number must also be included on the ballot and seal certificate.

c. After the ballot container is sealed, two election officials must immediately deliver the ballot container to the central counting station.

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-- Poll watchers may accompany election officials delivering ballot container(s). If delivery is made in a vehicle, an election official complies with this section if the official permits the watcher to follow in a different vehicle and drives in a manner that enables the watcher to keep the vehicle in sight. [Sec. 33.060]

-- Exchange the ballot box for a receipt signed by the presiding judge of the central counting station or his or her designee.

d. Ballot Box No. 4 and its key are delivered to the general custodian of election records. [Sec. 66.051(b)]

6. The presiding judge retains Envelope No. 3. [Sec. 66.003(b)(3)]

7. Envelope No. 5 is delivered to the county chair.

8. After the polls close in the general primary election, the presiding judge delivers the second list of registered voters to the precinct chair for use in qualifying precinct convention participants. [Sec. 172.1141]

SECTION D. MAKING OUT RETURNS AND DISTRIBUTION OF ELECTION RECORDS WHEN PAPER BALLOTS ARE USED

1. Making out the returns.

a. After all ballots are counted, each tally list must be totaled and signed by the counting officer keeping it. If more than one officer has kept one particular list, each officer signs upon finishing. [Sec. 65.005(c)]

b. Total each tally list to obtain the total number of votes cast for each candidate and/or for or against each proposition.

c. The presiding judge must make out and sign all copies of the returns. [Sec. 65.014(c)]

2. Distribution of election returns, poll lists, and tally lists.

- a. There must be four copies of the returns. [Sec. 65.014(c)]
- b. There must be three copies of the poll list (or four copies of the combination form). [Sec. 63.003(b)]
- c. There must be three copies of the tally list. [Sec. 65.004]
- 3. Four envelopes for distribution of election records are furnished with the supplies. [Sec. 66.003(a)] (Five in a primary election. The fifth envelope is recommended for the Statement of Compensation and is delivered to the county chair with Envelope No. 1).
 - a. Envelope No. 1 is addressed to the presiding officer of the local canvassing authority. [Sec. 66.003(b)(1)]
 - County judge (general election or election held by the county).
 - County chair (primary election).
 - Mayor (municipal election).
 - Presiding officer of the governing board (other elections).
 - b. Envelope No. 2 is addressed to the general custodian of election records. [Secs. 66.001, 66.003(b)(2)]
 - County clerk or county elections administrator (general election, election held by the county, primary election).
 - City clerk or secretary (municipal election).

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- Secretary of the governing board, or if none, the presiding officer of the governing board (other elections).
- c. Envelope No. 3 is addressed to the presiding judge. [Sec. 66.003(b)(3)]
- d. Envelope No. 4 is addressed to the voter registrar. [Sec. 66.003(b)(4)]
- e. Envelope No.5 is addressed to the County Chair.
- 4. The records of the election must be distributed as follows:
 - a. Contents of Envelope No. 1. [Sec. 66.022]
 - (1) The original of the election returns for the precinct.
 - (2) One copy of the tally list.
 - b. Contents of Envelope No. 2. [Sec. 66.023]
 - (1) A copy of the precinct returns.
 - (2) A copy of the tally list.
 - (3) The original of the poll list.
 - (4) List of Provisional Voters
 - (5) The signature roster.
 - (6) The precinct early voting list.
 - (7) Any certificates of appointment of poll watchers.
 - (8) Affidavit of Voter Without Certificate Who Is On List.
 - (9) Original Statement of Compensation (in some circumstances). [Sec. 32.094]
- NOTE: The presiding judge must follow the instructions of the authority responsible for delivering the election supplies with respect to the time by which and the authority to whom the Statement of Compensation is delivered. The time designated for delivery of the statement of compensation may not be later than 5:00 p.m. of the third day after election day. If the authority responsible for delivering the election supplies does not indicate to whom the Statement of Compensation should be returned, place it in Envelope No. 2 for return to the custodian of election records. The election judge may also keep a copy of the Statement of Compensation.
- (10) The notice of the number of voters who voted during the day may also be placed in Envelope No. 2.
- (11) Notice of Defective Delivery.
- c. Contents of Envelope No. 3. [Sec. 66.024]
 - (1) A copy of the precinct returns.
 - (2) A copy of the poll list.
 - (3) A copy of the ballot register.
 - (4) A copy of the Statement of Compensation.
- d. Contents of Envelope No. 4. [Sec. 66.0241]
 - (1) Precinct list of registered voters.

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- (2) The registration correction list, if any.
- (3) The registration omissions list.
- (4) Affidavit of voter with incorrect certificate who is not on list. [Sec. 63.007]
- (5) Any Statements of Residence completed at the polling place.
- (6) List of First Time Voters.
- e. Contents of Envelope No. 5.
 - A copy of the Statement of Compensation in a Primary Election.
- f. Contents of Ballot Box No. 3. [Sec. 66.025]
 - (1) Voted ballots.
 - (2) Cast ballots, regardless of counting decisions made.
 - (3) A copy of the tally list.
 - (4) A copy of the poll list.
- NOTE: If the poll list is too large for Ballot Box No. 3, it may be placed in another secure container if such placement has been approved by the Secretary of State. [Sec. 66.025]
- g. Contents of Ballot Box No. 4. [Sec. 66.026]
 - (1) The original of the ballot register.
 - (2) Voted provisional ballot affidavit envelopes.
 - (3) The register of spoiled ballots.
 - (4) Any spoiled ballots.
 - (5) Any defectively-printed ballots.
 - (6) Any envelope containing cancellation requests and cancelled ballots.
 - (7) Any other unused ballots.
- h. At the general primary election, the second list of registered voters is given to the precinct chair for use in qualifying precinct convention participants. [Sec. 172.1141]
- 5. Manner and time of delivery of records.
 - a. The presiding judge must deliver Envelope No. 1 in person to the presiding officer of the local

- canvassing authority, or if that officer is unavailable, to the general custodian of election records. [Sec. 66.051(a)]
- b. The presiding judge must deliver in person Envelope No. 2, Ballot Box No. 3, and Ballot Box No. 4, with its key, to the general custodian of election records. [Sec. 66.051(b)]
- c. The presiding judge retains Envelope No. 3. [Sec. 66.051(c)]
- d. The presiding judge must deliver Envelope No. 4 in person to the voter registrar, or if that officer is unavailable, to the general custodian of election records for later delivery to the voter registrar. [Sec. 66.051(d)]
- e. The judge delivers the key to Ballot Box No. 3 to:

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- (1) The sheriff for an election ordered by the governor or a county authority or for a primary election, unless the sheriff is on the ballot, in which case the key is delivered to the county judge. If both the sheriff and the county judge are on the ballot, the key is delivered to the county auditor, or if the county does not have a county auditor, to a member of the commissioners court, designated by the court, who is not on the ballot. [Sec. 66.060(a)(1)]
- (2) The chief of police or city marshal for an election ordered by a city authority. [Sec. 66.060(a)(2)]
- (3) The constable of the justice precinct in which the governing body's office is located, or if the constable's office is vacant, to the sheriff of the county, for an election ordered by a political subdivision other than a county or city. [Sec. 66.060(a)(3)]
- f. Envelope No. 5 is delivered to the County Chair.
- g. After the polls close in the general primary election, the presiding judge delivers the second list of registered voters to the precinct chair for use in qualifying precinct convention participants. [Sec. 172.1141]
- h. Poll watchers may accompany election officials delivering election records. [Sec 33.060]
- If delivery is made in a vehicle, it is sufficient to allow the watcher to follow in a different vehicle and to drive in such a manner that the watcher is able to keep the delivery vehicle in sight.
- i. Time.
- (1) Records must be delivered to the appropriate authority immediately after the precinct returns are completed. [Sec. 66.053(a)]
- (2) If the judge determines that the ballots will not be counted in time to permit delivery of the records by 2:00 a.m. of the day following the election, he or she must notify the general custodian of election records by telephone between midnight of election day and 1:00 a.m. of the following day of:
- The total number of voters voting as indicated by the poll list;
- The vote totals tallied for each candidate and for and against each measure at the time of notification;
- Total number of provisional votes; and
- The expected time of finishing the count. [Sec. 66.053(b)]
- (3) In every election, the precinct election records must be delivered to the appropriate authorities not later than 24 hours after the polls close. [Sec. 66.053(c)]
6. At the time the precinct election records are delivered, equipment and supplies shall be returned to the authority responsible for providing such equipment and supplies. The presiding judge shall follow the instructions of such authority regarding the storage or return of Ballot Boxes Nos. 1 and 2 and their keys, voting booths, and other equipment.

SECTION E. SECURING THE POLLING PLACE

1. Gather all forms, rubber stamp(s), stamp pad(s), and markers from the voter acceptance table(s) and place them in the box for election supplies. The presiding judge must follow the directions of the authority responsible for furnishing the supplies regarding their assembly and return. [Sec. 66.062(a) and (b)]
2. Complete the Register of Official Ballots and Register of Spoiled Ballots. [Sec. 65.013]

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- a. Make sure the total number of ballots received for the polling place has been recorded.
- b. Enter the number of ballots provided to voters as indicated by the number of voters on the poll list.
- c. Collect and count the number of unused ballots.
- d. Enter the number of unused ballots on the Register of Official Ballots.
- e. Count the number of spoiled and defectively printed ballots in Ballot Box No. 4, and enter these numbers on the Register of Official Ballots.
- f. Enter the number of Provisional Ballots cast as shown on the List of Provisional Voters. [T.A.C. § 81.175]
- g. Place all unused ballots, including any stubs clipped to the unused ballots, spoiled and defective ballots, the original of the Register of Official Ballots, the Register of Spoiled Ballots, Requests to Cancel Application for Ballot by Mail, and unmarked ballots into Ballot Box No. 4. [Sec. 66.026]
3. Take down distance markers and sample ballots, gather instruction cards, voter information posters, and lists of declared write-in candidates, and place them in the box for unused election supplies. (Ballot Box No. 4).
4. Take down the party sign (Primary Election) and place it in the box for unused election supplies.
5. Follow instructions from authority conducting the election concerning delivery of returns from a DRE and the DRE equipment.