

*Handbook for Election Judges and Clerks*

# **QUALIFYING VOTERS ON ELECTION DAY**

## **2022**

For Use In  
**General, Primary, and Other Political  
Subdivision Elections**



**OFFICE OF THE TEXAS SECRETARY OF STATE  
ELECTIONS DIVISION**  
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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 election laws through the Third Special Session of the 87th Texas Legislature (2021).

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 1-800-252-2216 or (512) 463-5650.

Please visit us at our Internet home page for additional election information at <http://www.sos.texas.gov/>, as well as <http://www.votetexas.gov>.

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**CHAPTER 1**  
**THINGS TO DO BEFORE THE POLLS OPEN**

**SECTION A. SELECTION OF ELECTION CLERKS AND STUDENT ELECTION CLERKS**

**Election Clerks:**

The presiding judge for each election precinct must appoint the election clerks to assist the judge in the conduct of an election at the polling place served by the judge. [Sec. 32.031] To be eligible to serve as an election clerk in a precinct, a person must be a qualified voter of the county in a countywide election ordered by the governor or a county authority, or of the political subdivision, in an election ordered by an authority of a political subdivision other than a county. [32.051] The appointment of an election clerk is for a single election only. [Sec. 32.031]

The presiding judge must appoint the alternate presiding judge as one of the clerks. [Sec. 32.032] The authority that appoints the election judges prescribes the maximum number of clerks that each presiding judge may appoint for each election. [Sec. 32.033(a)] The presiding judge must appoint at least two clerks for each precinct in each election and may appoint as many additional clerks, within the prescribed limit, as are necessary for the proper conduct of the election. [Sec. 32.033(b)] However, in each election ordered by the governor or a county authority in which the regular county election precincts are required to be used, the presiding judge must appoint clerks for each precinct in the number, within the prescribed limit, the judge considers necessary for the proper conduct of the election. [Sec. 32.033(c)]

Election clerks may be appointed to serve for an election, provided that the election clerks are not related in the first degree by consanguinity (blood) or affinity (marriage) to an elected official of the authority that appoints the election judges for that election. [Sec. 573.061, Tex. Gov't Code] For additional information regarding appointment procedures, please see our [Election Advisory on Appointment Procedures for Election Judges and Clerks](#).

**Student Election Clerks:**

A student who is at least 16 years of age and who is enrolled in a public or private high school or home school and has the consent of the principal (or parent/legal guardian in charge of education in home school) may serve as an election clerk on election day or during early voting. [Secs. 32.0511, 83.012] The student election clerk must also complete any training course required by the entity holding the election. [Sec. 32.0511(b)(2)] Up to two student election clerks may serve at any one time at an election day polling place. [Sec. 32.0511(d)] The elections officials must receive written authorization from the student's parent or guardian for the student to serve in the election for which he or she is appointed. For additional information, please see our [Student Election Clerk FAQs](#).

## SECTION B. PREPARING THE POLLING PLACE

Several of the forms referenced below are available in the [forms manual](#) on our website.

The election judges and clerks will need to complete the following tasks prior to opening the polls:

1. **Oaths:** The presiding judge administers the Election Code's [Oath of Election Officer](#) to himself or herself and to the clerks. [Sec. 62.003] The Election Code's Oath of Office is also located on the [Statement of Compensation](#).

Oath of Election Officer: "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."

On April 17, 2017, the Office of the Attorney General issued [opinion KP-0140](#) which dictated that all presiding judges, alternate judges and early voting clerks must also complete the Statement of Officer and take the constitutional Oath of Office. The Statement of Officer must be completed *prior* to taking the constitutional Oath of Office. Both must be completed prior to entering service, in addition to the Oath of Election Officer referenced above. [Article XVI, Section 1 of the Texas Constitution]

The [Statement of Officer](#) and the constitutional [Oath of Office](#) are located on the "Constitutional Oath for Presiding Judge, Alternate Judge, and Early Voting Clerk" form available on the SOS website or with your general custodian of election records. The Statement of Officer and the constitutional Oath of Office only need to be completed by the presiding judge and the alternate judge. Election clerks do not need to complete this paperwork.

**NOTE:** A presiding election judge or alternate presiding judge who has already entered service may administer the constitutional Oath of Office. [Sec. 1.016] See [Required Oaths for Election Offices Advisory](#) for additional information regarding the list of individuals who may administer oaths.

2. **Identification:** The presiding judge and clerks must wear a form of identification, prescribed by the Secretary of State, while on duty that indicates the person's name and title or position as an election officer. The presiding judge should issue such identification following administration of the oath. If there are no name tags in your election kit, you may make your own. (State and federal election inspectors, peace officers assigned to the polling place, and poll watchers accepted for service at the polling place are also required to wear name tags.) [Secs. 33.051(f), 61.010(b), 62.003(c)]
3. **Hours and Work Assignments:** The judge reviews work schedules 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. **Prepare List of Registered Voters:** The early voting clerk must enter “early voting voter” beside the name of each person on the precinct list of registered voters whose name appears on the list of early voting voters and must deliver the precinct list to the presiding judge of the election precinct not later than the day before election day. [Sec. 87.122(c)]

If a registration correction list is provided, an election officer must change the list of registered voters to make it conform to the registration correction list. [Sec. 62.014(a)] An election officer may make the changes to the list of registered voters at a location other than the polling place before it is opened for voting. [Sec. 62.014(c)]

**NOTE:** If you are using an **e-pollbook (electronic pollbook)**, it is unlikely that you will need to update the list with voters who voted early or a registration correction list. Follow the instructions provided to you by the authority conducting the election regarding the use of the e-pollbook.

***Note for Primary Election:** In a primary election, for an entity not using an e-pollbook, the presiding judge is given two lists of registered voters that must be marked to indicate who voted, including those whose names appear on the precinct early voting list. 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 make a notation next to the voter's name on the second list of registered voters, as well as the list that is returned to the voter registrar. A county clerk must prepare such a list, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a list. [Sec. 172.1141(a)] If a county records the acceptance of a voter electronically, the state chair or county chair may request, and the county clerk shall provide, not later than the date of the local primary canvass, an electronic document listing the persons who voted in the party primary, the unique identifier assigned to each person, and whether the person voted early in person or by mail, or voted in person on election day. [Sec. 172.1141(b)] Precinct conventions may be held on primary election night or on some other date as determined by rules of the state party. In such event, the presiding judge will be instructed of alternate delivery arrangements for the second list of registered voters.*

5. **Setup Polling Place:** The election workers need to physically arrange the polling place. For additional information regarding polling place preparation and procedures regarding the use of electronic voting systems on election day, please see Chapter 4 of this handbook, our [advisory regarding updates to voting system procedures](#), and our [electronic voting system procedures advisory](#).

- a. **Arrange Tables, Chairs and Voting Area**

- i. Place table(s) and chairs near the entrance to the polling place for the clerks who will be accepting the voters.
- ii. Establish a voting area.
- iii. 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 T.A.C. § 81.70]
- iv. Arrange the voting booths in such a way that they are in view of the election officers, 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] The voting equipment must be in sight of the presiding election judge and/or an election clerk at all times while the election is being conducted.
- v. Make sure voting area is adequately lighted. [Sec. 62.004(3)]
- vi. If used, 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]
- vii. Establish an area convenient to the voting booths, in view of election officers, for placement of the locked ballot box (Ballot Box No. 1) in which voters will deposit their voted ballots, if using paper or optical scan ballots. [Sec. 62.006]
- viii. Periodically check for evidence of tampering on voting equipment during the election. For example, make sure the uniquely identified tamper-resistant or tamper-evident seal is still intact. [Sec. 125.005]
- ix. Establish an area for counting ballots (if conducting a hand counted paper ballot election).
  1. 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. Preparing the Table(s) for Accepting and Qualifying Voters**

- i. Place the following election forms and supplies on each table:
  1. Lists of registered voters, including supplemental and correction lists, or a revised original list. [Secs. 18.001, 18.002, 18.003, 18.004]
  2. Registration omissions list. [Sec. 63.006(b)(2)]
  3. Combination form (combination of two or more forms below denoted by an “\*”). [Sec. 63.004]
  4. Poll list.\* [Sec. 63.003]
  5. Signature roster.\* [Sec. 63.002]
  6. Affidavits (see below).
    - a. Voter with Required Documentation Who is Not on List. [Sec. 63.006]\*



- b. Affidavit of Voter Without Required Identification (part of Provisional Ballot Affidavit Envelope). [Sec. 63.011(b)]
  - c. Voter's Similar Name Affidavit. [Sec. 63.001(c)]\*
7. List of Provisional Voters. [1 T.A.C. §§ 81.172—81.176]
  8. Reasonable Impediment Declarations [ Sec. 63.001(i)]
  9. Provisional Ballot Affidavit Envelope. [Sec. 63.011]
  10. Notice to Provisional Voter for voter voting provisionally due to lack of acceptable identification. [1 T.A.C. §§ 81.172—81.176 ]
  11. Notice to Provisional Voter (may have been combined with the Polling Place ID Receipt). [1 T.A.C. §§ 81.172—81.176 ]
  12. Secrecy Envelopes for Provisional Ballots. [1 T.A.C. §§ 81.172—81.176]
  13. 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. The voter may vote a full county ballot in the election precinct of former residence, regardless of how long ago the voter moved, if the voter still resides in each political subdivision for which the voter offers to vote. See Chapter 2, Situation 4 “Voter Has Moved” for further information.
  14. The "voted" stamp and ink pad used for stamping the list of registered voters. While it is not necessary that the election officers use a “voted” stamp and ink pad, they must make a notation on the list of registered voters that a person has voted. [Sec. 63.001]
  15. *The party affiliation stamp for stamping voter registration certificates in a primary election, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a stamped voter registration certificate or affiliation certificate for verification of attendance at a precinct convention. [Sec. 162.004(a-1) and (b)]*
  16. *Certificates of party affiliation in a primary election for those voters who do not present a voter registration certificate, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a stamped voter registration certificate or affiliation certificate for verification of attendance at a precinct convention. [Sec. 162.004(a-1) and (c)]*
- Note for Primary Election:** *Because voters are not required to have their voter registration certificates, you may be issuing a large number of party affiliation certificates.*
17. Official ballots. An election officer must arrange a supply of numbered ballots, all face down, and out of numerical order. [Sec. 62.009(a), (b)] **NOTE:** If exclusively using DREs, there will be no paper ballots provided.
  18. Provisional ballots. An election officer must set aside a sufficient number of provisional ballots and stamp or write on the back of each ballot “provisional” next to the presiding judge’s signature. [1

T.A.C. §§ 81.172—81.176] **NOTE:** For DREs, provisional ballots may be maintained electronically.

19. Provisional stamp, if applicable. [1 T.A.C. §§ 81.172—81.176]
20. Register of spoiled ballots. [Sec. 64.007(c)]
21. Request to cancel application to vote by mail. [Sec. 84.032]
22. Envelope No. 5. In a primary election, it is addressed to the County Chair.

**NOTE for e-pollbooks:** If you are using an e-pollbook, forms 1-7 may not be in your election kits as these forms could be maintained electronically by the e-pollbook. Please refer to the authority conducting your election for more information on the procedures for using your pollbooks and what hardcopy forms are applicable to your election.

**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.

**NOTE ON NEW LAW:** SB 1 (87th Leg, 2nd C.S., 2021) added Section 63.0111 to provide that an election judge commits an offense if the judge knowingly provides a voter with a form for affidavit required by Section 63.001 if the form contains information that the judge entered on the form knowing it was false. An offense under the section is a state jail felony.

## 6. Post Distance Markers, Sample Ballots, Instructions and Notices

- a. 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.”

**NOTE:** Election officers (or appointed peace officers) may not enforce the prohibition against electioneering or loitering OUTSIDE the 100 ft. distance marker. [Sec. 32.075(e)]

- b. Post the [Voter Information Poster](#) and other instruction posters in each voting station and in one or more locations in the polling place where they can be read by persons waiting to vote. The form is also available in Spanish. [Secs. 62.011, 62.0111, 62.0112, 62.0115, 63.0015]
- c. Post Notice of Voting Order Priority
  - i. Section 63.0015 provides that an election officer may accept a person with a mobility problem that substantially impairs a person’s ability to ambulate who is offering to vote before accepting others offering to vote at the polling place who arrived **before** the person. “Mobility problem that substantially impairs a person’s ability to ambulate” has the meaning assigned by Section 681.001, Transportation Code. Disabilities and conditions that may qualify a voter for voting order priority include paralysis, lung disease, use of portable oxygen, cardiac deficiency, severe limitation in the ability to walk due to arthritic, neurological, or orthopedic condition, wheelchair confinement, arthritis, foot disorder, the inability to walk 200 feet without stopping to rest, or use of a brace, cane, crutch, or other assistive device.

- ii. A person assisting an individual with a mobility problem may also, at the individual's request, be given voting order priority. Notice of the priority given to persons with a mobility problem that substantially impairs a person's ability to ambulate must be posted at one or more locations in each polling place where it can be read by persons waiting to vote. See [Notice of Voting Order Priority \(PDF\)](#).
- d. A [Voter Complaint Poster](#), which contains contact information for state and local election officers, must be posted in the polling place. [Secs. 62.011, 62.0112, 62.0115]
- e. Post the **List of Declared Write-In Candidates** for the November general election, city council officer elections, independent and common 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 the voter information poster in each voting station and in the polling place where it can be read by persons waiting to vote. [Secs. 62.011, 62.0115, 144.006, 146.031(d), 146.054, 146.055, 146.082, Election Code; Secs. 11.056(c), 11.304, 130.081, 130.0825, Education Code; Sec. 285.131, Health and Safety Code; Secs. 326.0431, 326.0432, Local Government Code; Secs. 36.059, 49.101, 63.0945, Water Code]
  - i. **NOTE:** Section 172.112 provides that write-in voting in a primary election is not permitted.
- f. *For Primary Elections:*
  - i. *May post the party sign over the entrance to the polling place in a primary election. [Sec. 172.127]*
  - ii. *If only one candidate files for precinct chair, 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 where it can be read by persons waiting to vote. [Sec. 171.0221]*
  - iii. **NOTE:** *Section 172.127 provides that the presiding judge or alternate presiding judge for the precinct may post signs at a polling place for a primary election or a primary runoff election that: 1) identify the names of, or symbols representing, any political parties holding an election at the polling place; and 2) do not refer to a candidate or measure on the ballot. See [Joint Primary Election Signage Advisory](#) for more details.*
- g. Post the required sample ballots in easily observed locations within the polling place. [Sec. 62.012]
- h. Place [Notice of Prohibition of Certain Devices](#) in locations throughout polling place where it can be read by persons waiting to vote. The use of wireless communications devices (e.g. cell phones) and recording devices (e.g. cameras) is prohibited in a polling place. [Sec. 62.0111]
  - i. **NOTE:** There are exceptions to the prohibition against wireless devices in the polling place for an election officer conducting the officer's official duties, for the use of election equipment necessary to conduct the election, or for a person employed at the location in which a polling place is located

while the person is acting in the course of the person's employment. [Sec. 61.014]

- i. No election material may be posted at a polling place, including the area within a 100 feet 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] An offense under Section 62.013 is a Class C misdemeanor. [Sec. 62.013(c)]
- j. 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] An offense under Section 62.013 is a Class C misdemeanor. [Sec. 62.013(c)]
- k. 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] **NOTE:** This form is NOT used for early voting.
- l. Post [Notice of Acceptable Identification](#) on the outside door of the polling place. The notice must be in the form prescribed by the Secretary of State. The form is also available in Spanish.
- m. *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 during the early voting period and on election day. [Sec. 172.1111]*

***Note for Primary Election:** Precinct conventions may be held at a time and place determined by rules adopted by the state executive committee of a political party.*

## **7. Open and Inspect All Ballot Boxes, if Paper Ballots Are Being Used in the Polling Place**

- a. As used by the Secretary of State, the term "paper ballot" refers to a ballot that is made of paper **and** meant to be hand-counted, not an optical scan ballot that would normally be counted using a precinct ballot counter or a centralized tabulating machine.
- b. An optical/digital scan ballot is a ballot designed to be used in a voting system that uses an optical scanner to read the marked ballots, which are made of paper and marked by using an indelible marker to fill in an oval or arrow next to the candidates' names or "for" or "against" a ballot measure.
- c. If paper ballots are used in the election, open and inspect all ballot boxes to ensure that they are empty. If optical scan ballots are being used, the ballot boxes used for delivering the ballots to a central counting station or the precinct ballot counters that count the ballots at the precinct will be pre-locked and pre-sealed before delivery to the polling place. [Secs. 62.005, 127.061, 127.065]
- d. Make sure that each ballot box is empty.
- e. Make sure that each ballot box has a working lock and a key that opens the lock, unless pre-locked, pre-sealed boxes or precinct ballot counters are used. [Secs. 51.034(a), 127.065]

## **8. Prepare Official Ballots (Hand-Counted Paper and Optical/Digital Scan Ballots)**

- a. If paper or optical scan ballots are used in the election:

- i. Record the total number of ballots received on the "Register of Official Ballots" form. [Sec. 65.013]
- ii. Inspect the official ballots to see that they are properly printed and numbered. [Sec. 65.013]
  - 1. Remove any ballot that is not numbered or that is otherwise defectively-printed. [Sec. 62.007]
- iii. Count the defective and/or unnumbered ballots and enter this number on the Register of Official Ballots form. [Sec. 65.013(b)(2)]
- iv. Place defective and/or unnumbered ballots in Ballot Box No. 4 (or other designated container). [Sec. 62.007(b)]
- v. Place Ballot Box No. 4 (or other designated container) 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 No. 4 (or other designated container) is used for delivering defectively-printed, spoiled, or unused ballots. [Sec. 66.026]

- b. Place the presiding judge's full name on the back of each ballot. [Sec. 62.008]
- c. 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)]
- d. Ballots may be signed or stamped as needed throughout the day. Unsigned paper or optical scan ballots may not be made available for selection by voters. [Sec. 62.008(c)]
- e. Mix the signed or stamped ballots so that they are not in numerical order. [Sec. 62.009(a)]
- f. Place the mixed ballots face down on the acceptance table(s). [Sec. 62.009(b)]
- g. 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 "Notice to Provisional Voter" and "Polling Place ID Receipt" forms. Alongside these provisional ballots, keep a sufficient number of Provisional Ballot Affidavit Envelopes.

**EMERGENCY BALLOT NOTE:** The presiding judge should monitor the number of ballots remaining throughout the day on election day and contact the authority for distributing the supplies for the election if the number of ballots runs low. 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. For additional information, please see our [Emergency Ballot Procedures](#) advisory.

## 9. Place Ballot Boxes

- a. If you are going to be hand-counting the regular paper ballots during the day, you will have received more than one ballot box to rotate in and out of the polling place.
- b. Ballot Boxes Nos. 1 and 2 are used on a rotating basis for the deposit of ballots by the voters. Lock Ballot Box No. 1 and place it in the area established for depositing voted ballots. [Sec. 62.006] 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]
- c. 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.
- d. If you are using optical scan ballots, you will place the pre-locked and pre-sealed ballot box (or a precinct ballot counter) in the area established for depositing voted ballots, where it will remain until the polls close.

## 10. Precinct Ballot Counter Procedures

- a. In addition to the procedures outlined in [Section 81.52 of the Texas Administrative Code](#), these are the procedures that should be followed on election day when using a precinct ballot counter in a polling place:
  - i. Immediately prior to the opening of the polls, the election judge shall inspect the precinct ballot counter to ensure that all locks and seals are properly affixed to the precinct ballot counter.
  - ii. The election judge shall verify and document the serial numbers of the equipment in use at that polling place.
  - iii. Look for evidence of tampering.
  - iv. Verify that the Public Count is “0” on each applicable device.
  - v. Check the accuracy of the date and time on applicable equipment.
  - vi. Confirm that all units are open for voting.
  - vii. The election judge shall run a report that shows that zero ballots have been cast on the precinct ballot counter.
  - viii. If the tape properly reads “0” for all candidates and propositions, voting shall begin.
  - ix. The presiding judge, an election clerk, and not more than two poll watchers, if one or more watchers are present, shall sign the zero tape.
    - x. The zero tapes must be placed in a secure location to be returned with the election materials.

## 11. Direct Recording Electronic Voting Machine Procedures

- a. A direct recording electronic voting machine (“DRE”) allows a direct vote on the machine by the manual touch of a screen, monitor, wheel, or other device and records the individual votes and vote totals electronically.
- b. For elections using DREs, follow the instructions from the authority conducting the election concerning the placement of DREs and any associated procedures. But at a minimum, you must follow these procedures:
  - i. Immediately prior to the opening of the polls, the election judge shall inspect the DRE to ensure that all locks and seals are properly affixed to the devices.
  - ii. The presiding judge shall verify and document the serial numbers of the equipment delivered to the polling site.
  - iii. Look for evidence of tampering.
  - iv. Verify that the Public Count is “0” on each applicable device.
  - v. Check the accuracy of the date and time on applicable equipment.
  - vi. Confirm that all units are open for voting.
  - vii. At a minimum, print one zero tape from each applicable device.
  - viii. The election judge shall run a report that shows that zero ballots have been cast on the DREs
  - ix. If the tape properly reads “0” for all candidates and propositions, voting shall begin.
  - x. The presiding judge, an election clerk, and not more than two poll watchers, if one or more watchers are present, shall sign the zero tape.
  - xi. The zero tapes must be placed in a secure location to be returned with the election materials.

12. **Secure Polling Place:** The presiding judge must secure the polling place if it is left unattended at any time after the preparation for voting begins. [Sec. 62.001(b)]

## SECTION C. POLL WATCHERS

“Watcher” means a person appointed to observe the conduct of an election on behalf of a candidate, a political party, or the proponents or opponents of a measure. [Sec. 33.001] For additional information, please also see our [Poll Watcher’s Guide](#) online.

1. **Appointer of Poll Watchers:** 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 (with candidates in the primary or 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 a declaration is not required. [Secs. 33.002 - 33.005]
2. **Acceptance and Qualification:** A watcher who presents himself or herself at any time on election day with a certificate of appointment and certificate of completion from SOS training must be accepted for service unless the person is ineligible to serve or the number

of appointees to which the appointing authority is entitled has already been accepted. [Secs. 33.051, 33.052] To be eligible to serve as a poll watcher, a person must:

- a. be a registered voter of the territory (e.g., city, school district) covered by the election and of the county for November general elections, *primary elections*, or other countywide elections; [Sec. 33.031]
- b. not be a candidate for public office in an election held on the day the watcher seeks to serve; [Sec. 33.032]
- c. not hold an elective public office; [Sec. 33.034]
- d. not be an employee of an election judge or clerk serving at the same polling place; [Sec. 33.033]
- e. not have been finally convicted of an offense in connection with conduct directly attributable to an election; [Sec. 33.035] and
- f. 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]

**NOTE ON NEW LAW:** SB 1 (87th Leg., 2nd C.S., 2021) added Section 33.051(g) to provide that an election officer commits a Class A misdemeanor if the officer intentionally or knowingly refuses to accept a watcher for service when acceptance of the watcher is required by this section.

3. **Certificates of Appointment and Training Completion**: The poll watcher must present his or her certificate of appointment and certificate of completion of training under Section 33.008 to the presiding judge when he or she reports for service. [Sec. 33.051(a)]
  - a. The poll watcher's certificate of appointment must be in writing and must include the following: [Sec. 33.006]
    - i. Name, residence address, and voter registration number of the poll watcher;
    - ii. The election and the number of the precinct where the poll watcher is to serve;
    - iii. The signature of the person(s) making the appointment;
    - iv. The signature of the poll watcher;
    - v. An indication of the capacity in which the appointing authority is acting;
    - vi. 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
    - vii. An affidavit executed by the poll watcher stating that the poll watcher will not have possession of any mechanical or electronic means of recording images or sound while serving as a watcher unless the poll watcher disables or deactivates the device.
    - viii. A certificate issued to a watcher appointed for a **write-in candidate** must also include the following: 1) the residence address and voter registration number of eligible signers in the required number; 2) the signed statement of the candidate, or a person who would be authorized to make appointments on the candidate's behalf if the candidate's name appeared on the ballot, that the appointment is made with the signer's consent; and 3)



state the residence or office address of the signer under Subdivision 2 and the capacity in which the signer signs, if the statement is not signed by the candidate.

For additional information, [Certificate of Appointment of Poll Watcher by Candidate](#), [Certificate of Appointment for Watcher for Propositions or Issues](#), and [Certificate of Appointment of Poll Watcher by Political Party](#)

**NOTE:** A poll watcher may not use wireless communication devices (e.g. cell phones) in a polling place. [Sec. 61.014] A poll watcher may not be accepted for service if he or she possesses any mechanical or electronic means of recording images or sound unless the poll watcher disables or deactivates the device. 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)]

- 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 countersignature.

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

- c. The presiding judge must keep the certificate of appointment and certificate of completion 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)]
4. **Identification:** A poll watcher must wear a form of identification prescribed by the Secretary of State and provided by the presiding judge or other election officer. [Sec. 33.051(f)]
  5. **Oath:** Before accepting a watcher, the officer presented with a watcher's certificate of appointment shall require the watcher to take the following oath, administered by the officer: "I swear (or affirm) that I will not disrupt the voting process or harass voters in the discharge of my duties." (**NEW LAW:** SB 1 (87th Leg., C.S., 2021)). [Sec. 33.051(h)]
  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. If the watcher has served for five continuous hours and is present when ballots are counted, the watcher may not leave and return until the counting is complete. [Sec. 33.052]
      - i. **EXCEPTION:** A poll watcher is considered to have served continuously if the watcher leaves the polling place for the purpose of using a wireless communication device prohibited from use in the polling place under Section 61.014 and the watcher promptly returns. [Sec. 33.052(b)]

- 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]
- c. A watcher is entitled to sit or stand near enough to see and hear the election officers conducting the observed activity. [Sec. 33.056(a)]
- d. A watcher is entitled to sit or stand near enough to 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)]
- e. A watcher is entitled to inspect the returns and other records prepared by the election officers at the location at which the watcher is serving. [Sec. 33.056(c)]
- f. A watcher may make written notes while on duty. However, if the watcher is permitted to leave 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)]
- g. A watcher may not be denied free movement where election activity is occurring within the location at which the watcher is serving. (NEW LAW: SB 1 (87th Leg., C.S., 2021)). [Sec. 33.056(e)]
- h. 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]
- i. 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]
- j. A watcher who asks to accompany the election officer who delivers election records must be permitted to do so. [Sec. 33.060(a)]
  - i. 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)]
- k. 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)]
- l. A watcher may not watch a voter vote except when a voter is being assisted by election officers 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. A watcher may not watch a voter vote if the voter is being assisted by a person other than an election officer. [Sec. 33.057].
- m. A watcher appointed to serve at a polling place in an election who is available at the time of the action may observe all election activities relating to closing the polling place, including the sealing and transfer of a memory card, flash drive, hard drive, data storage device, or other medium now existing or later developed used by the voting system equipment. (NEW LAW: SB 1 (87th Leg., C.S., 2021)). [Sec. 33.0605(a)]
- n. A watcher duly accepted for service at a polling location is entitled to follow the transfer of election materials from the polling place at which the watcher was accepted to a regional tabulating center, the central counting station, or any other

location designated to process election materials. The authority responsible for administering a regional tabulating center or another location where election materials are processed must accept duly appointed watchers for service in the same manner a watcher is accepted for service under Section 33.051 and must accept the same number of watchers that may serve under Section 33.007(a). (**NEW LAW:** SB 1 (87th Leg., C.S., 2021)). [Sec. 33.0605(b)]

7. Preventing a watcher from observing any activity or procedure the person knows the watcher is entitled to observe is a Class A misdemeanor. [Sec. 33.061]

## **SECTION D. ELECTION INSPECTORS**

For additional information, please see our [Election Inspector Handbook](#) online.

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. An inspector may not observe the preparation of the ballot of a voter not being assisted by an election officer. [34.002(b)]
5. Inspectors are not required to be at the polling place when the polls open or remain in the polling place until the polls close.
6. Inspectors are not required to take an oath administered by the election judge.
7. 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.

## 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] Then follow these basic steps which apply for all voters. [Secs. 63.001, 63.0011]

1. Ask Voter to Provide Acceptable Form of Photo Identification or a Permanent Disability Exemption: An election officer at the acceptance table should ask the voter whether the voter possesses an acceptable form of photo identification that is either current or, if the voter is aged between 18-69 years, not expired more than four years, or, if the voter is aged 70 or older, may be expired for any length of time as long as it is otherwise valid. [Sec. 63.001(b)].

The acceptable forms of photo identification are:

1. Texas Driver License issued by the Department of Public Safety (“DPS”);
2. Texas Election Identification Certificate issued by DPS;
3. Texas Personal Identification Card issued by DPS;
4. Texas Handgun License issued by DPS;
5. United States Military Identification Card containing the person’s photograph;
6. United States Citizenship Certificate/Certificate of Naturalization containing the person’s photograph; or
7. United States Passport (book or card).

**NOTE:** With the exception of the U.S. citizenship certificate, which does not expire, the identification must be current or, for voters aged 18-69, have expired no more than 4 years before being presented for voter qualification at the polling place. A person 70 years of age or older may use a form of photo identification listed above that has expired for any length of time if the identification is otherwise valid.

**NOTE:** If the presiding judge reasonably determines that the voter is not the person whose photo appears on the acceptable form of photo identification presented by the voter, the presiding judge will follow the procedure prescribed in Situation 7.

**NOTE:** The authority 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]

**Permanent Disability Exemption:** If the voter presents the voter’s current voter registration certificate that has a notation of an “(E)” after the VUID number, it is not necessary for the voter to present one of seven forms of photo identification listed above or follow with the Reasonable Impediment Declaration procedure. The notation means the voter is exempt from showing one of the seven forms of photo identification or following the Reasonable Impediment Declaration procedure because the voter has a disability and has applied for and received a disability exemption from the voter registrar in accordance with the Texas Election Code.

**NOTE:** If a voter has continued access to their acceptable form of photo ID, but, for example, forgets to bring their acceptable form of photo ID to the polling place and/or left it at home or in their car, the voter still possesses the acceptable photo ID and must use it to vote. Accordingly, **if the voter states that they possess an acceptable form of photo ID but they did not bring it to the polling place, the election officer should explain that the voter may take one of two actions:**

- a. The voter may leave the polling place and return with their acceptable form of photo ID before the polls close on Election Day and vote a regular ballot at that time.
- b. The voter may cast a provisional ballot. To have the provisional ballot counted, the voter must appear at the county voter registrar's office within 6 calendar days of election day to present an acceptable form of photo ID or complete a natural disaster affidavit because the voter's acceptable photo ID is inaccessible or was destroyed due to certain natural disasters. The presiding judge will follow the procedure prescribed in Situation 7.

***If a voter indicates that the voter does not possess an acceptable form of photo ID, the election officer will need to follow the guidelines below depending on the situation:***

- a. *If the voter states that they do not possess an acceptable form of photo ID, the poll worker should ask the voter if they cannot reasonably obtain an acceptable form of photo ID. If the voter says that they cannot reasonably obtain an acceptable form of photo ID, the election officer should inform the voter that the voter may show a supporting form of ID and execute a Reasonable Impediment Declaration. The election officer should then provide the voter with a Reasonable Impediment Declaration and ask the voter to complete the form by writing their name, indicating at least one reasonable impediment, and signing and dating the Declaration.*

After the Declaration is completed by the voter, the voter should return the Declaration to the poll worker, and the poll worker should ask the voter to present one of the forms of supporting ID of the voter. The election judge should enter the date and then sign on the space provided on the Declaration. Either the poll worker or the election judge should indicate on the Declaration which supporting form of identification was presented. Either the poll worker or the election judge shall fill in the voter's VUID in the appropriate box or affix a sticker that contains the information across the box, and note on the combination form that the Declaration was used by the voter. Either the poll worker or the election judge should fill in the Date of Election and Location fields.

Here is a list of the supporting forms of ID that can be presented if the voter does not possess, and cannot reasonably obtain, one of the forms of acceptable photo ID:

1. copy or original of a government document that shows the voter's name and an address, including the voter's voter registration certificate (other examples of government documents include, but are not limited to: driver's licenses from other states, ID cards issued by federally recognized Native American

tribes (if the ID card contains an address), DPS Receipts (without a photo), expired voter registration certificates, and, for voters aged 18-69, expired Texas DPS-issued driver license or personal ID cards (over 4 years));

2. copy of or original current utility bill;
3. copy of or original bank statement;
4. copy of or original government check;
5. copy of or original paycheck; or
6. copy of or original of (a) a certified domestic (from a U.S. state or territory) birth certificate or (b) a document confirming birth admissible in a court of law which establishes the voter's identity (which may include a foreign birth document).

**NOTE:** If the voter states that they do not possess and cannot reasonably obtain an acceptable form of photo ID, the election officer should not question the voter about their circumstances. The election officer should simply state that if the voter does not possess and cannot reasonably obtain an acceptable form of photo ID, they can show a supporting form of ID and execute a Reasonable Impediment Declaration.

**NOTE:** The election officer may not question the reasonableness of the voter's reasonable impediment. [Sec. 63.001(d)] For example, if the voter checks "lack of transportation" as the impediment, the election officer may not challenge how the voter came to the polling site, or the voter's access to a bus route or other means of transportation. A signed reasonable impediment declaration shall be rejected only upon conclusive evidence that the person completing the declaration is not the person in whose name the ballot is cast.

**NOTE:** A voter who does not possess an acceptable form of photo ID includes a voter who does not possess a *valid* form of acceptable photo identification. Accordingly, a voter with a lost, stolen, suspended, or, if the voter is aged 18-69, expired more than four years, or, if the voter is aged 70 or older, is not otherwise valid (for these voters acceptable photo IDs may be expired for any length of time and still be used for voting so long as they are otherwise valid), form of photo ID listed above does not possess one of the acceptable forms of photo ID, and the voter could execute the Reasonable Impediment Declaration and present a supporting form of identification if the voter cannot reasonably obtain a replacement of the identification that was lost, stolen, suspended, revoked, expired or another form of acceptable form of photo ID.

- b. *If* the voter states that they do not possess an acceptable form of photo ID, and the voter would otherwise not be able to reasonably obtain an acceptable form of photo ID, but has not brought a supporting form of ID to the polling place, the voter should be offered a provisional ballot. To have the provisional ballot counted, the voter must appear at the county voter registrar's office within 6 calendar days of election day and present an acceptable form of photo ID; show a supporting form of ID and execute a Reasonable Impediment Declaration; or qualify for one of the exemptions (disability, natural disaster, or religious objection to being photographed). The presiding judge will follow the procedure prescribed in Situation 7.

**NOTE:** A voter who could otherwise not reasonably obtain an acceptable form of photo ID but did not bring a form of supporting ID to the polling place may opt to leave the polling place and return at a later time before the

polls close with their acceptable form of supporting ID and vote a regular ballot after executing a Reasonable Impediment Declaration at that time.

- c. *If* the voter states that they do not possess an acceptable form of photo ID, and the voter can reasonably obtain an acceptable form of photo ID, the voter should be offered a provisional ballot. To have the provisional ballot counted, the voter must appear at the county voter registrar’s office within 6 calendar days of election day and present an acceptable form of photo ID or qualify for one of the exemptions (disability, natural disaster, or religious objection to being photographed). The presiding judge will follow the procedure prescribed in Situation 7.
2. Locate Voter on List of Registered Voters: When presented with an acceptable form of photo identification or, if applicable, a supporting form of identification with a Reasonable Impediment Declaration, or the voter’s current voter registration certificate with an “E” notation, the election officer checks the list of registered voters for:
    - a. the voter’s name;
    - b. the voter’s registration status; and
    - c. any special annotations.

**NOTE:** The two special annotations requiring further action are “S” for suspense and a “voted” annotation if the voter has voted early. **Because the acceptable form of photo identification, or the supporting form of identification of a qualified voter together with an executed Reasonable Impediment Declaration, or the voter’s current voter registration certificate with an “E” notation, satisfies the requirement for presenting identification required by an “ID” notation, you may disregard any “ID” notation in the official list of registered voters.**

3. Compare Voter’s Name: If the voter’s name on the official list of registered voters does not exactly match the name as it appears on the form of identification provided (the acceptable form of photo identification or, if applicable, the acceptable form of supporting identification), follow the procedure prescribed in Situation 3.
4. Ask Voter if their Residence Address has Changed: 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 his or her former precinct of residence, according to his or her “old” registration address.

**NOTE:** If the election is conducted for a city, school district, or other local political subdivision, in addition to residing in the county, the voter must still reside in the city, school district, or other local political subdivision in order to be eligible to vote.

**NOTE:** The address on an acceptable form of photo ID or, if applicable, a supporting form of identification with a Reasonable Impediment Declaration, should not be compared to the address on the list of registered voters. **These two addresses do NOT have to match.**

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



## SITUATION 1. Acceptable Photo ID/(E) Notation Voter

In this scenario, the voter presents their acceptable form of photo identification listed on page 19, or has a notation of an “(E)” after the VUID number on their voter registration certificate. [Secs. 63.001, 63.0101]

**NOTE:** The photo identification provided by the voter will be current or, for voters aged 18-69, not have expired more than 4 years before the voter is presenting it at the polling place. Voters aged 70 and older may use an acceptable form of photo identification which is expired for any length of time, so long as it is otherwise valid.

The voter will be located in the precinct’s list of registered voters, and the name found on the list of registered voters will match exactly to the name listed on the voter’s identification.

After verifying the voter’s identification, the voter is asked 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 this situation, the voter’s address will be current and the voter will not have changed residence within the county.

**NOTE:** Some voters may not have their addresses on the list of registered voters due to their participation in an address confidentiality program. Nevertheless, election judges should continue to ask whether or not the voter has moved from the address at which the voter is registered to vote. If the voter’s registration address is omitted due to participation in an address confidentiality program, you must ask the voter if the residence address listed on the voter’s acceptable form of identification is current and whether the voter has changed residence within the county.

At this point, the voter should be checked-in by following these steps:

1. 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, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a list. [Sec. 172.1141] Precinct conventions may be held at a time and place determined by rules adopted by the state executive committee of a political party.*

2. *In a runoff primary election, only one list of registered voters is used. This list will indicate voters who voted in the first primary or participated in a convention of a different party. If a voter attempts to vote in a runoff primary of a different party than the one in which the voter voted in the first primary, the voter is ineligible to vote. The ineligibility should be brought to the voter’s attention. A voter becomes affiliated with a political party when the voter votes in that party’s primary or participates in that party’s convention. 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] If the voter believes the notation for the primary election or convention attendance to be incorrect, the voter may complete the*

*Affidavit of Non-Participation and Affiliation form indicating that the voter did not participate in that party's primary or convention and proceed to vote. It is not necessary for the voter to vote provisionally to counteract the record of primary or convention activity. [Sec. 172.125] The Affidavit of Non-Participation and Affiliation form is a separate form not included on the combination form; election officers are advised to note on the combination form that the Affidavit of Non-Participation form was used.*

3. 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 (or combination form). [Sec. 63.002(c)]
4. Legibly enter the name of the voter on the poll list (or combination form). [Sec. 63.003(c)]
  - The voter is required to sign his or her voter registration certificate in the appropriate place upon receipt. [Sec. 15.003] The poll list may also be in the form of an electronic device approved by the Secretary of State. [Sec. 63.003(d)]
  - 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 voter registration certificate with the party affiliation in a primary election. Otherwise, give voter a certificate of party affiliation or combined notice of convention and certification of affiliation, as applicable, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a stamped voter registration certificate or affiliation certificate for verification at a precinct convention. [Secs. 162.004(a-1) and (b), 172.1114]*

**NOTE:** *Because voters are not required to present their voter registration certificates (except to show a disability exemption), there may be a large number of party affiliation certificates.*

**NOTE:** *The party chair can combine the party affiliation certificate with the notice of convention. If this is the case, the combined certificate and notice should be completed and issued to the voter.*

**NOTE:** *The party affiliation certificate is not required to be issued to a voter in a runoff primary unless he or she requests it, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a stamped voter registration certificate or affiliation certificate for verification at a precinct convention. [Sec. 162.004(a-1) and (c)]*

5. Return the acceptable form of identification presented by the voter and the voter's voter registration certificate, if presented, to the voter. [Sec. 63.001(f)]
6. Have the voter pick up a ballot, if applicable, or issue the voter an activation code, etc. for the accessible voting equipment and direct the voter to the voting area. [Sec. 64.001]

**SITUATION 2. Voter Who Does Not Possess and Cannot Reasonably Obtain an Acceptable Form of Photo Identification**

In this scenario, the voter states that they do not possess an acceptable form of photo identification listed on page 19, the voter is asked whether they cannot reasonably obtain an acceptable form of photo ID, and the voter states that they cannot reasonably obtain an acceptable form of photo ID [Sec. 63.001(b)(2)].

In this situation, the election officer should provide the voter with a Reasonable Impediment Declaration and ask the voter to complete the form by writing their name, indicating at least one reasonable impediment, and signing and dating the Declaration.

After the Declaration is completed by the voter, the voter should return the Declaration to the poll worker, and the poll worker should ask the voter to present one of the forms of supporting ID of the voter. The election judge should enter the date and then sign on the space provided on the Declaration. Either the poll worker or the election judge should indicate on the Declaration which supporting form of identification was presented. Either the poll worker or the election judge shall fill in the voter's VUID in the appropriate box or affix a sticker that contains the information across the box, and note on the combination form that the Declaration was used by the voter. Either the poll worker or the election judge should fill in the Date of Election and Location fields.

Here is a list of the supporting forms of ID that can be presented if the voter does not possess, and cannot reasonably obtain, one of the forms of acceptable photo ID:

1. copy or original of a government document that shows the voter's name and an address, including the voter's voter registration certificate (other examples of government documents include, but are not limited to: driver's licenses from other states, ID cards issued by federally recognized Native American tribes (if the ID card contains an address), DPS Receipts (without a photo), expired voter registration certificates, and, for voters aged 18-69, expired Texas DPS-issued driver licenses or personal ID cards (over 4 years));
2. copy of or original current utility bill;
3. copy of or original bank statement;
4. copy of or original government check;
5. copy of or original paycheck; or
6. copy of or original of (a) a certified domestic (from a U.S. state or territory) birth certificate or (b) a document confirming birth admissible in a court of law which establishes the voter's identity (which may include a foreign birth document).

**NOTE:** If a voter has continued access to their acceptable form of photo ID, but, for example, forgets to bring their acceptable form of photo ID to the polling place and/or left it, at home or in their car, the voter still possesses the acceptable photo ID and must use it to vote. Accordingly, if the voter states that they possess an acceptable form of photo ID, but they did not bring it to the polling place, the election officer should explain that the voter may take one of two actions:

- a. The voter may leave the polling place and return with their acceptable form of photo ID before the polls close on Election Day and vote a regular ballot at that time.

- b. The voter may cast a provisional ballot. To have the provisional ballot counted, the voter must appear at the county voter registrar's office within 6 calendar days of election day and present an acceptable form of photo ID or complete a natural disaster affidavit because the voter's acceptable photo ID is inaccessible due to certain natural disasters. The presiding judge will follow the procedure prescribed in Situation 7.

**NOTE:** If the voter states that they do not possess and cannot reasonably obtain an acceptable form of photo ID, the election officer should not question the voter about their circumstances. The election officer should simply state that if the voter does not possess and cannot reasonably obtain an acceptable form of photo ID, they can show a supporting form of ID and execute a Reasonable Impediment Declaration.

**NOTE:** The election officer may not question the reasonableness of the voter's reasonable impediment. For example, if the voter checks "lack of transportation" as the impediment, the election officer may not challenge how the voter came to the polling site, or the voter's access to a bus route or other means of transportation. A signed reasonable impediment declaration shall be rejected only upon conclusive evidence that the person completing the declaration is not the person in whose name the ballot is cast.

**NOTE:** A voter who does not possess an acceptable form of photo ID includes a voter who does not possess a valid form of acceptable photo identification. Accordingly, a voter with a lost, stolen, suspended, or, if the voter is aged 18-69, expired more than four years, or, if the voter is aged 70 or older, is not otherwise valid (for these voters acceptable photo IDs may be expired for any length of time and still be used for voting so long as they are otherwise valid), form of photo ID listed above does not possess one of the acceptable forms of photo ID, and the voter could execute the Reasonable Impediment Declaration and present a supporting form of identification if the voter cannot reasonably obtain a replacement of the identification that was lost, stolen, suspended, revoked, expired or another form of acceptable form of photo ID.

The voter will be located in the precinct's list of registered voters, and the name found on the list of registered voters will match exactly to the name listed on the voter's identification.

After verifying the voter's identification, the voter is asked 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 this situation, the voter's address will be current and the voter will not have changed residence within the county.

**NOTE:** Some voters may not have their addresses on the list of registered voters due to their participation in an address confidentiality program. Nevertheless, election judges should continue to ask whether or not the voter has moved from the address at which the voter is registered to vote. If the voter's registration address is omitted due to participation in an address confidentiality program, you must ask the voter if the residence address listed on the voter's supporting form of identification presented in connection with Reasonable Impediment Declaration is current and whether the voter has changed residence within the county.

At this point, the voter should be checked-in by following these steps:

1. 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)]
2. *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, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a list. [Sec. 172.1141] Precinct conventions may be held at a time and place determined by rules adopted by the state executive committee of a political party.*
3. *In a runoff primary election, only one list of registered voters is used. This list will indicate voters who voted in the first primary or participated in a convention of a different party. If a voter attempts to vote in a runoff primary of a different party than the one in which the voter voted in the first primary, the voter is ineligible to vote. The ineligibility should be brought to the voter’s attention. A voter becomes affiliated with a political party when the voter votes in that party’s primary or participates in that party’s convention. 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] If the voter believes the notation for the primary election or convention attendance to be incorrect, the voter may complete the Affidavit of Non-Participation and Affiliation form indicating that the voter did not participate in that party’s primary or convention and proceed to vote. It is not necessary for the voter to vote provisionally to counteract the record of primary or convention activity. [Sec. 172.125] The Affidavit of Non-Participation and Affiliation form is a separate form not included on the combination form; election officers are advised to note on the combination form that the Affidavit of Non-Participation form was used.*
4. 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 (or combination form). [Sec. 63.002(c)]
5. Legibly enter the name of the voter on the poll list (or combination form). [Sec. 63.003(c)]
  - a. The voter is required to sign his or her voter registration certificate in the appropriate place upon receipt. [Sec. 15.003]
  - b. 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)]
  - c. *Stamp the voter’s voter registration certificate with the party affiliation in a primary election. Otherwise, give voter a certificate of party affiliation or combined notice of convention and certification of affiliation, as applicable, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a stamped voter registration certificate or affiliation certificate for verification at a precinct convention. [Secs. 162.004(a-1) and (b), 172.1114]*

**NOTE:** *Because voters are not required to present their voter registration certificates (except to show a disability exemption), there may be a large number of party affiliation certificates.*

**NOTE:** *The party chair can combine the party affiliation certificate with the notice of convention. If this is the case, the combined certificate and notice should be completed and issued to the voter.*

6. The poll worker should mark the “Reasonable Impediment Declaration” box on the combination form. [Sec. 63.004(a)]
7. Return the form of supporting identification presented by the voter and the voter’s voter registration certificate, if presented, to the voter. [Sec. 63.001(f)]
8. Have the voter pick up a ballot, if applicable, or issue the voter an activation code, etc. for the accessible voting equipment and direct the voter to the voting area. [Sec. 64.001]

**SITUATION 3. Voter's Name on Acceptable Form of Identification Does Not Match  
Voter's Name on List of Registered Voters**

In this scenario, the voter presents their acceptable form of photo identification listed on page 19, or does not possess and cannot reasonably obtain an acceptable form of photo identification, and presents a supporting form of identification (and executes a Reasonable Impediment Declaration). [Secs. 63.001, 63.0101]

If the voter's name on the precinct's list of registered voters is not identical to the voter's name as it appears on the acceptable form of photo identification or the supporting form of identification (if applicable), the election officer will determine, under standards adopted by the Secretary of State, if the names are "substantially similar." If the names are substantially similar, the voter shall be accepted for voting. The voter must submit an affidavit, which is part of the combination form, stating that the voter is the person on the list of registered voters. [Sec. 63.001(c)]

A voter's name on the presented identification form is considered substantially similar to the name on the official list of registered voters if one or more of the circumstances in paragraphs (1) - (4) of this subsection are present. [1 T.A.C. § 81.71] In determining whether one or more of those circumstances are present, election workers should consider whether information on the presented identification form matches elements of the voter's information on the official list of registered voters such as the voter's residence address or date of birth:

1. Slightly Different: The name on the presented identification form is slightly different from one or more of the name fields on the official list of registered voters or one or more of the name fields on the official list of registered voters is slightly different from the name on the presented identification form;
2. Customary Variation: The name on the presented identification form or on the official list of registered voters is a customary variation of the formal name (for example, Bill for William), that is on the document or list that must match, as the case may be;
3. Initial, Middle Name or Former Name: The voter's name on the presented identification form contains an initial, a middle name, or a former name that is not on the official list of registered voters or the official list of registered voters contains an initial, a middle name, or a former name that is not on the presented identification form; or
4. Different Field: A first name, middle name, former name, or initial of the voter's name occupies a different field on the presented identification form than a first name, middle name, former name, or initial of the voter's name on the official list of registered voters.

If the reviewing election worker makes a determination that the voter's name on the presented identification form and the official list of registered voters are substantially similar, the voter shall be accepted for voting if the voter submits the "Similar Name Affidavit," which he or she does by initialing the correct location on the combination form, prescribed by the Secretary of State stating that the voter offering the presented identification form is the same person on the official list of registered voters.

If the reviewing election worker makes a determination that the voter's names on the presented identification form and the official list of registered voters are not substantially similar, the voter shall be offered a provisional ballot. The voter shall be processed as a provisional voter in accordance with the provisional voter process established under Texas law (Situation 7), at the time of voting.

After verifying the identity of the voter, follow these steps:

1. 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; if changed, have voter complete a statement of residence form. [Sec. 63.0011]

**NOTE:** Some voters may not have their addresses on the list of registered voters due to their participation in an address confidentiality program. Nevertheless, election judges should continue to ask whether or not the voter has moved from the address at which the voter is registered to vote. If the voter's registration address is omitted due to participation in an address confidentiality program, you must ask the voter if the residence address listed on the voter's acceptable form of photo ID or, if applicable, the acceptable form of supporting identification, is current and whether the voter has changed residence within the county.

2. 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)]
3. *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, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the county chair does not require a list. [Sec. 172.1141] Precinct conventions may be held at a time and place determined by rules adopted by the state executive committee of a political party.*
4. *In a runoff primary election, only one list of registered voters is used. This list will indicate voters who voted in the first primary or participated in a convention of a different party. If a voter attempts to vote in a runoff primary of a different party than the one in which the voter voted in the first primary, the voter is ineligible to vote. The ineligibility should be brought to the voter's attention. A voter becomes affiliated with a political party when the voter votes in that party's primary or participates in that party's convention. 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] If the voter believes the notation for the primary election or convention attendance to be incorrect, the voter may complete the Affidavit of Non-Participation and Affiliation form indicating that the voter did not participate in that party's primary or convention and proceed to vote. It is not necessary for the voter to vote provisionally to counteract the record of primary or convention activity. [Sec. 172.125] The Affidavit of Non-Participation and Affiliation form is a separate form not included on the combination form; election officers are advised to note on the combination form that the Affidavit of Non-Participation form was used.*
5. Have the voter sign the signature roster (or combination form). [Sec. 63.002(b)]



6. 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 (or combination form). [Sec. 63.002(c)]
7. Legibly enter the name of the voter on the poll list (or combination form). [Sec. 63.003(c)] and any applicable additional information, such as that the voter executed a Reasonable Impediment Declaration on the combination form, if applicable [Sec. 63.004(a)].
  - a. 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)]
  - b. *Stamp the voter's voter registration certificate with the party affiliation in a primary election. Otherwise, give voter a certificate of party affiliation or combined notice of convention and certification of affiliation, as applicable, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a stamped voter registration certificate or affiliation certificate for verification at a precinct convention. [Secs. 162.004(a-1) and (b), 172.1114]*

**NOTE:** *Because voters are not required to present their voter registration certificates (except to show a disability exemption), there may be a large number of party affiliation certificates.*

**NOTE:** *The party chair can combine the party affiliation certificate with the notice of convention. If this is the case, the combined certificate and notice should be completed and issued to the voter.*

8. Return the acceptable form of identification presented by the voter and the voter's voter registration certificate, if presented, to the voter. [Sec. 63.001(f)]
9. Have the voter pick up a ballot, if applicable, or issue the voter an activation code, etc. for the accessible voting equipment and direct the voter to the voting area. [Sec. 64.001]

#### SITUATION 4. Voter Has Moved

In this scenario, the voter presents their acceptable form of photo identification listed on page 19, or does not possess and cannot reasonably obtain an acceptable form of photo identification, and presents a supporting form of identification (and executes a Reasonable Impediment Declaration), or has a notation of an “(E)” after the VUID number on their voter registration certificate and presents that, and the voter’s name appears on the precinct’s list of registered voters. [Secs. 63.001, 63.0101]

The election officer determines under standards adopted by the Secretary of State that the voter’s name on the acceptable form of identification presented by the voter either exactly matches, or is substantially similar to, the name on the official list of registered voters. In the latter case, the officer will follow the procedures outlined in Situation 3 above relating to the voter submitting an affidavit stating that the voter is the person on the list of registered voters.

In this situation, the voter has changed his or her residence to a different precinct. Even if the voter has moved within an apartment complex, his or her precinct may have changed, so be sure to ask for the voter’s full address. If you don’t know whether the voter’s new address is within the same precinct or within the same county, call the voter registrar to determine a voter’s proper precinct or county. [Sec. 63.0011]

If the voter has moved or has an “S” notation next to his or her name, follow one of the three solutions below:

1. **Moved To Another Precinct Within County** (Voter shows up to vote in old precinct): The voter’s name and address are on the list of registered voters, 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. The voter must still reside in the county.

2. **Moved From Another Precinct Within County** (Voter shows up to vote in new precinct): The voter says he or she is a resident of the precinct, but he or she did not transfer his or her voter registration to the new precinct of residence by the 30th day before the election. Further, the voter’s name is not on the list of registered voters, and the voter does not present a current voter registration certificate which shows the voter registered to vote in the precinct.

- 1) The presiding judge should 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.

- 2) If the voter declines to go to the correct precinct, the election judge must inform the voter of his or her right to cast a provisional ballot. (Follow the procedures for provisional voters in Situation 7.)
3. Moved 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 has an effective registration in the new county. If the voter insists on voting in their new county of residence on election day, the election judge must inform the voter of the voter's right to cast 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-in-person period. The voter must be a registered voter in his or her county of former residence or was registered in the former county of residence when the voter applied to register in the new county of residence. [Sec. 112.001, et seq.]

If the election officer determines that a voter has qualified to vote in the precinct where the voter has presented himself or herself, follow the standard procedures for processing the voter:

1. 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)]
2. *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, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a list. [Sec. 172.1141] Precinct conventions may be held at a time and place determined by rules adopted by the state executive committee of a political party.*
3. *In a runoff primary election, only one list of registered voters is used. This list will indicate voters who voted in the first primary or participated in a convention of a different party. If a voter attempts to vote in a runoff primary of a different party than the one in which the voter voted in the first primary, the voter is ineligible to vote. The ineligibility should be brought to the voter's attention. A voter becomes affiliated with a political party when the voter votes in that party's primary or participates in that party's convention. 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] If the voter believes the notation for the primary election or convention attendance to be incorrect, the voter may complete the Affidavit of Non-Participation and Affiliation form indicating that the voter did not participate in that party's primary or convention and proceed to vote. It is not necessary for the voter to vote provisionally to counteract the record of primary or convention activity. [Sec. 172.125] The Affidavit of Non-Participation and Affiliation form is a separate form not included on the combination form; election officers are advised to note on the combination form that the Affidavit of Non-Participation form was used.*
4. Have the voter sign the signature roster (or combination form). [Sec. 63.002(b)]

5. 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 (or combination form). [Sec. 63.002(c)]
6. Legibly enter the name of the voter on the poll list (or combination form). [Sec. 63.003(c)]
7. 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)]
8. *Stamp the voter's voter registration certificate with the party affiliation in a primary election. Otherwise, give voter a certificate of party affiliation or combined notice of convention and certification of affiliation, as applicable, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a stamped voter registration certificate or affiliation certificate for verification at a precinct convention. [Secs. 162.004(a-1) and (b), 172.1114]*

**NOTE:** *Because voters are not required to present their voter registration certificates (except to show a disability exemption), there may be a large number of party affiliation certificates.*

**NOTE:** *The party chair can combine the party affiliation certificate with the notice of convention. If this is the case, the combined certificate and notice should be completed and issued to the voter.*

9. Return the acceptable form of identification presented by the voter and the voter's voter registration certificate, if presented, to the voter. [Sec. 63.001(f)]
10. Have the voter pick up a ballot, if applicable, or issue the voter an activation code, etc. for the accessible voting equipment and direct the voter to the voting area. [Sec. 64.001]

## SITUATION 5.

### **Voter with Acceptable Form of Identification, but Voter's Name Not on List of Registered Voters (Section 63.006)**

In this scenario, the voter presents their acceptable form of photo identification listed on page 19, or if the voter does not possess and cannot reasonably obtain an acceptable form of photo identification, presents a form of supporting identification (and executes a Reasonable Impediment Declaration), or has a notation of an "(E)" after the VUID number on the voter's voter registration certificate and presents that, **BUT** the voter's name does **not** appear on the precinct's list of registered voters. [Sec. 63.001] A voter who complies with identification procedures but whose name is not on the precinct list of registered voters shall be accepted for voting if the voter also presents a valid voter registration certificate indicating that the voter is currently registered:

1. in the precinct in which the voter is offering to vote; or
2. in a different precinct in the same county as the precinct in which the voter is offering to vote, and the voter executes an affidavit stating that the voter:
  - a. 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;
  - b. was a resident of the precinct in which the voter is offering to vote at the time the information on the voter's residence address was last provided to the voter registrar;
  - c. did not deliberately provide false information to secure registration in a precinct in which the voter does not reside; and
  - d. is voting only once in the election.

The election officer may also contact the voter registrar regarding the voter's registration status. If the election officer determines the voter is a registered voter of the territory covered by the election but is offering to vote in the incorrect precinct, the election officer shall provide the correct precinct location information to the voter. In this case, the voter's identification has been confirmed by the voter's acceptable form of photo identification (or through the voter presenting supporting documentation and executing a Reasonable Impediment Declaration or because the voter has a notation of an "(E)" after the VUID number on the voter's voter registration certificate and presents that). The voter must be accepted for voting based on the verification of the voter's identity if it can be determined from the voter registrar that:

- 1) the voter's registration was improperly canceled and has been reinstated under Section 16.037;
- 2) an error in the voter registration record caused the voter's name to not appear on the list of registered voters, and the error has been corrected under Section 15.022; or
- 3) the voter's name has been inadvertently left off the list of registered voters for the precinct. [Section 63.0051]

Check the box labeled "Not on List 63.006" on the same line as the voter's name and address on the combination form (or on the poll list) and indicate there that the voter was accepted under Section 63.006. The election officer shall also enter the voter's name on the registration omissions list. [Sec. 63.006(a), (b)].

At this point, the election officer should follow the standard procedures for processing the voter:

1. 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)]

2. *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, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a list. [Sec. 172.1141] Precinct conventions may be held at a time and place determined by rules adopted by the state executive committee of a political party.*
3. *In a runoff primary election, only one list of registered voters is used. This list will indicate voters who voted in the first primary or participated in a convention of a different party. If a voter attempts to vote in a runoff primary of a different party than the one in which the voter voted in the first primary, the voter is ineligible to vote. The ineligibility should be brought to the voter’s attention. A voter becomes affiliated with a political party when the voter votes in that party’s primary or participates in that party’s convention. 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] If the voter believes the notation for the primary election or convention attendance to be incorrect, the voter may complete the Affidavit of Non-Participation and Affiliation form indicating that the voter did not participate in that party’s primary or convention and proceed to vote. It is not necessary for the voter to vote provisionally to counteract the record of primary or convention activity. [Sec. 172.125] The Affidavit of Non-Participation and Affiliation form is a separate form not included on the combination form; election officers are advised to note on the combination form that the Affidavit of Non-Participation form was used.*
4. Have the voter sign the signature roster (or combination form). [Sec. 63.002(b)]
5. 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 (or combination form). [Sec. 63.002(c)]
6. Legibly enter the name of the voter on the poll list (or combination form). [Sec. 63.003(c)]
7. 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)]
8. *Stamp the voter’s voter registration certificate with the party affiliation in a primary election. Otherwise, give voter a certificate of party affiliation or combined notice of convention and certification of affiliation, as applicable, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a stamped voter registration certificate or affiliation certificate for verification at a precinct convention. [Secs. 162.004(a-1) and (b), 172.1114]*

**NOTE:** *Because voters are not required to present their voter registration certificates (except to show a disability exemption), there may be a large number of party affiliation certificates.*

**NOTE:** *The party chair can combine the party affiliation certificate with the notice of convention. If this is the case, the combined certificate and notice should be completed and issued to the voter.*

9. Return the acceptable form of identification presented by the voter and the voter's voter registration certificate, if presented, to the voter. [Sec. 63.001(f)]
10. Have the voter pick up a ballot, if applicable, or issue the voter an activation code, etc. for the accessible voting equipment and direct the voter to the voting area. [Sec. 64.001]

**SITUATION 6. Voter Without Certificate and Not on List of Registered Voters**

A voter whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, and who does not present a voter registration certificate when offering to vote, as set forth in Situation 5 above, shall be accepted for provisional voting if:

1. the voter executes an affidavit stating that the person is a registered voter in the precinct in which the person seeks to vote; and
2. is eligible to vote in the election. [Secs. 63.009, 63.011]

Follow the procedures for provisional voter in Situation 7 below.

**SITUATION 7. Provisional Voter**

At all elections, the following individuals are eligible to vote a provisional ballot:

1. A voter who states they do not possess an acceptable form of photo ID, and that they can reasonably obtain an acceptable form of photo ID;
2. A voter who states that they do not possess an acceptable form of photo ID, and that they cannot otherwise reasonably obtain an acceptable form of photo ID, but they did not bring their form of supporting ID to the polling place.

**NOTE:** A voter who does not possess and could otherwise not reasonably obtain an acceptable form of photo ID but just did not bring a form of supporting ID to the polling place may opt to leave the polling place, and return at a later time with their acceptable form of supporting ID and vote a regular ballot after executing a Reasonable Impediment Declaration.

3. A voter who states they possess an acceptable form of photo ID, but do not have it with them to present at the polling place. **NOTE:** This voter may opt to leave the polling place, and return at a later time with their acceptable form of ID and vote a regular ballot.
4. A voter who does not present an acceptable form of photo ID or follow the Reasonable Impediment Declaration procedure and has a religious objection to being photographed and the voter has consistently refused to be photographed for any governmental purpose from the time the voter has held this belief. [Sec. 65.054(b)(2)(B)]
5. A voter who does not present an acceptable form of photo ID or follow the Reasonable Impediment Declaration procedure because of a natural disaster that was declared by the president of the United States or the Texas governor, occurred not earlier than 45 days before the date the ballot was cast, and caused the destruction of or inability to access the voter's identification. [Sec. 65.054(b)(2)(C)]

6. A voter whose name on the form of identification presented (an acceptable form of photo identification or, if applicable, a supporting form of identification with a Reasonable Impediment Declaration) is determined by the election officer not to exactly match or be substantially similar to the name as it appears on the election precinct list of registered voters.
7. A voter who presented a form of identification (an acceptable form of photo identification or, if applicable, a supporting form of identification with a Reasonable Impediment Declaration) but whose identity cannot be verified by the identification presented.
8. A voter who has received a disability exemption under Section 13.002(i), but does not have or otherwise fails to present the voter's voter registration certificate at the polling place indicating such exemption, or a voter who is eligible for a disability exemption under Section 13.002(i), but has not yet submitted the documentation required to receive such exemption.
9. Under Section 63.009 (Situation 6), a voter who claims to be properly registered and eligible to vote at the election precinct where the voter presents himself or herself to vote, but whose name does not appear on the precinct list of registered voters and who does not present a voter registration certificate indicating that the voter is currently registered (as described in Section 63.006) or whose registration has not been confirmed through contact with the voter registrar's office.
10. A voter who has applied for a ballot by mail, but has not yet cancelled the mail ballot application with the early voting clerk at the main early voting location or cancelled the mail application by returning the ballot to be voted by mail to the election judge at the voter's election day precinct polling place.
11. A voter who votes during the polling hours that are extended by a state or federal court.
12. A voter who is registered to vote but attempting to vote in a precinct other than the one in which the voter is registered.
13. A voter who is on the election precinct list of registered voters, but whose registered residence address is outside the political subdivision in which the voter is presenting himself or herself to vote.
14. Other: \_\_\_\_\_ (with an explanation). [*See, e.g.,* Sec. 63.011; 1 T.A.C. §§81.172—81.176; Texas Water Code § 49.1025]

If a voter is eligible to cast a provisional ballot under the provisions set forth above, the election judge shall immediately inform the voter of this right.

1. If the voter is casting a provisional ballot due to reasons 1-7 above, the election judge must advise the voter that in order to have their provisional ballot accepted, the voter must present an acceptable form of photo ID to the voter registrar, or, if the voter does not possess and cannot reasonably obtain an acceptable form of photo ID, execute a Reasonable Impediment Declaration and present a supporting form of ID to the voter registrar, or, if applicable, qualify for one of the exemptions (disability, natural disaster, or religious objection to being photographed), within 6 calendar days of election day. The election judge must also provide a [Notice to Provisional Voter \(ID Voter\)](#) to the voter, and inform the voter that they will receive a notice in the mail about whether the voter's provisional ballot was counted. The Notice to Provisional Voter (ID Voter) will provide the following information:



- a. A list of acceptable forms of photo identification, information about the Reasonable Impediment Declaration (including a list of supporting identification which may be presented if the voter does not possess and cannot reasonably obtain an acceptable form of photo identification and executes a Reasonable Impediment Declaration), and information about the temporary and permanent exemptions;
- b. The procedure for presenting acceptable photo identification to the voter registrar, or, if the voter does not possess and cannot reasonably obtain an acceptable form of photo identification, following the Reasonable Impediment Declaration procedure at the voter registrar's office, or, if applicable, executing an affidavit for a temporary exemption in the presence of the voter registrar, or qualifying for a permanent disability exemption, within 6 calendar days of election day;
- c. A map showing the location of the voter registrar for purposes of presenting an acceptable form of photo identification (or, if applicable, a supporting form of ID) or seeking an exemption to the identification requirement; and
- d. A place for the election official to enter the voter's name, voter unique identifier (VUID) number (if available) and the precinct polling place at which the provisional ballot was voted.

**NOTE:** The SOS strongly advises that voters who do not present an acceptable form of photo ID (including, but not limited to, those who present a supporting form of ID and execute a Reasonable Impediment Declaration) be provided with a copy of [Form 13-1 – Notice of Required Identification](#).

2. If the voter is casting a provisional ballot due to reasons 8-14 above, the voter should present an acceptable form of photo ID or, if applicable, a supporting form of ID with a Reasonable Impediment Declaration to the election judge. The election judge must provide a [Notice to Provisional Voter \(Form 7-15-a\)](#) to the voter, and inform the voter that they will receive a notice in the mail about whether their provisional ballot was counted.
3. If the provisional voter indicates they are registered, the election officer must ask the person if they registered at DPS. If person states they registered at DPS, the election officer must ask the person if the person knows the approximate date that the person went to DPS. The election officer must then note that the voter went to DPS and, if the person knows, the approximate date of the DPS visit, on the Provisional Ballot Affidavit Envelope in the "Other" line.
4. The election judge shall also advise the provisional voter that in order to have the voter's provisional ballot accepted, the provisional voter must be voting in the election precinct to which the voter is assigned. It is recommended that election officers make every effort to direct a voter to the polling place for the election precinct to which the voter is assigned. The election judge should familiarize himself or herself with the procedures and policies of the voter registrar on election day for confirming a voter's correct election precinct.
5. Prior to casting a provisional ballot, the election judge shall advise the provisional voter to complete and sign a Provisional Ballot Affidavit Envelope. The Provisional Ballot Affidavit Envelope shall state that the provisional voter is a registered voter in the election precinct in which the voter seeks to vote and eligible to vote in the election. In order to vote a provisional ballot, a provisional voter must sign the Provisional Ballot Affidavit Envelope, and the election judge shall make this clear to the provisional voter.

6. The election judge shall complete the appropriate judge's portion of the reverse side of the Provisional Ballot Affidavit Envelope, including checking the appropriate box, "yes" or "no," as to whether the voter presented a valid and acceptable form of identification. The election judge shall check the reason for which the voter voted provisionally on the Provisional Ballot Affidavit Envelope, and shall then sign the Provisional Ballot Affidavit Envelope. The reasons are:

- 1) Failed to present acceptable form of identification or voter registration certificate with exemption;
- 2) Voter not on list of registered voters;
- 3) Voter not on list, registered in another precinct;
- 4) Voter on list of people who voted early by mail, and voter has not surrendered mail ballot, presented a Notice of Improper Delivery, or presented Notice of Surrendered Ballot;
- 5) Voting after 7:00 p.m. due to court order;
- 6) Voter on list, but registered residence address outside the \_\_\_\_\_ political subdivision;
- 7) Registered at DPS and the date and location when the voter registered at DPS; or
- 8) Other \_\_\_\_\_ (Please explain).

**\*NOTE:** This includes failing to follow the Reasonable Impediment Declaration procedure.

7. After the provisional voter completes the Provisional Ballot Affidavit Envelope and the election judge completes the judge's portion of the reverse side of the Envelope, the election judge shall enter the provisional voter's name on the List of Provisional Voters form.
8. The election judge shall add the name of the provisional voter to the poll list or combination form and check the column "Provisional."
9. The election judge shall have the provisional voter sign the regular signature roster or combination form in the appropriate place. If the provisional voter did not possess and could not reasonably obtain an acceptable form of photo identification, and the provisional voter presented a supporting form of identification and executed a Reasonable Impediment Declaration, the box for Reasonable Impediment Declaration on the combination form should be checked, as should the box for any other relevant applicable items.
10. If provisional voting is being conducted with paper or optical/digital scan ballots, the election judge shall direct the provisional voter to choose a ballot from a disarranged (random numerical order) supply of stack of pre-designated "provisional" ballots that are separate from regular ballots. The election judge shall inform the provisional voter that, after voting the provisional ballot, the voter must place the ballot in the provided

secrecy envelope and that the ballot in the secrecy envelope must be placed inside the Provisional Ballot Affidavit Envelope and the Envelope sealed in order to have the voter's provisional ballot accepted.

11. After the provisional paper or optical scan ballot has been voted, the provisional voter shall:
  - a. Seal the provisional ballot in a secrecy envelope;
  - b. Seal the secrecy envelope inside the Provisional Ballot Affidavit Envelope; and
  - c. Deposit the Provisional Ballot Affidavit Envelope in the secure container for completed Provisional Ballot Affidavit Envelopes provided at the polling place.
  
12. If provisional voting is being conducted on DRE voting machines, the election judge shall prepare the DRE voting machine for provisional voting in accordance with instructions provided by the general custodian of election records, which may include the instructions of the vendor of the system. The election judge shall inform the provisional voter of the procedures to be followed after voting the provisional ballot on the DRE voting machine. To vote provisionally on a DRE voting machine, the provisional voter, as directed by the election judge, shall either:
  - a. Sign the "stub"; seal the "stub" in a secrecy envelope; seal the secrecy envelope inside the Provisional Ballot Affidavit Envelope; access the ballot on the DRE voting machine using the access code printed along with the "stub"; vote the ballot on the DRE voting machine; and deposit the Provisional Ballot Affidavit Envelope (containing the signed "stub") in the secure container for completed Provisional Ballot Affidavit Envelopes provided at the polling place; or
  - b. Be provided by the election judge with a random number from a preset list for provisional ballots on the DRE voting machine enabling the provisional voter to access the provisional ballot on the machine. The election judge shall place a sticker with that number on the Provisional Ballot Affidavit Envelope in the blank labeled "Ballot Number if Using DRE." Nothing is placed inside the Provisional Ballot Affidavit Envelope. The provisional voter will deposit the Provisional Ballot Affidavit Envelope in the secure container for completed Provisional Ballot Affidavit Envelopes provided at the polling place.

<p><b>SITUATION 8.</b> <b>Early Voting Cancellation</b></p>
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1. 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 officer may allow the voter to vote a provisional ballot, but only if the voter executes the affidavit of provisional voter, contained on the Provisional Ballot Affidavit Envelope, swearing that he or she is registered to vote and has not already voted early by mail.
  
2. The voter may also cancel his or her application to vote by mail at the polling place and vote a regular ballot if the voter surrenders his or her mail ballot or a Notice of Improper Delivery to the presiding judge. [Sec. 84.032]

- a. 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 or a “Notice of Improper Delivery” to the election officer. The presiding election judge must review the request and write "CANCELLED" on the returned ballot or Notice. The judge should place the cancelled ballot or Notice and the request in the envelope for cancelled applications. If the voter’s request to cancel does not comply with Section 84.032, 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 designated container prior to delivering the box to the general custodian of election records.

**NOTE:** If the voter is over the age of 65 or is disabled, and has an annual application for ballot by mail, cancelling the application by surrendering the ballot on election day will not cancel their application for other elections in the calendar year. [Sec. 84.038]

- b. If the voter insists he or she did not apply for, receive, or vote a ballot by mail and insists on voting at the polling place, the election judge must inform the voter of the voter’s right to vote a provisional ballot. (See Situation 7.)
3. The voter may also cancel his or her application to vote by mail at the polling place and vote a regular ballot by going to the early voting clerk’s office to cancel the voter’s application if he or she requested an application but does not have the actual ballot to surrender to the presiding election judge.

<p><b>SITUATION 9.</b> <b>Early Voting – Notice of Defective Delivery</b></p>
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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 officer may allow the voter to vote a regular ballot 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 this 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)]

## 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

**NEW LAW:** HB 1128 (87th Leg., R.S., 2021) provides a list of individuals who are permitted to be lawfully present in certain locations related to elections. [Sec. 61.001].

**Polling Place:** The following individuals may be lawfully present in a polling place from the time the presiding judge arrives until the precinct returns have been certified and the election records have been assembled for distribution following the election:

- an election judge or clerk;
- a watcher;
- the Secretary of State;
- a staff member of the Elections Division of the Office of the Secretary of State performing an official duty in accordance with the Election Code;
- an election official, a sheriff, or a staff member of an election official or sheriff delivering election supplies;
- a state inspector;
- a person admitted to vote;
- a child under 18 years of age who is accompanying a parent who has been admitted to vote;
- a person providing assistance to a voter under Section 61.032 or 64.032;
- a person accompanying a voter who has a disability;
- a special peace officer appointed by the presiding judge under Section 32.075;
- *the county chair of a political party conducting a primary election, as authorized by Section 172.1113;*
- a voting system technician, as authorized by Section 125.010;
- the county election officer, as defined by Section 31.091, as necessary to perform tasks related to the administration of the election; or
- a person whose presence has been authorized by the presiding judge in accordance with the Election Code.

**NOTE:** No one may be permitted to be inside the polling place unless specifically authorized by law. [Sec. 61.001] Election officers (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] An offense under Section 61.003 is a Class C misdemeanor. [Sec. 61.003(c)]

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, the candidate will not violate the section if he or she is not

engaged in campaign activity, and is not within plain view or hearing of persons waiting to vote or persons voting. [Sec. 61.001]

## **SECTION B. LAW ENFORCEMENT DUTIES AND POWERS**

1. The presiding judge shall preserve order and prevent breaches of the peace and violations of the Election Code in the polling place and in the area within which electioneering and loitering are prohibited from the time the judge arrives at the polling place until the judge leaves the polling place after the polls close. [Sec. 32.075(a)]
2. A presiding judge has the power of a district judge to enforce order and preserve the peace, including the power to issue an arrest warrant. An appeal of an order or other action of the presiding judge is made in the same manner as the appeal of an order or other action of a district court in the county in which the polling place is located. [Sec. 32.075(c)]
3. A person who is arrested at a polling place while voting or waiting to vote shall be permitted to vote, if entitled to do so, before being removed from the polling place. [Sec. 32.075(d)]
4. In performing their duties, the presiding judge may appoint one or more persons to act as special peace officers for the polling place. A special peace officer may not enforce the prohibition against electioneering or loitering near the polling place unless the officer's appointment is approved by the presiding officer of the local canvassing authority. [Sec. 32.075(b)]
5. The presiding judge or a special peace officer may not enforce the prohibition against electioneering or loitering outside of the area within which electioneering and loitering are prohibited under Section 61.003 or Section 85.036 of the Election Code. [Sec. 32.075(e)]
6. In order to be appointed as a special peace officer at a polling place by a presiding judge, one must be licensed as a peace officer by the Texas Commission on Law Enforcement. [Sec. 32.075(f)]
7. A presiding judge may not have a watcher who is duly accepted for service removed from the polling place for violating a provision of the Election Code or any other provision of law relating to the conduct of elections, other than a violation of the Penal Code, unless the violation was observed by an election judge or clerk. (NEW LAW: SB 1 (87th Leg., C.S., 2021)). [Sec. 32.075(g)]
8. A presiding judge may call a law enforcement officer to request that a poll watcher be removed from the polling place if the poll watcher commits a breach of the peace or a violation of law. (NEW LAW: SB 1 (87th Leg., C.S., 2021)). [Sec. 32.075(h)]

## **SECTION C. GENERAL INSTRUCTIONS TO A VOTER**

1. Any voter may ask any election officer 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 officers may render his or her ballot invalid, except when write-in votes are permitted.
3. Election officers 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 may observe any instructions given by election officers. [Secs. 33.056(a), 34.002(a)]

## SECTION D. 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; 52 U.S.C. § 10508]
  - b. Any voter who cannot read the languages on the ballot. [Sec. 64.031; 52 U.S.C. § 10508]
  - c. Any voter who cannot speak English, or communicates only with sign language, and wants assistance in communicating with election officials. [See Section E of this Chapter]
2. Definition of Assistance. [Sec. 64.0321]
  - a. Reading the ballot to the voter;
  - b. Directing the voter to read the ballot;
  - c. Marking the voter's ballot as directed by the voter;
  - d. Directing the voter to mark the ballot; or
  - e. Serving as an interpreter (must also fill out a separate oath).
3. Oath of Assistance

The person who is to provide assistance must first take an Oath of Assistance administered by one of the election officers.

In *OCA Greater Houston, et al. v. State of Texas, et al.*, No. 1:15-cv-00679-RP (“*OCA Greater Houston*”), the district court issued a permanent injunction on May 15, 2018 prohibiting the State of Texas, the Secretary of State, “their employees, agents, and successors in office, and all persons acting in concert with them, from enforcing Texas Election Code Section 64.0321 or Texas Election Code Section 61.033.” [*OCA Greater Houston*, Docket No. 84]

The district court further ordered:

“[The State of Texas and the Secretary of State] shall revise training and instructional materials for state and county election officials to remove language that reflects the substance of Sections 61.033 and 64.0321. Specifically, such training and instructional materials shall no longer state that (a) an interpreter must be registered to vote in the same county as the voter; or (b) that assisting a voter is limited to conduct that occurs while the person is in the presence of the voter's ballot or carrier envelope.” [*OCA Greater Houston*, Docket No. 84]

As of the district court's injunction, Section 61.033 of the Code provided that “[t]o be eligible to serve as an interpreter, a person must be a registered voter of the county in which the voter needing the interpreter resides.” (This provision was subsequently amended in SB 331 (87th Leg., R.S., 2021), as noted in Section E below.) Section 64.0321 provided that “assisting a voter includes the following conduct by a person other than the voter that occurs while the person is in the presence of the voter's ballot or carrier envelope: (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.”

This handbook and other training materials have been issued in accordance with the *OCA Greater Houston* permanent injunction.

SB 1 (87th Leg., 2nd C.S., 2021) amended the oath of assistance in Section 64.034 to state:

“I swear (or affirm) under penalty of perjury that the voter I am assisting represented to me they are eligible to receive assistance; I will not suggest, by word, sign, or gesture, how the voter should vote; I will confine my assistance to reading the ballot to the voter, directing the voter to read the ballot, marking the voter’s ballot, or directing the voter to mark the ballot; I will prepare the voter’s ballot as the voter directs; I did not pressure or coerce the voter into choosing me to provide assistance; I am not the voter’s employer, an agent of the voter’s employer, or an officer or agent of a labor union to which the voter belongs; I will not communicate information about how the voter has voted to another person; and I understand that if assistance is provided to a voter who is not eligible for assistance, the voter’s ballot may not be counted.”

The impact of the *OCA Greater Houston* permanent injunction on SB 1’s amended oath is the subject of ongoing litigation. The SOS will update this handbook with further developments in the litigation.

**NOTE:** If the assistant is also serving as the interpreter, the person must also take the oath of interpreter. [Sec. 61.035]

Election officials may provide assistance to a voter without taking the oath. (**NEW LAW:** SB 1 (87th Leg., 2nd C.S., 2021)). [Sec. 64.034]

4. 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); 52 U.S.C. § 10508] Such person must be permitted to serve as an assistant regardless of:
  - i. The fact that that person has already assisted another voter;
  - ii. The residence of that person;
  - iii. The citizenship of that person;
  - iv. The voter registration status of that person; or
  - v. The age of that person.
- b. 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]
- c. 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 officers assisting voters do not have to be recorded on the poll list. [Sec. 64.032(d)]
- d. An election officer must ask the voter if he or she wants to have the entire ballot read, and if he or she does, the officer must instruct the person who is rendering assistance to read the entire ballot to the voter. [Sec. 64.033(b)]
- e. 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 officers. [Sec. 64.032(a)] If a voter is assisted by election officers in the general election for state and county



officers, each officer must be aligned with a different political party unless there are not two or more election officers serving the polling place who are aligned with different parties. [Sec. 64.032(b)]

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

- f. When two election officers assist a voter, the entire ballot must be read to the voter unless the voter tells the officers that he or she desires to vote only on certain offices or measures. [Sec. 64.033(a)]
  - g. Poll watchers and inspectors can observe the assistance rendered by election officers, and a poll 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] Neither a state inspector nor a poll watcher may observe the preparation of the ballot of a voter not being assisted by an election officer. [Secs. 33.057(b), 34.002(b)]
5. Curbside voting.
- a. If a voter is physically unable to enter the polling place without assistance or likelihood of injury to his or her health, an election officer may deliver a ballot to the voter at the entrance or curb of the polling place on the voter's request. [Sec. 64.009(a)]
    - i. Poll watchers and inspectors must be allowed to accompany the election officer. [Secs. 33.056(a), 34.002(a)]
    - ii. The voter must be qualified by the election officer before the voter can receive the ballot. [Sec. 64.009(b) and (c)]
    - iii. If using a DRE system, the election officer will deliver the DRE voting machine to the voter rather than a ballot.
    - iv. Once the voter has marked his or her ballot, the election officer deposits 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)]

**NEW LAW:** SB 1, (87th Leg., 2nd C.S., 2021) added Section 64.009(f), (f-1), (g) to provide that a person who simultaneously assists seven or more curbside voters by providing the voters transportation to the polling place must complete and sign a form, provided by an election officer, that contains the person's name and address and whether the person is providing assistance solely under Section 64.009 or is providing additional assistance to the voter under Chapter 64, Subchapter B. Completed forms shall be delivered to the SOS as soon as practicable. The SOS shall retain a form delivered under this section for the period for preserving the precinct election records and shall make the form available to the attorney general for inspection upon request. Section 64.009(f) does not apply if the person assisting is related to each voter within the second degree by affinity (marriage) or the third degree by consanguinity (blood).

- b. 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:
  - i. Two election officers may assist the voter. [Sec. 64.032(a)]

- ii. 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); 52 U.S.C. § 10508]
- iii. Make sure to allow the curbside voter the same privacy as a voter at the voting booth.

## SECTION E. USING ENGLISH AND INTERPRETERS

1. The voter may select an interpreter who is not the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs. [Sec. 61.033(1)]
2. If a person is appointed to serve as an interpreter by an election officer, the interpreter must be a registered voter of the county in which the voter needing the interpreter resides or a registered voter of an adjacent county. [Sec. 61.033(2)]
3. If a voter cannot communicate in English, an election officer may communicate with the voter in a language the officer and the voter understand. [Sec. 61.031(b)] If an election officer and a voter communicate in a language other than English, any other election officer or a poll watcher, upon request, must receive an English translation of anything spoken. [Secs. 61.031, 61.036].
4. The voter may also select an interpreter subject to the qualifications described in this Section E to communicate with the election officer(s) attending to the voter in a language that is not English, regardless of whether the election officer who attempts to communicate with the voter understands or does not understand the language used by the voter. [Sec. 61.032]
5. An interpreter may interpret for any number of voters. For each voter, the interpreter must take the [Oath of Interpreter](#). [Sec. 61.035]
6. 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] If no interpreter is available at the polling place, the authority responsible for appointing the election judges may have appointed an interpreter to serve at a central location to provide assistance for Spanish-speaking voters and voters speaking any other languages required by the federal government based on the most recent federal census. [Sec. 272.009]

***Note Regarding Primary Election:** In a primary election, the county chairs of each party holding the primary shall each appoint their own interpreter to serve at a central location. [Sec. 272.009(b)]*

## SECTION F. MISCELLANEOUS PROVISIONS

For additional information, please see our [Certain Activities in Vicinity of Polling Places](#) advisory.

**Use of Firearms by Law Enforcement:** Section 46.03(a) of the Texas Penal Code generally prohibits a person from bringing a firearm onto the premises of a polling place. However, this prohibition does not apply to a peace officer, regardless of whether the police officer is on or off duty. For this and other potentially applicable exceptions, see [Tex. Pen. Code § 46.15](#) and our [Certain Activities in Vicinity of Polling Places](#) advisory.

**NOTE:** Recent legislation allowing open carry of handguns does **NOT** change the law as it pertains to guns in the polling place; thus no one except licensed peace officers may carry handguns into the polling place.

**Written Communication:** Written communications may be used by voters inside the polling place. Election officers 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(a)] An election officer shall remove from the sight of the voters any written communication found under Section 61.011(a). [Sec. 61.011(b)]

**Electioneering and Loitering:** It is unlawful for any person to electioneer or loiter within the boundary established by the distance markers. An offense is a Class C misdemeanor. [Sec. 61.003] Neither election officers nor peace officers may enforce electioneering or loitering statutes outside the 100 ft. distance marker. [Sec. 32.075(e)]

1. It is the duty of the presiding judge to prevent unlawful electioneering or loitering. [Sec. 32.075(a)]
2. 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 beyond the distance markers if their activities are disruptive to voters.
3. A candidate seeking petition signatures may not do so within the 100 ft. distance marker.
4. Election judges, clerks, state or federal election inspectors, peace officers, and poll watchers must wear name tags or official badges, as applicable, while on duty to indicate the person's name and title or position. [Secs. 33.051(f), 61.010(b)] The tags should be in your election kit. If you do not have tags, you may create your own, but they must comply with the form prescribed by the Secretary of State.
5. 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 through which a voter may enter the building in which the polling place is located. Therefore, election judges and clerks, federal and state inspectors, peace officers, and poll watchers 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(c)]

### **Revealing Information**

No one connected with the conduct of the election may reveal any of the following information while the polls are open:

1. The names of voters who have or have not voted in the election. [Sec. 61.007(a)(4)]
2. The number of votes cast that have been received for individual candidates and/or for or against propositions. [Sec. 61.007(a)(1)]
3. A candidate's position relative to other candidates in the tabulation of the votes or whether a measure is passing or failing. [Sec. 61.007(a)(2) and (3)]

Unlawfully revealing the above information is a Class A misdemeanor. [Sec. 61.007(b)]

Election judges must 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. Post the notice next to the entrance to the polling place. [Sec. 61.007(c)] See [Notice of Total Number of Voters Who Have Voted](#). This requirement does not apply to early voting by personal appearance.

### **Influencing a Voter**

No one connected with the conduct of the election may indicate by sign, symbol, word, or writing to any voter how he or she should or should not vote. [Sec. 61.008] This includes:

1. interpreters;
2. assistants; [Sec. 64.034]

3. poll watchers; and [Sec. 33.058(a)]
4. inspectors.

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) for the purpose of making political speech or electioneering within 1,000 feet of the polling place. [Sec. 61.004(a)] A person operates a vehicle with a loudspeaker if the person drives the vehicle, uses the loudspeaker, or operates sound equipment in connection with the loudspeaker. [Sec. 61.004(b)] An offense of this nature is a Class C misdemeanor. [Sec. 61.004(d)]

### **Use of Cell Phones and Other Wireless Communication Devices**

The use of wireless communication devices (e.g., cell phones) is prohibited in the polling place, except as used by polling place officials and persons employed in the building where the polling place is located. A poll watcher must swear by affidavit that he or she either does not possess a device capable of recording images or sound or that the watcher will disable or deactivate the device while serving as a watcher, and prohibits the watcher from serving until he or she has done so. [Secs. 33.051, 61.014]

1. The election judge must post a notice of the prohibition against use of wireless and recording devices where voters are waiting to vote. [Sec. 62.0111] See [Notice of Prohibition of Certain Devices](#).
2. A poll watcher is considered to have served continuously if the watcher leaves the polling place for the purpose of using a wireless communication device prohibited from use in the polling place and promptly returns. [Secs. 33.052(b), 62.011]
3. Please see our [Certain Activities in Vicinity of Polling Places](#) advisory for information regarding voters with disabilities who use assistive devices.

### **Security Cameras**

Security cameras are foundationally recording devices. Many buildings available to use as polling places have such equipment installed in them. The security cameras should be turned off if it is possible to do so. If it is not possible to turn the security cameras off, then making sure they do not cover or film the voting areas is essential. Our office does not believe that turning the voting equipment away from the camera is sufficient. We strongly recommend that the camera should not view the voting equipment at all. In addition, the recording of sound is a separate but equally concerning issue. If it is possible to turn off that feature during the hours of voting, that will be necessary.

## **SECTION G. CASTING THE BALLOT**

1. A voter who makes a mistake while marking his or her ballot may take the spoiled ballot to an election officer and exchange it for a new ballot. [Sec. 64.007(a)]  
**NOTE:** A voter may spoil up to two ballots and vote a third ballot. A voter is not entitled to receive more than three ballots. [Sec. 64.007(b)]
2. The election officer shall put the name of the voter and the ballot number on the register of spoiled ballots, indicate on the ballot it is spoiled, and place the spoiled ballot in Ballot Box No. 4. [Sec. 64.007]

3. After the voter has prepared his or her ballot, the voter folds the ballot in such a way that the back of the ballot, which contains the presiding judge's signature, is exposed and deposits the folded ballot into the ballot box provided for the deposit of voted ballots and leaves the polling place. [Sec. 64.008(a)]

**NOTE:** When optical scan ballots are used, the ballots should not be folded as folding the ballots make it difficult for the tabulator to read the voter's marks.

4. When a voter begins the process of making ballot selections but leaves without casting a vote on a DRE, also known as a "fleeing voter," a polling place official must cancel the electronic ballot and document the cancellation.
5. When a voter leaves without fully depositing their paper ballot into the optical scanner or ballot box, also known as a "fleeing voter," this ballot must be treated as a spoiled ballot, and the presiding election judge or an election clerk shall cancel the ballot and document the cancellation.
6. Once a voter has cast his/her ballot, they are not entitled to receive another ballot.

## CHAPTER 4 EXAMINING, PREPARING, AND COUNTING VOTED BALLOTS

For additional information regarding polling place preparation and procedures regarding the use of electronic voting systems on election day, please see Chapter 1 of this handbook, our [advisory regarding precinct ballot counters and central accumulators](#) and our [electronic voting system procedures advisory](#).

### SECTION A. EQUIPMENT FAILURE DURING VOTING

The general custodian of election records shall create a contingency plan for addressing direct recording electronic voting machine failure. This plan must include timely notification to the Secretary of State's office.

- a. Procedures and plans shall be written by the general custodian which are specific to your voting equipment for handling election day equipment failure, including backup and contingency plans. [Sec. 125.006] In the event of equipment failure, please contact the general custodian. The steps taken below should be taken in consultation with the general custodian.
- b. The presiding judge shall stop use of malfunctioning voting system equipment installed at a polling place immediately after discovering that the equipment is not functioning properly. [Sec. 125.006(a)]
- c. The presiding judge shall have the malfunctioning equipment promptly repaired or replaced if practicable. [Sec. 125.006(b)]
- d. If the presiding judge determines that the equipment cannot be promptly repaired or replaced and that voting cannot be continued by using only the remaining operational equipment without substantially interfering with the orderly conduct of the election, voting at that polling place may be conducted by one of the following methods in addition to, or instead of, using remaining operational equipment:
  - 1) using another voting system that has been adopted for use in the election;
  - 2) using regular paper ballots, whether early voting ballots or ballots for regular voting on election day (please see emergency ballot note in Chapter 1 of this handbook); or
  - 3) having voters manually mark the electronic system ballots that were furnished for use with the malfunctioning equipment and having the ballots processed as regular paper ballots. [Sec. 125.006(c)]
- e. If a DRE malfunctions during voting and there have been votes cast on that machine, extra precaution should be taken to protect the cast vote records (ballot images) and audit logs stored on that DRE. Secure the equipment and document the chain of custody when transporting the equipment to another location. [Sec. 125.006]

#### **General Polling Place Procedures:**

The procedures you follow at your precinct for managing ballots and preparing and distributing records will depend on how and where ballots are counted. The authority conducting the election will inform you as to what method of counting is to be used for your election. An election will be set up to have either a traditional polling place set-up or a central counting station.

In a **traditional polling place** setup, precinct returns are generated at each precinct polling place and early voting in person ballots and early voting by mail ballots are counted by the early voting ballot board. The returns are then delivered to the general custodian of election records and the unofficial tabulation of election results is generated in accordance with Section 66.056.

In a **central counting station** setup, the authority ordering the election must create a central counting station and appoint a central counting station manager, tabulation supervisor, and presiding judge. The central counting station counts all early voting by mail ballots. The precinct records, voted ballots, and electronic media from the precinct ballot counters used for early voting in person and election day would be delivered to the central counting station where the electronic media would be read in a central accumulator. The central counting station would be responsible for creating both precinct returns and the unofficial tabulation of election results in accordance with Section 66.056.

**Ballots may be counted in the following ways:**

1. **Traditional Polling Place Setup (precinct returns completed at polling place)**
  - a. Hand-count at the precinct (for information regarding procedures for hand-counted paper ballots, please see Appendix A of this handbook).
  - b. Optical/Digital Scan ballots deposited in a precinct ballot counter at the polling place.
  - c. DRE Voting Machines at the polling place.
2. **Central Counting Station Setup (precinct returns completed at Central Counting Station)**
  - a. Optical/Digital Scan ballots deposited in a regular ballot box, counted at central counting station.
  - a. Optical/Digital Scan ballots deposited in a precinct ballot counter at the polling place.
  - b. DRE Voting Machines at the polling place.

**NOTE:** Even elections that are conducted using a traditional hand-counted paper ballot election are still required to have accessible voting equipment in the polling place. There are limited exemptions for certain entities based on the county population. See our [Advisory on Exemptions to Voting System Accessibility Requirements](#) for more details.

The following sections provide procedures for counting your ballots based on the type of voting system equipment used and whether or not you are utilizing traditional polling place procedures or a central counting station.

## **SECTION B. TRADITIONAL POLLING PLACE PROCEDURES FOR COUNTING OPTICAL/DIGITAL SCAN BALLOTS AT THE POLLING PLACE WHEN USING PRECINCT BALLOT COUNTERS**

These procedures should be followed if the ballots are counted with a precinct ballot counter and precinct returns will be completed at the polling place.

1. After the polls close or the last voter has voted, whichever is later, the election judge must secure the precinct ballot counter so that no additional ballots can be deposited in to the precinct ballot counter.
2. The election judge shall document the public count on each voting device, and any other applicable devices (i.e. e-pollbooks, JBC, Controller, ballot on demand systems).

3. The election judge shall verify that the public count(s) equal the number of voters who signed the roster.
4. The election judge must close or suspend the polls, whichever is applicable to that system, on the precinct ballot counter and print three copies of the results tape. (**WARNING: during early voting, do not print out the precinct results tape.**)
5. The election judge shall compare the number of ballots recorded on the ballot and seal certificate to the number of ballots listed on the results tape.
6. If a discrepancy of four or more exists (as indicated by # 5 above) the official tabulation of the ballots shall be conducted at a central counting station in accordance with Section 127.156. **Contact the authority conducting the election for more details if this occurs.**
7. If there is no discrepancy described in #6, the counted ballots shall be removed from the precinct ballot counter and examined for irregularly marked ballots for processing in accordance with Section 127.156.

**NOTE:** For examples of irregularly-marked ballots, please see Appendix B of this handbook.

8. If there are two or more irregularly marked ballots, the official tabulation of the ballots shall be conducted at a central counting station in accordance with Section 127.157(b)-(e). **Contact the authority conducting the election for more details if this occurs.**
9. If no ballots are required to be sent to the central counting station, then the presiding judge shall conclude processing results in the polling place.
10. The election judge shall review the write-in votes, if any, in accordance with Section 65.008. These write-in votes, if any, should be hand tallied.

**NOTE:** For instructions on completing a hand tally, please see Appendix A of this handbook.

11. The election judge shall then prepare the precinct returns from the results tape printed, and if any, from the write-in votes hand tallied by the precinct election judges and clerks.
12. Precinct election records shall be distributed in the proper envelopes and ballot boxes in accordance with Chapter 5 of this handbook.
13. The precinct returns, voted ballots, electronic media from the precinct ballot counter, precinct election records and the remaining supplies shall be delivered to the general custodian of election records, immediately after the precinct returns are completed, in accordance with Section 66.053.

**NOTE:** If there is a problem with the precinct ballot counter and the authority conducting the election has concluded that you are unable to use it for the counting of ballots, Section F provides procedures on conducting a hand count at the polling place.

### **SECTION C. TRADITIONAL POLLING PLACE PROCEDURES FOR COUNTING BALLOTS AT THE POLLING PLACE WHEN USING DIRECT RECORDING ELECTRONIC (DRE) VOTING MACHINES**

1. After the polls close or the last voter has voted, whichever is later, the election judge must secure the DREs so that no additional votes can be cast on any of the DREs.
2. The election judge shall document the public count on each voting device, and any other applicable devices (i.e. e-pollbooks, JBC, Controller, ballot on demand systems).



3. The election judge shall verify that the public count(s) equal the number of voters who signed the roster and document any discrepancies. If discrepancies exist, the election judge shall attempt to determine how discrepancies occurred. **If you are unable to reconcile the discrepancies, contact the authority conducting the election for further instructions.**
4. The election judge must close or suspend the polls, whichever is applicable to that system, and print three copies of the results tape. (**WARNING: during early voting, do not print out the precinct results tape.**)
5. The election judge, an election clerk, and not more than 2 poll watchers, if one or more are present, must sign the results tape.
6. The election judge shall review the write-in votes, if any, in accordance with Section 65.008. If any, these write-in votes should be hand tallied.

**NOTE:** For instruction on completing a hand tally, please see Appendix A of this handbook.

7. The election judge shall then prepare the precinct returns from the results tape printed, and if any, from the write-in votes hand tallied by the precinct election judges and clerks.
8. Precinct election records shall be distributed in the proper envelopes and ballot boxes in accordance with Chapter 5 of this handbook.
9. The election judge shall lock and seal the DRE to prepare it for delivery back to the general custodian. Any seals affixed to the DRE shall be documented.
10. The precinct returns, precinct election records, and the remaining supplies shall be placed in a secure transfer case. Any seals affixed to the transfer case shall be documented.
11. The DRE along with the transfer case containing the precinct returns, precinct election records, and remaining supplies shall be delivered to the general custodian of election records, immediately after the precinct returns are completed in accordance with Section 66.053.

#### **SECTION D. PROCEDURES FOR OPTICAL/DIGITAL SCAN BALLOTS COUNTED AT A CENTRAL COUNTING STATION**

These procedures should be followed if the political subdivision has created a central counting station for the processing of election results. At a central counting station, the presiding judge is responsible for producing both precinct returns and election totals. Some procedures may vary depending on the type of equipment being used. Detailed instructions should be provided to you by the authority conducting the election.

Below are some general guidelines that should be followed, along with any detailed instructions provided locally.

1. After the polls close or the last voter has voted, whichever is later, the election judge must secure the precinct ballot counter so that no additional ballots can be deposited in to the precinct ballot counter.
2. The election judge shall document the public count on each voting device, and any other applicable devices (i.e. e-pollbooks, JBC, Controller, ballot on demand systems).
3. The election judge shall verify that the public count(s) equal the number of voters who signed the roster and document any discrepancies. If discrepancies exist, the election judge shall attempt to determine how discrepancies occurred. **If you are unable to reconcile**

**the discrepancies, contact the authority conducting the election for further instructions.**

4. The election judge must close or suspend the polls, whichever is applicable to that system, on the precinct ballot counter and print a minimum of three copies of the results tape. **(WARNING: during early voting, do not print out the precinct results tape.)**
5. The election judge, an election clerk, and not more than 2 poll watchers, if one or more are present, must sign the results tape.
6. The election judge shall complete election paperwork provided by the authority conducting the election. This includes the ballot and seal certificate.
7. Precinct election records shall be distributed in the proper envelopes and ballot boxes in accordance with Chapter 5 of this handbook.
8. **Precinct ballot counter returned to central counting station.**
  - a. The election judge shall lock and seal the precinct ballot counter to prepare it for delivery back to the central counting station. The voted ballots and precinct returns shall be placed in a secure transfer case.
  - b. Any seals affixed to the transfer case shall be documented on the ballot and seal certificate.
  - c. The precinct ballot counter and the transfer case containing the voted ballots and precinct election records shall be delivered to the presiding judge of the central counting station in accordance with Section 127.066(c).
9. **Precinct ballot counter NOT returned to central counting station.**
  - a. If the precinct ballot counter itself cannot be removed from the polling place, the election judge shall remove the electronic media from the precinct ballot counter and document any seals broken or applied to the precinct ballot counter.
  - b. The electronic media, voted ballots, and precinct election records shall be placed in a secure transfer case.
  - c. Any seals applied to the transfer case shall be documented on the ballot and seal certificate.
  - d. The electronic media, voted ballots and precinct election records and shall be delivered to the presiding judge of the central counting station in accordance with Section 127.066(c).

## **SECTION E. PROCEDURES FOR DRE BALLOTS COUNTED AT A CENTRAL COUNTING STATION**

These procedures should be followed if the political subdivision has created a central counting station for the processing of election results. At a central counting station, the presiding judge is responsible for producing both precinct returns and election totals. Some procedures may vary depending on the type of equipment being used. Detailed instructions should be provided to you by the authority conducting the election.

Below are some general guidelines that should be followed, along with the detailed instructions provided locally:

1. After the polls close or the last voter has voted, whichever is later, the election judge must secure the DREs so that no additional votes can be cast on any of the DREs.

2. The election judge shall document the public count on each voting device, and any other applicable devices (i.e. e-pollbooks, JBC, Controller, ballot on demand systems).
3. The election judge shall verify that the public count(s) equal the number of voters who signed the roster and document any discrepancies. If discrepancies exist, the election judge shall attempt to determine how discrepancies occurred. **If you are unable to reconcile the discrepancies, contact the authority conducting the election for further instructions.**
4. The election judge must close or suspend the polls, whichever is applicable to that system, and print three copies of the results tape. **(WARNING: during early voting, do not print out the precinct results tape.)**
5. The election judge, an election clerk, and not more than 2 poll watchers, if one or more are present, must sign the results tape.
6. Follow the instructions of the authority conducting the election, but if directed to do so, remove the electronic media, or other device which stores the votes, from the voting devices, and document breaking of the seal to remove the memory card (we recommend this be documented by two election officers).
7. The election judge shall lock and seal the DRE to prepare it for delivery back to the general custodian. Any seals affixed to the DRE shall be documented.
8. Precinct election records, results tapes and electronic media shall be distributed in the proper envelopes and ballot boxes in accordance with instructions provided to you by the authority conducting the election and in accordance with Chapter 5 of this handbook.
9. The electronic media and precinct election records shall be placed in a secure transfer case. Any seals affixed to the transfer case shall be documented.
10. The electronic media and precinct election records contained in the secure transfer case shall be delivered to the presiding judge of the central counting station in accordance with Section 127.066(c) of the Election Code.
11. The authority conducting the election will provide detailed instructions on how, when, and where to return the voting system equipment and supplies.

## **SECTION F. HAND COUNTING PRECINCT COUNT OPTICAL/DIGITAL SCAN BALLOTS**

If the tabulating equipment is not working properly and if the presiding judge concludes that it will not be possible to use a precinct ballot counter the election officers must either manually count all voted ballots (traditional polling place setup) 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.

1. Three original tally lists are required. [Sec. 65.004] These tally lists should be completely filled out, which includes the following:
  - a. names and offices of candidates and/or propositions;
  - b. date;
  - c. precinct number;
  - d. type of election;
  - e. name of presiding judge; and
  - f. signature of the person keeping the tally list.
2. 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]

- a. 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 officer must indicate on the back of the ballot the reason for not counting it. [Sec. 65.010(c)]

**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. 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(a)]
  - 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(a)]
  - b. The failure of a voter to vote a full ballot does not invalidate the ballot. [Sec. 65.009(b)]
  - c. 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(c)]
  - d. If a provisional ballot is found outside a provisional ballot affidavit envelope, the ballot shall not be counted. [Sec. 64.008]
  - e. An individual vote is not counted if:
    - i. The intent of the voter cannot be determined. [Sec. 65.009]
    - ii. 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]
    - iii. 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)]
    - iv. A November general election, city council officer elections, an independent and common 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. 144.006, 146.031(d), 146.054, 146.055, 146.082, 171.0231, Election Code; Secs. 11.056(c), 11.304, 130.081, 130.0825, Education Code; Sec. 285.131, Health and Safety Code; Secs. 326.0431, 326.0432, Local Government Code; Secs. 36.059, 49.101, 63.0945, Water Code]
    - v. The election is a runoff or primary election and the vote is a write-in. [Sec. 146.002].
    - vi. 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]
  - f. A ballot is not counted if:

- i. The intent of the voter cannot be determined for any races or propositions on the ballot. [Sec. 65.009]
- ii. Two or more marked ballots are folded together in a manner indicating that they were folded together when deposited in the ballot box. [Sec. 65.010(a)(2)]
- iii. The ballot is not numbered and the presiding judge determines that the ballot was not provided at the polling place. [Sec. 65.010(a)(1)]
- iv. The ballot was not deposited in the ballot box. [Sec. 65.010(a)(4)]

**NOTE: Failure to mark a ballot in strict conformity with the 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]**

5. As each vote is read, a tally mark is made by the corresponding name or number on the tally sheets. [Sec. 65.005(a)]
6. The tally lists should be compared periodically and any errors or discrepancies corrected. [Sec. 65.005(b)]
7. 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)]
8. 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)]

## CHAPTER 5 CLOSING AND SECURING THE POLLING PLACE

For additional information regarding closing and securing the polling place, please see our [electronic voting system procedures advisory](#).

**NOTE:** At the end of Election Day, the various forms that came out of the Election Kit (or other supply bag provided by the local authority) at the beginning of the day must be distributed to appropriate authorities in particular envelopes and ballot boxes. Leftover forms go back into the Election Kit (or other supply bag provided by the local authority). Signage can be taken down and placed in Ballot Box No. 4 (or other container if there is no Ballot Box No. 4). The local authority conducting the election will provide detailed instructions to supplement the procedures provided in this chapter.

### SECTION A. CLOSING THE POLLING PLACE

1. Officially close and lock the door to the polling place at 7:00 p.m. [Sec. 41.031(a)]
2. 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 officer after the last person in line at 7:00 p.m.
  - 3) Distribute numbered identification cards, tokens, etc. to people waiting in line at the time for official closing of the polls. [Sec. 41.032(b)]
  - 4) The presiding judge shall take the precautions necessary to prevent voting after closing time by persons who are not entitled to do so. [Sec. 41.032(c)]
3. After the polling place is officially closed and the last person has voted, the presiding judge may from time to time make an 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)] The announcement shall be made at the entrance to the polling place. [Sec. 65.015(c)]

**NOTE:** The authority conducting the election may require or prohibit such announcements. [Sec. 65.015(b)] Unofficial election results must be released by the central counting station as soon as they are available after the polls close, but the presiding judge of the central counting station, in cooperation with the county election officer (the county clerk, elections administrator, or tax assessor collector, as appropriate to the county), may choose to withhold the release of vote totals until the last voter has voted. [Sec. 127.1311]

**Note Regarding Primary Election:** *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, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a list. [Sec. 172.1141] Precinct conventions might not be held on primary election night, but on some other date as determined by rules of the state party. In such event, the presiding judge will be instructed of alternate delivery arrangements for the second list of registered voters.*

4. The election records are placed in the appropriate envelopes or containers as prescribed below depending on the type of voting method used: hand-count at the precinct,

optical/digital scan precinct ballot counter at the polling place, optical/digital scan tabulator at the central counting station or regional substation, or DRE.

**NOTE:** If an electronic pollbook is used, and is not capable of generating the number of copies of forms needed as described below, and no photocopy machine is available at the polling place, the general custodian of election records shall establish the procedures to make the necessary copies described below.

5. Poll watchers may accompany election officers delivering election records. 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. [Sec. 33.060]
6. Records must be delivered to the appropriate authorities immediately upon the completion of precinct returns and in any case not later than 24 hours after the polls close. [Sec. 66.053(c)]
7. An election officer responsible for delivering precinct election returns or voted ballots commits an offense if the officer:
  - i. fails to make the delivery to the appropriate authority;
  - ii. fails to make the delivery by the deadline prescribed by Section 66.053(c); or,
  - iii. fails to prevent another person from handling in an unauthorized manner the returns or voted ballots that the officer is responsible for delivering while they are in the officer's custody. [Sec. 66.054(a)]. An offense under this section is a Class B misdemeanor. [Sec.66.054(c)].

## **SECTION B. DISTRIBUTION OF ELECTION RECORDS WHEN BALLOTS ARE TABULATED AT THE POLLING PLACE AND PRECINCT RETURNS ARE COMPLETED AT THE POLLING PLACE (OPTICAL/DIGITAL SCAN AND/OR DRE)**

1. Making out the returns
  - a. The election judge, an election clerk, and not more than 2 poll watchers, if one or more are present, must sign the results tape.
  - b. If write in votes were hand tallied, the election judge must 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 the official precinct returns based on the results provided from the printed results tape and any tally sheets completed from counting write in votes (if any). Presiding judge **MUST** sign all copies of the returns. [Sec. 65.014(c)]
2. Copies of poll lists.
  - a. There must be three copies of the poll list maintained (an original and two copies). If a combination form is used, then four copies of the form are needed. [Secs. 63.003(b), 63.004(c)] The poll list and combination form may be in the form of an electronic device prescribed by the Secretary of State. [Sec. 31.014]
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 Oaths and is delivered to the county chair with Envelope No. 1.*)
  - a. **Envelope No. 1** addressed to the presiding officer of the local canvassing authority. [Secs. 66.003(b)(1), 67.002]
    - County judge (general election or county election).
    - *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 election officer (county clerk, elections administrator or tax assessor collector as appropriate to the county) (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 in a primary election.
- f. Envelope containing cancellation requests is addressed to the general custodian of election records. This envelope is placed in Ballot Box No. 4, if a Ballot Box No. 4 is being used. [Secs. 66.026, 66.051(b), 84.032]
4. The records of the election must be distributed as follows:
- a. **Contents of Envelope No. 1:** [Sec. 66.022] [addressed to the presiding officer of the local canvassing authority]
- Printout of results tape(s) and precinct returns, if applicable;  
**NOTE:** Unless you are required to send ballots to central counting station due to irregularities and discrepancies in counts. [Secs. 127.156, 127.157]
- b. **Contents of Envelope No. 2:** [Sec. 66.023] [addressed to the general custodian of election records]
- Printout of results tape(s);
  - Copy of precinct returns;  
**NOTE:** Unless you are required to send ballots to central counting station due to irregularities and discrepancies in counts. [Secs. 127.156, 127.157]
  - The original of the poll list (or combination form);
  - Reasonable Impediment Declarations;
  - The signature roster (or combination form);
  - The precinct early voting list;
  - Any certificates of appointment of poll watchers;
  - Original copy of Statement of Compensation and Oaths (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 and Oaths 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 and Oaths 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 and Oaths.
  - The notice of the number of voters who voted during the day;
  - Notice of Improper Delivery;
  - Oaths of Election Officers;



- Oaths of Assistance and Oaths of Interpreters;
  - Affidavits completed at the polling place, except affidavits required to be placed in Envelope No. 4; and [Sec. 66.023(6)]
  - List of provisional voters. [1 T.A.C. 81.174(c)(2)]
- c. **Contents of Envelope No. 3:** [Sec. 66.024] [addressed to the presiding judge]
- Copy of precinct returns;  
**NOTE:** Unless you are required to send ballots due to irregularities and discrepancies in counts. [Secs. 127.156, 127.157]
  - Printout of results tape(s);
  - A copy of the poll list (or combination form);
  - A copy of the ballot register;
  - A copy of the ballot and seal certificate; and
  - A copy of the Statement of Compensation and Oaths.
- d. **Contents of Envelope No. 4:** [Sec. 66.0241] [addressed to the voter registrar]
- Precinct list of registered voters and supplemental list, if any;
  - The registration correction list, if any;
  - Any Statements of Residence completed at the polling place; and
  - Copy of Combination Form, if used instead of individual affidavits;
- e. **Contents of Envelope No. 5:** [addressed to the county chair in a primary election]
- Original of the Statement of Compensation and Oaths in a Primary Election.
- f. **Contents of Ballot Box No. 3** (optical/digital scan or emergency paper ballots for accessible equipment, if any): [Sec. 66.025]
- Voted ballots;
  - Printout of results tape(s);
  - Copy of precinct returns;  
**NOTE:** Unless you are required to send ballots to central counting station due to irregularities and discrepancies in counts. [Secs. 127.156, 127.157]
  - A copy of the poll list (or combination form);  
**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]
  - The original of the ballot and seal certificate; and [Sec. 127.156]
  - Memory card or any other electronic data storage medium (unless it is too bulky to put through ballot slot or if instructed by authority conducting election to place in another secured container).
- g. **Contents of Ballot Box No. 4:** [Sec. 66.026]
- Printout of results tape(s) if instructed by the general custodian;
  - The original of the ballot register;
  - The register of spoiled ballots;
  - Any spoiled ballots;
  - Any defectively-printed ballots;
  - Any envelope containing cancellation requests and cancelled ballots; and
  - Any other unused ballots.

**Note Regarding Primary Election:** *For the general primary election, the second list of registered voters is given to the precinct chair for use in qualifying precinct convention participants, unless, by the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a list. [Sec. 172.1141] Precinct conventions might not be held*

*on primary election night, but on some other date as determined by rules of the state party. In such event, the presiding judge will be instructed of alternate delivery arrangements for the second list of registered voters.*

- h. Contents of Secured Container Used for the Deposit of Voted Provisional Ballots [Sec. 64.008]
    - Voted Provisional Ballots sealed in Provisional Ballot Affidavit Envelopes; and
    - Original List of Provisional Voters [1 T.A.C. §§ 81.172-81.174, 81.176]
5. Time.
- a. Records must be delivered to the appropriate authority immediately after the precinct returns are completed. [Sec. 66.053(a)]
  - b. When counting at the precinct level, 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 (this is recommended); and
    - The expected time of finishing the count. [Sec. 66.053(b)]
  - c. 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)]

### **SECTION C. DISTRIBUTION OF ELECTION RECORDS WHEN BALLOTS ARE TABULATED AT CENTRAL COUNTING STATION (OPTICAL/DIGITAL SCAN AND/OR DRE)**

1. Copies of poll lists.
  - a. There must be three copies of the poll list maintained (an original and two copies). If a combination form is used, then four copies of the form are needed. [Secs. 63.003(b), 63.004(c)] The poll list and combination form may be in the form of an electronic device prescribed by the Secretary of State. [Sec. 31.014]
2. 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 Oaths and is delivered to the county chair with Envelope No. 1.)*
  - a. **Envelope No. 1** addressed to the presiding officer of the local canvassing authority. [Secs. 66.003(b)(1), 67.002]
    - County judge (general election or county election).
    - *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 election officer (county clerk, elections administrator or tax assessor collector as appropriate to the county) (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 in a primary election.
  - f. Envelope containing cancellation requests is addressed to the general custodian of election records. This envelope is placed in Ballot Box No. 4, if a Ballot Box No. 4 is being used. [Secs. 66.026, 66.051(b), 84.032]
3. The records of the election must be distributed as follows:
    - a. **Contents of Envelope No. 1:** [Sec. 66.022] [addressed to the presiding officer of the local canvassing authority]
      - Results tape, if any
    - b. **Contents of Envelope No. 2:** [Sec. 66.023] [addressed to the general custodian of election records]
      - The original of the poll list or combination form;
      - The signature roster or combination form;
      - Reasonable Impediment Declarations;
      - Results tape, if any;
      - The precinct early voting list;
      - Any certificates of appointment of poll watchers;
      - Original copy of Statement of Compensation and Oaths (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 and Oaths 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 and Oaths 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 and Oaths.

      - The notice of the number of voters who voted during the day;
      - Notice of Improper Delivery;
      - Oaths of Election Officers; and
      - Oaths of Assistance and Oaths of Interpreters.
      - List of provisional voters
      - Affidavits completed at the polling place, except affidavits required to be placed in Envelope No. 4 [Sec. 66.023(6)]
    - c. **Contents of Envelope No. 3:** [Sec. 66.024] [addressed to the presiding judge]
      - A copy of the poll list;
      - Copy of List of Provisional Voters;
      - A copy of the ballot register;
      - A copy of the ballot and seal certificate; and
      - A copy of the Statement of Compensation and Oaths.
    - d. **Contents of Envelope No. 4:** [Sec. 66.0241] [addressed to the voter registrar]
      - Precinct list of registered voters and supplemental list, if any;
      - The registration correction list, if any;
      - Any Statements of Residence completed at the polling place; and

- Copy of Combination Form, if used instead of individual affidavits.
- e. **Contents of Envelope No. 5:** *[addressed to the county chair in a primary election]*
- Original of the Statement of Compensation and Oaths in a Primary Election.
- f. **Optical/Digital Scan Ballot Box No. 3:** [Sec. 66.025]
- Results tape, if any;
  - Voted ballots;
  - A copy of the poll list;  
**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]
  - The original of the ballot and seal certificate; and
  - Memory card or any other electronic data storage medium (unless it is too bulky to put through ballot slot or if instructed by authority conducting election to place in another secured container).
- g. **Contents of Ballot Box No. 4:** [Sec. 66.026]
- The original of the ballot register;
  - The register of spoiled ballots;
  - Any spoiled ballots;
  - Any defectively-printed ballots;
  - Any envelope containing cancellation requests and cancelled ballots; and
  - Any other unused ballots.

**Note Regarding Primary Election:** *For the general primary election, the second list of registered voters is given to the precinct chair for use in qualifying precinct convention participants, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a list. [Sec. 172.1141] Precinct conventions might not be held on primary election night, but on some other date as determined by rules of the state party. In such event, the presiding judge will be instructed of alternate delivery arrangements for the second list of registered voters.*

- h. Contents of Secured Container Used for the Deposit of Voted Provisional Ballots [Sec. 64.008]
- Voted Provisional Ballots sealed in Provisional Ballot Affidavit Envelopes;
  - Original List of Provisional Voters [1 T.A.C. §§ 81.172-81.174, 81.176]
4. The presiding judge must deliver Envelope No. 1, seal Envelope No. 2, seal the opening slot to Ballot Box No. 3, and lock Ballot Box No. 4 as soon as they are ready for distribution.
5. Delivery of Ballot Boxes.
- a. A certificate (seal certificate) stating the number of the seal to be placed in Ballot Box No. 3 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. 127.066]
- Place the original of this certificate in Ballot Box No. 3.
  - 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 ballot count at the central counting station is different, central count personnel will be on notice that there may be a tabulating problem.

- b. Seal the slot of Ballot Box No. 3. 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 officer, 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 officers must immediately deliver the ballot container to the central counting station.
    - Poll watchers may accompany election officers delivering ballot container(s). If delivery is made in a vehicle, an election officer complies with this section if the officer 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)]
  - e. The secured container used for the deposit of voted provisional ballots is delivered to the general custodian of election records. [Sec. 65.053]
6. The presiding judge retains Envelope No. 3. [Sec. 66.003(b)(3)]
  7. *Envelope No. 5 is delivered to the county chair in a primary election.*

**Note Regarding Primary Election:** *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, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a list. [Sec. 172.1141] Precinct conventions might not be held on primary election night, but on some other date as determined by rules of the state party. In such event, the presiding judge will be instructed of alternate delivery arrangements for the second list of registered voters.*

#### **SECTION D. PREPARING RETURNS AND DISTRIBUTION OF ELECTION RECORDS WHEN HAND COUNTED 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 (an original and three copies). [Sec. 65.014(c)]

- b. There must be three copies of the poll list maintained (an original and two copies). If a combination form is used, then four copies of the form are needed. [Secs. 63.003(b), 63.004(c)] The poll list and combination form may be in the form of an electronic device prescribed by the Secretary of State. [Sec. 31.014]
    - c. There must be three originals of the tally list. [Sec. 65.005]
  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 Oaths 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. [Secs. 66.003(b)(1), 67.002]
      - 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).
      - 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 in a primary election.
    - f. Envelope containing cancellation requests is addressed to the general custodian of election records. This envelope is placed in Ballot Box No. 4, if Ballot Box No. 4 is being used. [Secs. 66.026, 66.051(b), 84.032]
4. The records of the election must be distributed as follows:
  - a. Contents of Envelope No. 1. [Sec. 66.022] [addressed to the presiding officer of the local canvassing authority]
    - The original of the election returns for the precinct.
    - One copy of the tally list.
  - b. Contents of Envelope No. 2. [Sec. 66.023] [addressed to the general custodian of election records]
    - A copy of the precinct returns.
    - A copy of the tally list.
    - The original of the poll list (or combination form).
    - The original of the List of Provisional Voters.
    - The signature roster (or combination form).
    - The precinct early voting list.
    - Any certificates of appointment of poll watchers.
    - Original Statement of Compensation and Oaths (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 and Oaths 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 and Oaths 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 and Oaths.

- The notice of the number of voters who voted during the day.
  - Notice of Defective Delivery.
  - Oaths of Election Officers.
  - Oaths of Assistance and Oaths of Interpreters.
- c. Contents of Envelope No. 3. [Sec. 66.024] [addressed to the presiding judge]
- A copy of the precinct returns.
  - A copy of the poll list (or combination form).
  - A copy of the ballot register.
  - A copy of the Statement of Compensation and Oaths.
- d. Contents of Envelope No. 4. [Sec. 66.0241] [addressed to the voter registrar]
- Precinct list of registered voters and supplemental list, if any;
  - The registration correction list, if any;
  - Any Statements of Residence completed at the polling place; and
  - Copy of Combination Form, if used instead of individual affidavits;
- e. Contents of Envelope No. 5. [*addressed to the county chair in a primary election*]
- A copy of the Statement of Compensation and Oaths in a Primary Election.
- f. Contents of Ballot Box No. 3. [Sec. 66.025]
- Voted ballots.
  - Original of Precinct Returns.
  - Cast ballots, regardless of counting decisions made.
  - A copy of the tally list.
  - A copy of the poll list (or combination form).
- 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]
- The original of the ballot register.
  - The register of spoiled ballots.
  - Any spoiled ballots.
  - Any defectively-printed ballots.
  - Any envelope containing cancellation requests and cancelled ballots.
  - Any other unused ballots.

***Note Regarding Primary Election:*** *At the general primary election, the second list of registered voters is given to the precinct chair for use in qualifying precinct convention participants, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a list. [Sec. 172.1141] Precinct conventions might not be held on primary election night, but on some other date as determined by rules of the state party. In such event, the presiding judge will be instructed of alternate delivery arrangements for the second list of registered voters.*

- h. Contents of Secured Container Used for the Deposit of Voted Provisional Ballots [Sec. 64.008]

- Voted Provisional Ballots sealed in Provisional Ballot Affidavit Envelopes; and
- Original List of Provisional Voters [1 T.A.C. §§ 81.172-81.174, 81.176]

5. Manner of delivery of records.

- 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)]
- 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)]
- The presiding judge retains Envelope No. 3. [Sec. 66.051(c)]
- 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)]
- The judge delivers the key to Ballot Box No. 3 to:
  - 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 commissioner's court, designated by the court, who is not on the ballot. [Sec. 66.060(a)(1)]
  - The chief of police or city marshal for an election ordered by a city authority. [Sec. 66.060(a)(2)]
  - 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)]

1) *Envelope No. 5 is delivered to the County Chair in a primary election.*

***Note Regarding Primary Election:*** *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, unless, not later than the 90th day before the primary, the county chair notifies the county clerk that the chair does not require a list. [Sec. 172.1141] Precinct conventions might not be held on primary election night, but on some other date as determined by rules of the state party. In such event, the presiding judge will be instructed of alternate delivery arrangements for the second list of registered voters.*

6. Time.

- Records must be delivered to the appropriate authority immediately after the precinct returns are completed. [Sec. 66.053(a)]
- When counting at the precinct level, 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 (this is recommended); and



- The expected time of finishing the count. [Sec. 66.053(b)]
- c. 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)]

## **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. For securing the equipment, follow the steps in Chapter 4 of this handbook that are applicable to your voting equipment along with any other instructions provided by the authority conducting the election.
3. Complete the Register of Official Ballots and Register of Spoiled Ballots, if applicable [Sec. 65.013]
  - 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. [1 T.A.C. §§ 81.172—81.176]
  - g. Place all 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]
4. Take down distance markers, sample ballots, gather instruction posters, voter information posters, voter complaint information poster, notice of acceptable identification, and lists of declared write-in candidates, if any, and all of notices posted, and place them in the box for unused election supplies. (Ballot Box No. 4.)
5. *Take down the party signs (Primary Election) and place it in the box for unused election supplies.*
6. Secure polling place for the night as directed by the local authority and/or building manager.

## APPENDIX A

### SECTION A. PRELIMINARY COUNTING PROCEDURE FOR HAND COUNTED 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)]
  - 1) If the counting of ballots has not yet started, it must start at 7:00 p.m. or when the polls close, whichever is later, and continue without interruption until all ballots are counted. [Sec. 65.002(c)]
  - 2) 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. 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.
3. 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.
4. No marks should be made on any ballot by an election officer, except that if a ballot is not counted, an election officer must indicate on the back of the ballot the reason for not counting it. [Sec. 65.010(c)]
5. A member of a counting team may not be replaced after vote tallying is begun unless each existing discrepancy among the three tally lists is corrected before the replacement is made. [Sec. 65.006(a)] If a counting officer is replaced on a counting team after the tallying is begun, the officer to be replaced shall certify the accuracy of the list the officer has kept, as of the time of the replacement, by signing the list at that time. [Sec. 65.006(b)]

### SECTION B. 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. [1 T.A.C. §§ 81.172-81.174, 81.176]
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]
  - 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(a)]
  - The failure of a voter to vote a full ballot does not invalidate the ballot. [Sec. 65.009(b)]

- 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(c)]
  - If a provisional ballot is found outside a provisional ballot affidavit envelope, the ballot shall not be counted. [Sec. 64.008]
5. As each vote is read, a tally mark is made by the corresponding name or number on the tally lists. [Sec. 65.005(a)]
  6. The tally lists should be compared periodically and any errors or discrepancies corrected. [Sec. 65.005(b)] If a discrepancy is discovered, the ballots shall be recounted and the necessary corrections shall be made on the lists.
  7. 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)]
  8. 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)]
    - An individual vote is not counted if:
      - The intent of the voter cannot be determined. [Sec. 65.009]
      - 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]
      - 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)]
      - A November general election, city council officer elections, an independent and common 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. 144.006, 146.031(d), 146.054, 146.055, 146.082, 171.0231, Election Code; Secs. 11.056(c), 11.304, 130.081, 130.0825, Education Code; Sec. 285.131, Health and Safety Code; Secs. 326.0431, 326.0432, Local Government Code; Secs. 36.059, 49.101, 63.0945, Water Code]
      - The election is a runoff election and the vote is a write-in. [Sec. 146.002]
      - 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:
      - The intent of the voter cannot be determined for any races or propositions on the ballot. [Sec. 65.009]
      - Two or more marked ballots are folded together in a manner indicating that they were folded together when deposited in the ballot box. [Sec. 65.010(a)(2)]
      - The ballot is not numbered and the presiding judge determines that the ballot was not provided at the polling place. [Sec. 65.010(a)(1)]
      - The ballot was not deposited in the ballot box. [Sec. 65.010(a)(4)]

**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]**

9. As each vote is read, a tally mark is made by the corresponding name or number on the tally sheets. [Sec. 65.005(a)]
10. The tally lists should be compared periodically and any errors or discrepancies corrected. [Sec. 65.005(b)]

11. 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)]
12. 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)]

### SECTION C. 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]

<i>(Primary Election Ballot)</i>					
For Governor					
<input type="checkbox"/> Candidate A					
<input type="checkbox"/> Candidate B					
<input checked="" type="checkbox"/> Candidate C					

  

<i>(General Election Ballot)</i>					
Candidates for Governor	<input type="checkbox"/> PARTY A	<input type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> Independent	<input type="checkbox"/> Write-In
	<input type="checkbox"/> Candidate A	<input type="checkbox"/> Candidate B	<input checked="" type="checkbox"/> Candidate C		

**Figure 1. Illustrations of marked ballots.**  
(The asterisks indicate the candidates for whom the ballot is counted.)

2. Election officers 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	<input type="checkbox"/> PARTY A	<input type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> Independent	<input type="checkbox"/> Write-In
First Office	<input type="checkbox"/> <del>Candidate</del>	<input type="checkbox"/> <del>Candidate</del>	<input type="checkbox"/> <del>Candidate</del>	<input type="checkbox"/> <del>Candidate</del>	<input type="checkbox"/> _____
Second Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> <del>Candidate</del>		<input type="checkbox"/> <del>Candidate</del>	<input type="checkbox"/> _____
Third Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> <del>Candidate</del>		<input type="checkbox"/> <del>Candidate</del>	<input type="checkbox"/> _____
Fourth Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> <del>Candidate</del>			
Fifth Office	* <input type="checkbox"/> Candidate				
Sixth Office	* <input type="checkbox"/> Candidate				
Seventh Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> <del>Candidate</del>			
Eighth Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> <del>Candidate</del>		<input type="checkbox"/> <del>Candidate</del>	
Etc.					

**Figure 2. Illustration of the scratch method.**  
(The asterisks indicate the candidates for whom the ballot is counted.)

3. Ballots not marked in conformity with the law.

- 1) A vote must be counted if the intent of the voter is clearly ascertainable. [Sec. 65.009(c)]
- 2) 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)]
- 3) An individual vote is not counted in the following situations (see next two pages also):
  - An individual vote is not counted if the intent of the voter cannot be determined. [Sec. 65.009(c)]
  - 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]

VOTE FOR NONE, ONE, TWO, OR THREE
<input checked="" type="checkbox"/> Candidate <input checked="" type="checkbox"/> Candidate <input type="checkbox"/> Candidate <input type="checkbox"/> Candidate <input checked="" type="checkbox"/> Candidate <input checked="" type="checkbox"/> Candidate

**Figure 3. 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
<input checked="" type="checkbox"/> Candidate <input type="checkbox"/> Candidate <input checked="" type="checkbox"/> Candidate <input type="checkbox"/> Candidate <input type="checkbox"/> Candidate <input type="checkbox"/> Candidate

**Figure 4. 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.)**

- An individual vote is not counted if:
  - 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)]
  - A November general election, city council officer elections, an independent or common school district trustee election, hospital district 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. 144.006, 146.031(d), 146.054, 146.055, 146.082, 171.0231, Election Code; Secs. 11.056(c), 11.304, 130.081, 130.0825, Education Code; Sec. 285.131, Health and Safety Code; Secs. 326.0431, 326.0432, Local Government Code; Secs. 36.059, 49.101, 63.0945, Water Code]
  - 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]

- 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]

4) A ballot is not counted in the following situations:

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

Candidates for	PARTY A	PARTY B	PARTY C	INDEPENDENT	WRITE-IN
First Office	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/>
Second Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/>
Third Office	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> <i>Joe Doe</i>
Fourth Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate			
Fifth Office	<input checked="" type="checkbox"/> Candidate		<input checked="" type="checkbox"/> Candidate		
Sixth Office	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		
Seventh Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate			
Eighth Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

**Figure 5. Illustration of lack of knowledge of intent of voter.  
(No portion of this ballot is counted.)**

- 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.
- 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)]
- 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)]
- 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. [1 T.A.C. §§ 81.172-81.174, 81.176]
- Write-in Votes.
  - In a November general election, city council officer elections, an independent or common school district trustee election, hospital district 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(d), 146.054, 146.055, 146.082, 171.0231, Election Code; Secs. 11.056(c), 11.304, 130.081, 130.0825, Education Code; Sec. 285.131, Health and Safety Code; Secs. 326.0431, 326.0432, Local Government Code; Secs. 36.059, 49.101, 63.0945, Water Code]

- In all elections other than those listed in above, all write-ins are counted. [Sec. 146.001].
- If only one candidate files for precinct chair, 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]
- In a runoff election, no write-ins are counted. [Sec. 146.002]
- 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	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		* <input type="checkbox"/> <u>Joe Doe</u>
Second Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate			<input type="checkbox"/> _____
Third Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate			<input type="checkbox"/> _____
Fourth Office	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate			
Fifth Office	<input type="checkbox"/> Candidate				
Sixth Office	<input type="checkbox"/> Candidate				
Seventh Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate			
Eighth Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate			
Etc.					

**Figure 6. Casting a write-in vote. Illustration of Guideline 6.  
(The asterisks indicate the candidates for whom the ballot is counted.)**

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. [Secs. 52.070(e), 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 should not be counted.

## APPENDIX B

**Below are examples of irregularly-marked ballots:**

Candidates for	PARTY A	PARTY B	PARTY C	INDEPENDENT	WRITE-IN
First Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Fourth Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Fifth Office	* <input type="checkbox"/> Candidate				
Sixth Office	* <input type="checkbox"/> Candidate				
Seventh Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Eighth Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

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

Candidates for	PARTY A	PARTY B	PARTY C	INDEPENDENT	WRITE-IN
First Office	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> _____
Fourth Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate			
Fifth Office	<input checked="" type="checkbox"/> Candidate		<input checked="" type="checkbox"/> Candidate		
Sixth Office	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		
Seventh Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate			
Eighth Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> 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	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		* <input type="checkbox"/> <i>Joe Doe</i>
Second Office	<input type="checkbox"/> Candidate	* <input checked="" type="checkbox"/> Candidate			<input type="checkbox"/> _____
Third Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			<input type="checkbox"/> _____
Fourth Office	<input checked="" type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate			
Fifth Office	<input type="checkbox"/> Candidate				
Sixth Office	<input type="checkbox"/> Candidate				
Seventh Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Eighth Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Etc.					

**Example 3. 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)**



