



Pennsylvania Provisional Voting Guidance

Date: March 5, 2020

Version: 1.0

Act 77 of 2019 creates new reasons for issuing/counting provisional ballots in Pennsylvania. The following guidelines define what is required by Act 77 and what is permissible under Act 77 or some other portion of the Election Code. The Department of State (DOS) will continue to update this guidance leading up to the 2020 Primary Election.

Provisional ballots may be issued at the polling place until the close of polls on election day unless a court extends voting hours.

Implementation

- Provisional ballots were originally mandated by section 302 of the Help America Vote Act of 2002 (HAVA).¹
- A voter may be issued a provisional ballot for the reasons below:
 - Voter's name was not in the poll book or supplemental poll book
 - For example, the voter reported to the wrong precinct; or,
 - The voter did not report a recent change in residence to the county election office.
 - A court order was issued for the voter
 - A court order was issued during voting hours
 - Voter identification was not supplied
 - Voter eligibility was challenged by an election official
 - Voter was issued an absentee ballot and it was not returned
 - Voter was issued a mail-in ballot and it was not returned
 - Voter claims they are registered in a political party with which they are not affiliated (for primary elections only)
- The provisional ballot changes included in Act 77 of 2019 go into effect on April 28, 2020.
- If the pollbook shows the voter has returned their absentee or mail-in ballot timely, they are no longer entitled to vote a regular ballot at the polling place.
- Voters who have requested an absentee ballot or mail-in ballot, must vote provisionally at the polling place if they have not returned their ballot.
- Generally, if a voter is not eligible to be issued a regular ballot, under federal law, that voter shall be entitled to vote provisionally at the polling place.

¹ 52 U.S.C. § 21082.

Process for the Voter

- As a voter, you are entitled to a provisional ballot when your eligibility to vote is uncertain or you are not marked in the poll book as having returned your absentee or mail-in ballot.
- If you have requested an absentee or mail-in ballot for the upcoming election, you may vote by provisional ballot if you don't return your requested ballot before 8:00 p.m. on election day and you chose to show up at the polling place.
- However, if you return your requested absentee or mail-in ballot timely, as in prior to 8:00 p.m. on election day, your vote is considered complete for that election. This means you should not go to a polling place to vote.
- When you are issued a provisional ballot, you must mark the ballot and seal it inside a secrecy envelope.
 - Before you receive and mark your ballot, you must complete the section on the envelope labeled Voter Information, Voter Affidavit for Provisional Ballot, and Current Address where the Voter Lives in front of election officials.
 - After you receive and mark your ballot, you must seal your ballot in the secrecy envelope and then place it in the provisional ballot envelope.
 - Finally, you must fill out the Voter Signature section on the provisional ballot envelope in front of the Judge of Elections and the Minority Inspector. Then, the Judge of Elections and the Minority Inspector will sign and date the envelope after selecting a reason for the ballot.
- A county election official will review your provisional ballot within 7 days of the election and decide if it should be fully counted, partially counted, or not counted.
 - Fully Counted – all contests on the ballot are counted.
 - Partially Counted – some contests, but not all contests on the ballot are counted.
 - Not Counted – No contests on the ballot were counted.
- You can check the status of your provisional ballot after the election, by calling the county board of elections, checking the PA Voter Services website, or calling the PA Department of State. You will need to provide your provisional ballot number or your full name and date of birth.
 - Find the phone number for your county election office online at www.votespa.com/county.
 - The website for PA Voter Services is www.votespa.com/provisional.
 - The phone number for the PA Department of State is 1-877-VOTESPA (1-877-868-3772).

Process for Poll Workers

- County election officials must ensure that poll workers are familiar with provisional voting rules.

- A county election official or poll worker must notify potential voters that they have a right to use a provisional ballot when they are entitled to receive one.
- When a provisional ballot is issued, the envelope must be completed by both the voter and election official.
- The poll book will be marked with either **Absentee - Issue Provisional** or **Mail-in – Issue Provisional** if a voter requested an absentee ballot or mail-in ballot and it was not returned timely. This is an indicator to the poll worker to instruct the voter to cast provisional ballot.
 - If a voter was issued an absentee or mail-in ballot for the upcoming election, they cannot vote a regular ballot.
- The pollbook will be marked with either **Absentee – Ballot Cast/Not Eligible** or **Mail-in – Ballot Cast/Not Eligible** if a voter has returned their absentee or mail-in ballot timely. Their vote is considered final at this point. If the voter believes that they have not returned their ballot, under federal law, county election officials must instruct poll workers to offer the voter the opportunity to cast a provisional ballot.

Generally, consistent with the Help America Vote Act, county election officials must instruct poll workers to err on the side of the voter and issue a provisional to any voter if they contest their ballot status.

- If polling place hours are extended beyond 8:00 p.m. due to a court order on election day, all ballots shall be cast via provisional ballot only.

Process For County Elections Officials

- It is recommended counties give at least a week notice that counties will reconcile provisional ballots during the official count, but under no circumstance should the county board of elections schedule the meeting without providing a 48-hour notice, in violation of the open meetings law.
- A provisional ballot can only be considered for counting, with approval from the county board of elections, if the voter is qualified and eligible for the election.
- When determining whether to count a provisional ballot, the county board of elections must reconcile provisional ballots with ballots cast on election day and returned absentee and mail-in ballots. If a voter cast an election day ballot or timely returned their absentee or mail-in ballot, the provisional ballot shall not be counted.
- The county board of elections must review each provisional ballot and determine whether to count it within 7 days of the election.
- The county board of elections must make a determination on the disposition of the provisional ballot within 7 days of the election.
- A provisional ballot may be challenged. If a provisional ballot is challenged during the canvass, the county board must schedule a hearing within 7 days of the challenge to consider the challenge and determine the disposition of the ballot. Additionally, notice must be given to the challenged provisional voter(s).

- During the official canvass, the County Board of Elections must determine, for each provisional ballot, whether:
 - The provisional ballot is invalid because the voter cast another ballot;
 - The provisional ballot should be counted in full;
 - The provisional ballot should be rejected and the reason(s) for the rejection; or
 - The provisional ballot should be partially counted and the reason(s) for the partial counting.
- Counties are prohibited from counting a provisional ballot from another county.

###

Version History:

Version	Date	Description	Author
1.0	3.5.2020	Initial document release	Bureau of Election Security and Technology