



# **GUIDANCE CONCERNING CIVILIAN ABSENTEE AND MAIL-IN BALLOT PROCEDURES**

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# GUIDANCE CONCERNING CIVILIAN ABSENTEE AND MAIL-IN BALLOT PROCEDURES

## 1 MAIL-IN AND CIVILIAN ABSENTEE BALLOTING – GENERAL PROVISIONS

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Qualified voters may apply at any time before 5:00 p.m. on the Tuesday before any primary or election day for a mail-in or civilian absentee ballot, and county boards of elections must begin processing applications at least fifty (50) days before the primary or election day. County boards of elections may process applications earlier than fifty (50) days before the primary or election day, if the county board of elections determines that it is better for its operational needs to do so.

### 1.1 WHO MAY REQUEST AN ABSENTEE OR MAIL-IN BALLOT?

All qualified voters in Pennsylvania are eligible to vote by mail-in ballot, and no excuse is required. For example, even if a voter will be present in their municipality on Election Day but would simply prefer to vote from home, they may request a mail-in ballot.

Absentee ballots may be voted by domestic voters who will be absent from their municipality on Election Day due to work or vacation, voters who are celebrating a religious holiday, and voters such as college students who also may be away from the municipality on Election Day, if they don't choose to vote where they go to school. Absentee ballots are also for those who are unable to attend their polling place due to illness or physical disability.

A voter may qualify for and vote only one ballot.

### 1.2 Permanent Voter Lists

Any qualified voter can request to be placed on the permanent **mail-in** voter list at any time.

For the permanent **absentee** voter list, only voters with a permanent illness or disability are eligible; this section does not apply to voters expecting to be absent from their municipality. Absentee voters who request to be placed on the permanent absentee voter list do not have to renew their physician's certification of continued disability every four (4) years or list it on each application.

Each year the county must send a ballot application to any voter on the permanent absentee and mail-in voter lists by the first (1st) Monday in February. The yearly application, once approved, serves as a standing request for a mail-in or absentee ballot to be mailed to that voter for every election that calendar year and for any special election until the third (3rd) Monday in February the next year.

If a permanent mail-in or permanent absentee voter no longer wishes to receive a ballot for the upcoming election or wishes to cancel their permanent status, the voter can submit a cancellation form to the county board of elections. The cancellation form can be found at [vote.pa.gov](http://vote.pa.gov).

Please refer to the Permanent Voter Lists Guidance for more details on administering the Permanent Mail-in Voter and Permanent Absentee Voter lists.

## 2 REQUESTING AN ABSENTEE OR MAIL-IN BALLOT

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There are three (3) ways by which voters can apply for mail-in or absentee ballots:

1. By U.S. Mail
2. In Person
3. Online

### 2.1 MAIL REQUESTS

A voter may submit a paper application via U.S. mail to their county board of elections for an absentee or mail-in ballot request. A voter may also submit the combined Voter Registration Application and Mail-in Ballot Request form to apply for or update their voter registration and to request a mail-in ballot at the same time. Please refer to the *Mail-in Options on Paper Voter Registration Applications Job Aid* for details on how to process this combined form in the Statewide Uniform Registry of Electors (SURE).

### 2.2 IN-PERSON (OVER THE COUNTER) REQUESTS

The Pennsylvania Election Code allows voters to request and cast an absentee or mail-in ballot over the counter in advance of Election Day. After ballots are finalized by a county, voters may apply at their county election office (CEO) during established business hours to receive and cast a mail-in or absentee ballot in person while the voter is in the office.

Voters may also apply for or update their voter registration in person at a CEO. If a voter submits their voter registration application and their absentee or mail-in ballot request separately, the county should process the voter registration application first. A voter who wishes to register to vote and request a mail-in ballot may also decide to submit the combined Voter Registration Application and Mail-in Ballot Request Form in person at a CEO. Please refer to the *Mail-in Options on Paper Voter Registration Applications Job Aid* for details on how to process this combined form in SURE.

Once the voter is determined to be qualified and the application for an absentee or mail-in ballot is approved, the county board of elections **must promptly present** the voter with the voter's mail-in or absentee ballot. Under Section 1305 of the Election Code, 25 P.S. § 3146.5, a county board of elections may not deny the eligible voter's request to

have the ballot presented to the voter while the voter is in the CEO unless there is a bona fide objection to the absentee or mail-in ballot application. Voters still need to provide proof of identification (as defined in the Election Code) to be verified by county boards of elections to vote an absentee or mail-in ballot. Proof of identification for civilian absentee and mail-in voting include a valid driver's license number, the last four digits of the voter's Social Security number or other valid photo identification listed in Section 102 of the Election Code, 25 P.S. 2602(z.5)(3).

Voters who receive a mail-in or absentee ballot in person must be provided an opportunity to privately and secretly mark their ballot. **Note:** *The marking of the ballot in secret does not have to take place in the CEO. It can be provided in a nearby location.*

### 2.2.1 Satellite County Election Offices

County election boards may provide for mail-in and absentee ballot application processing and voting at more than one location within county borders.

Counties may establish additional business hours for CEOs; hours do not have to be limited to weekdays or to typical business hours. Counties are encouraged to offer business hours outside of these time frames, including weeknights or weekend hours, to enable maximum flexibility and convenience for voters.

When a county decides to provide voters with additional access to mail-in and absentee balloting by establishing satellite CEOs, the county must account for all of the following:

- Each CEO must be staffed by appointed elections personnel in municipal- or county-owned or leased locations selected by the county board of elections for processing voter registration and mail ballot applications and in-person voting of both mail-in and absentee ballots.
- Each CEO must have a secure county network connection that can connect to SURE, and staff trained and approved to access SURE. NOTE: The Department will work with counties to establish secure connections; the county network extension must be approved by the Department.
- Each CEO must either have copies of all ballot styles available to be voted in the county, or an on-demand ballot printer capable of printing all ballot styles available to be voted in the county.
- Each CEO must have a secure ballot collection receptacle to store voted mail-in and absentee ballots submitted at the location. County boards of election are required to keep voted ballots in a sealed or locked container until the time of pre-canvassing.
- Please see the Department of State's *Absentee and Mail-In Ballot Return Guidance* for more information and guidance on choosing a location for a CEO.

### 2.3 ONLINE REQUESTS

A voter may submit either an absentee or mail-in ballot request online via the Department's online portal at PA Voter Services.

Online applications must be processed according to the same statutory requirements as an application submitted by U.S. mail or in person, including the proof of identification requirements defined in the Election Code.

### 3 DELIVERY OF MAIL-IN AND ABSENTEE BALLOTING MATERIALS

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Counties must begin delivering mail-in and absentee ballots as soon as they are certified and available. Counties may await the outcome of pending litigation that affects the contents of the ballots but, in any event, the county must begin delivering mail-in and absentee ballots no later than the second (2<sup>nd</sup>) Tuesday prior to Election Day.

Once the counties begin delivering their ballots, as additional applications are received and approved, the county must deliver or mail ballots to such additional voters within forty-eight (48) hours of receipt of approved applications.

#### 3.1 BALLOTING MATERIALS

The absentee and mail-in balloting materials must include the following:

1. The voter's proper ballot style, with each qualifying race or ballot issue, based on the voter's registration address.
2. A white, inner (or "secrecy") envelope that indicates official ballot.
3. A pre-addressed outer ballot-return envelope that contains a declaration for the voter to sign and date.
4. An instructional insert which describes how to mark and return the ballot.

The voted ballot must be returned within the inner envelope, which must be placed in the pre-addressed outer envelope.

With regard to the inner envelope:

- The Pennsylvania Supreme Court has ruled that any ballot that is not returned in the official ballot envelope (inner or secrecy envelope) must be set aside and declared void. These ballots have been referred to as "naked ballots." In accordance with that ruling, all ballots that are not returned within the inner envelope must be set aside and may not be counted. ***The instructional insert mentioned above must clearly warn voters that their voted ballot must be returned in the inner or secrecy envelope or it will not be counted.*** The Department encourages county boards of election to publicize the requirement that voted ballots must be returned within the inner or secrecy envelope, including on the county's website, in county offices, at ballot-collection sites, and in other locations that may assist and educate voters.
- If any voted ballot's inner or secrecy envelope contains any text, mark, or symbol that reveals the identity of the voter, the voter's political affiliation (party), or the voter's candidate preference, the envelope and the ballot inside it must be

- set aside, declared void, and may not be counted.
- Sometimes voters use tape to ensure that the envelope flaps are securely sealed. The Election Code does not prohibit the use of tape to seal the Official Ballot Envelope (inner or secrecy envelope) and any such ballot should not be declared void solely for this reason, so long as the envelope is not otherwise marked or altered so as to be capable of identification.

With regard to the outer ballot-return envelope:

- The declaration on the ballot-return envelope should be signed and dated.
- A ballot-return envelope with a declaration that is not signed or dated is not sufficient and must be set aside, declared void, and may not be counted. Ballot-return envelopes must be opened in such a manner as not to destroy the declarations executed thereon.
- Because of ongoing litigation, any declarations that are undated or that contain a date deemed by the county board of elections to be incorrect should be set aside and segregated.
- Nothing in the Election Code prohibits the use of tape to seal a ballot-return envelope, and any such ballots should not be declared void solely for this reason, so long as the envelope is not otherwise torn or noticeably altered.
- All ballot-return envelopes containing executed declarations must be retained for a period of two years in accordance with the Election Code.

### 3.2 BALLOT DESIGN REQUIREMENTS

Act 12 of 2020 changed the law with respect to the surrender process for voters who request mail-in or absentee ballots.

Pursuant to Act 12 of 2020, a warning notice is required to be listed on both absentee and mail-in ballots, which states:

**WARNING:** If you receive an absentee or mail-in ballot and return your voted ballot by the deadline, you may not vote at your polling place on election day. If you are unable to return your voted absentee or mail-in ballot by the deadline, you may only vote a provisional ballot at your polling place on election day, unless you surrender your absentee or mail-in ballot and envelope to the judge of elections to be voided to vote by regular ballot.

## 4 RETURN OF BALLOTS BY VOTERS

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### 4.1 VOTER MUST RETURN OWN BALLOT

Voters must return their own completed absentee or mail-in ballot by 8:00 pm on Election Day to the county board of elections or other county-designated drop-off location. Third-person delivery of absentee or mail-in ballots is not permitted, and any ballots delivered by someone other than the voter are required to be set aside. The only exceptions are voters with a disability who have designated in writing an agent to

deliver their ballot for them and emergency absentee voters who have authorized in writing a representative to deliver their ballot. Agency forms may be found at [vote.pa.gov](http://vote.pa.gov).

#### 4.2 COLLECTION OF MAIL-IN AND ABSENTEE BALLOTS

In addition to the main CEO and satellite CEOs, counties may provide for other secure ballot-collection locations that the county deems appropriate to accommodate in-person return of voted mail-in and absentee ballots. ***Please refer to the Department's Absentee and Mail-In Ballot Return Guidance for more information and guidance regarding ballot-collection locations and procedures.***

County boards of election are required to keep voted absentee and mail-in ballots in a sealed or locked container(s) until the time of pre-canvassing.

#### 4.3 SURRENDER PROCESS FOR VOTERS WHO REQUEST MAIL-IN OR ABSENTEE BALLOTS

Once a voter requests a civilian absentee or mail-in ballot, they should vote and return that mail-in or absentee ballot by mail or deliver it in person to a CEO or other designated drop-off location prior to 8:00 P.M. on Election Day.

However, if a voter has not voted their mail-in or absentee ballot, they may take it to their polling place on Election Day to surrender it and vote in person.

Specifically, a voter who requests a mail-in or absentee ballot and who is not shown on the district register as having voted the ballot may vote at their polling place on Election Day if (1) the voter surrenders the original mail-in or absentee ballot and its outer envelope containing the declaration to the judge of elections to be spoiled, and (2) the voter signs a statement subject to the penalties under 18 Pa. C.S. § 4904 in substantially the following form:

I hereby declare that I am a qualified registered elector who has obtained an absentee ballot or mail-in ballot. I further declare that I have not cast my absentee ballot or mail-in ballot, and that instead I remitted my absentee ballot or mail-in ballot and the envelope containing the declaration of the elector to the judge of elections at my polling place to be spoiled and therefore request that my absentee ballot or mail-in ballot be voided.

If the voter turns in (surrenders) his or her mail ballot and outer envelope and signs the statement, the voter is permitted to vote by regular ballot at the polling place.

If a voter whose record in the district poll book indicates that the voter requested a mail-in or absentee ballot which has not been voted, but the voter does not surrender their mail ballot and declaration envelope and sign the required statement, the voter may only vote by provisional ballot. Even if the voter asserts that they did not cast a mail-in or absentee ballot and is eligible to vote, the voter should only be provided a provisional ballot.

## 5 ABSENTEE AND MAIL-IN VOTING PROCESSES FOR COUNTY ELECTION OFFICIALS

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### 5.1 POLL BOOK PROCESSES

The poll books will be divided into two sections.

The main section will include a) voters who have not requested a mail-in or absentee ballot for this election and b) voters who requested an absentee or mail-in ballot but who did not return their ballot by the date the pollbooks were printed. There will be a special watermark in the poll book indicating that voters who did not return their mail ballot by the date the pollbooks were printed must either surrender their ballot as described in Section 4.3 above or vote provisionally if they appear at the polling place on Election Day.

The secondary section of the pollbook will contain a list of voters who have both requested and returned their mail ballot (cast their vote) by the time the poll book was printed.

Voters who requested but have not returned their absentee or mail-in ballot may vote a regular ballot in person at their polling place on Election Day ONLY if they surrender their mail ballot and the declaration envelope that accompanies it, as described in Section 4.3 above. The poll worker shall take the surrendered ballot and declaration envelope and mark them as "VOID." There is a location in the poll book where the poll worker must indicate that the items were surrendered. The voided ballot, declaration envelope, and signed surrender declaration should be placed in a secure envelope or container and returned to the CEO with other polling place materials at the end of the voting day. The surrendered ballot materials must be preserved.

As noted above, for voters whose voted absentee or mail-in ballot has been received, the poll book record will indicate that their mail ballot was cast. This will aid poll workers when checking in voters to easily determine that these voters are not eligible to vote on the voting equipment, but they may vote provisionally if they believe they are eligible to vote.

The watermarks in the poll books described above also apply to voters with a permanent flag on their voter record. In either case, the poll worker will be able to determine the appropriate course of action when reviewing the poll book on Election Day.

### 5.2 PRE-CANVASSING AND CANVASSING ABSENTEE AND MAIL-IN BALLOTS

The Pennsylvania Election Code requires a pre-canvass period beginning on Election Day to canvass all ballots received prior to the pre-canvass meeting. The law further provides for a canvass meeting beginning no earlier than the close of polls to canvass all ballots not included in the pre-canvass meeting.



## Pre-canvass Meeting

- The **pre-canvass meeting** is required and may begin no earlier than 7:00 AM on Election Day. County boards of election must provide notification of the time and location of the pre-canvass meeting at least 48 hours prior to the meeting by posting notice on their website.
- Pursuant to Act 88 of 2022, counties that have received funding for elections under the Election Integrity Grant Program must begin the pre-canvass meeting at 7:00 AM on Election Day and continue the pre-canvass without interruption until each mail-in ballot and absentee ballot received by 7:00 AM on Election Day is pre-canvassed. Please refer to the Act 88 Guidance and FAQ documents for more information about these requirements.
- The county board of elections must provide a list of the names of the voters whose absentee or mail-in ballots are to be pre-canvassed.
- One authorized representative for each candidate and one authorized representative for each political party must be permitted to remain in the room where the pre-canvass meeting occurs.
- Persons observing, attending, or participating in the pre-canvass meeting MAY NOT disclose the result of any portion of the pre-canvass prior to the close of polls on Election Day.
- No challenges by authorized representatives or any third party are permitted during pre-canvass of the mail-in and absentee ballots.
- The Department strongly urges all counties to begin pre-canvassing at the earliest time allowed to ensure that results can be tabulated and reported promptly. As stated above, counties receiving funding under the Election Integrity Grant Program must begin pre-canvassing at 7:00 AM on Election Day.

## Canvass Meeting

- The **canvass** of mail-in and absentee ballots may begin no earlier than the close of polls and no later than the third (3<sup>rd</sup>) day following the election. However, counties that have received funding under the Election Integrity Grant Program pursuant to Act 88 of 2022 must begin canvassing mail-in and absentee ballots at 8:00 PM on Election Day and shall continue without interruption until each mail-in ballot and absentee ballot has been canvassed. Please refer to the Act 88 Guidance and FAQ documents for more information about these requirements.
- County boards of election must provide notification of the time and location of the **canvass** meeting at least 48 hours prior to the meeting by posting notice on their website.
- The county board of elections must provide a list of the names of the voters whose absentee or mail-in ballots are to be canvassed.
- The canvass process must continue through the eighth (8<sup>th</sup>) day following the

election to include valid military and overseas ballots received by 5:00 PM on the seventh (7<sup>th</sup>) day following the election.

- One authorized representative for each candidate and one authorized representative for each political party must be permitted to remain in the room where the canvass meeting occurs.
- No challenges by authorized representatives or any third party are permitted during canvass of the mail-in and absentee ballots.
- The Department strongly urges all counties to begin canvassing at the earliest time allowed to ensure that results can be tabulated and reported promptly. As stated above, counties receiving funding under the Election Integrity Grant Program must begin canvassing at 8:00 PM on Election Day.
- Those counties receiving funding pursuant to Act 88 of 2022 under the Election Integrity Grant Program are required to announce and post on their publicly accessible internet website, no later than 12:01 AM on the day following the election, the unofficial number of absentee and mail-in ballots received for the election.

### **Pre-canvass and Canvass Procedures**

At the pre-canvass or canvass, as the case may be, the county board of elections should:

- Segregate the unopened ballots of voters whose applications were challenged by the challenge deadline (5:00 PM on the Friday before the election).
  - These ballots must be placed in a secure, sealed container until the board of elections holds a formal hearing on the challenged ballots.
  - Ballot applications can only be challenged on the basis that the applicant is not qualified to vote.
- Set aside the ballot of any voter who was deceased before Election Day.
- Set aside any ballots without a signed declaration envelope.
- Set aside any ballots without the secrecy envelope and any ballots in a secrecy envelope that includes text, mark, or symbol which reveals the identity of the voter, the voter's political affiliation (party), or the voter's candidate preference.
- Set aside any ballots enclosed in a declaration envelope that is undated or deemed to have an incorrect date. Given ongoing litigation, declaration envelopes that are undated and deemed to be incorrectly dated should be segregated.

The Election Code does not permit county election officials to reject applications or voted ballots based solely on signature analysis.

No challenges may be made to mail-in or absentee ballot applications after 5:00 pm on the Friday before the election.

No challenges may be made to mail-in and absentee ballots at any time based on signature analysis.

Additionally, the county board of elections should not open or count any absentee or mail-in ballots pending ID verification, as follows:

- If proof of identification for an absentee or mail-in voter was not received or could not be verified, the ballot should not be counted unless the elector provided proof of identification, that can be verified by the county board, by the sixth (6<sup>th</sup>) calendar day following Election Day.

NOTE: For more information about the examination of ballot return envelopes, please refer to the Department's April 3, 2023, *Guidance Concerning Examination of Absentee and Mail-in Ballot Return Envelopes*.

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Version History:

| <b>Version</b> | <b>Date</b> | <b>Description</b>  |
|----------------|-------------|---|
| 1.0            | 9.28.2020   | Initial document release                                    |
| 2.0            | 9.26.2022   | Updates to conform to legislative changes and litigation    |
| 3.0            | 4.3.2023    | Updates to conform to administrative changes and litigation |