

Limited Ballots and Provisional Voting Which and When?

2022 Election Law Seminar for
County Election Officials



LIMITED BALLOTS



Limited Ballots- When are they used?

- Limited ballots are used when a voter has a Texas registration in a county ***other than*** their new county of residence
- Limited ballots are ***only*** an option during ***early voting*** – they **cannot** be used on election day
- **Personal appearance** limited ballots are used ***only*** at the main EV location (Chapters 111 and 112)



Limited Ballots- Who can use one?

- To vote a limited ballot, a voter **must**:
 - Be eligible to vote in the county of registration if they still lived there
 - Be registered to vote in the county of former residence at the time the person:
 - Offers to vote in the new county of residence, **OR**
 - Submitted a voter registration application in the county of new residence and
 - Their registration will not be effective in their new county of residence by election day (**Sec. 112.002**)



Limited Ballots- Who can use one?

- A personal appearance limited ballot **must be voted during early voting by personal appearance (not election day) at the main early voting location.**
- **NEW LAW:** The election order and election notice **must designate which location is the main early voting location.** (Sec. 85.004, amended by HB 3107). Notice includes **posting on county website**, so voters know where to go for limited ballot.



Limited Ballots- Who can use one?

- Limited Ballot by Mail:
 - **Must** meet other requirements to vote by mail, Ch. 82
 - Ask the voter to complete
 - an [Application for Limited Ballot \(PDF\)](#) and
 - an [Application for Ballot by Mail \(PDF\)](#) (ABBM)
 - **Must use the newest ABBM forms with spaces for Texas driver's license/personal ID card, last 4 digits of SSN, or indication that the voter has not been issued any of these numbers.**



Limited Ballot Procedures

Personal Appearance

- **Step 1:** Attempt to verify voter's registration status in new (your) county – if you are unsure based on TEAM record, you can call the old county to obtain additional information.
- **Step 2:** If voter is eligible for a limited ballot, ask the voter to complete an [Application for Limited Ballot \(PDF\)](#).
- **Step 3:** After the voter completes application, note on the application the district offices for which the voter is entitled to vote.

Remember: The voter **MAY NOT VOTE** for county or precinct offices. Those races must be marked off the ballot.

If you are having a joint election, it is possible a local entity like a city or ISD might be in the two counties – you'll need to check the boundaries to see if those offices are part of the ballot.



Limited Ballot Procedures

- **Step 4:** Voter is added to the [Poll List of Limited Voters \(PDF\)](#) rather than signing the early voting combo form.
- **Step 5:** Add the voter to the [Restricted Ballot Roster \(PDF\)](#).
- **Step 6:** Give the limited ballot (with appropriate races removed) to the voter for voting. **The limited ballot application should be forwarded to the voter registrar in your county to register the voter. [Notice to VR \(PDF\)](#)**
- **Step 7:** After the election is over, notify the voter registrar of the former county that the voter has voted under this procedure so that the voter's registration in their former county can be cancelled. Form [5-29 \(PDF\)](#).



Limited Ballot Reminders

- The limited ballot application is a voter registration application and will update the voter's registration to your county (assuming they are otherwise eligible).
- Train all your early voting workers, even those at the branch locations, on this process so they know to direct limited ballot voters to main EV location.



Limited Ballot Reminders

- Do NOT send voters back to their old county to vote!!!!
- There is no such thing as “fail-safe” voting for these voters – the only way they can legally vote is to vote the limited ballot in their new county during early voting!!
- Do NOT present a provisional ballot as the only option to these voters – they are eligible for a regular ballot.*

*A personal appearance voter could be given a provisional ballot for Voter ID reasons, if they do not present a proper ID.

*Voter might be offering to vote on election day, too late for limited ballot. It is possible the voter is not showing as registered in the new county, but voter (for example) remembers registering at DPS. In this instance, the voter should be offered an opportunity to vote provisionally.



How do you create a limited ballot?

- Depends on the type of voting system and how you choose to handle it
 - Can be different methods for the same voting system.
 - For the General Election for State and County Officers, SOS will provide a report that shows districts by county to assist you.
 - See most recent online advisory for detailed instructions.



How do you handle a limited ballot when you are contracting with multiple entities?

- Use maps or other technology to determine whether voter still lives within the territory of those other entities. Program your election/ballots so that you can provide the correct ballot(s) to the correct voter!



PROVISIONAL VOTING



HAVA Requirements

- In 2002, the Help America Vote Act required that provisional ballots be offered to:
 1. Any voter that declares that they are a registered and eligible voter of the precinct in which they are appearing; and
 2. Any voter whose eligibility is called into question by an election official, e.g. shown to have voted early by mail.

52 U.S.C. § 21082



Texas Election Code Requirements

- Texas law echoes the federal requirements, but also adds that a voter may vote provisionally if they do not have the required photo identification.

Tex. Elec. Code § 63.011



Provisional ballot – When do you use it?

- Provisional ballots can be offered during early voting and election day.
- They should be offered at ALL early voting polling places and election day polling places.
 - NOTE: A voter does not have to drive to the main EV location to vote a provisional ballot.



Why are provisional ballots important?

- By casting a provisional ballot -- even if it's not accepted for counting -- the person will become a registered voter.



Why are provisional ballots important?

A provisional ballot **helps** the voter when...

- The voter went to DPS to obtain/update a license but the registration information was not transmitted to SOS.
- There is an error on the list of registered voters (e.g., city annexed land and did not provide an updated map).
- The voter's registration application is smudged or contains poor handwriting.
- A registration update was timely post-marked but was delivered to VR after the OLRV was printed.
- A voter registered to vote through a VDR, but the VDR did not turn in the application. (Contact VDR for delivery.)



Why are provisional ballots important?

- We often hear from voters that provisional ballots “do not matter” or that an election worker said that their provisional ballot “will not count.”
- This is not true. Provisional ballots often end with a voter’s ballot being counted.



Any voter who requests a provisional ballot should be given one. NO voter should ever be refused a provisional ballot!



Polling Place Procedures (1 T.A.C. 81.172)

- A provisional ballot **must** be offered to...
 - 1) A voter who does not provide an acceptable form of identification.
 - 2) A voter whose name on their identification is not substantially similar to the name on the OLRV.
 - 3) A voter whose identity cannot be verified by the identification presented.
 - 4) A voter who has received a disability exemption, but does not have a voter registration certificate indicating such exemption.
 - 5) A voter whose name does not appear on the list of registered voters and does not have a registration certificate, but states they are a registered and eligible voter of the precinct.



Polling Place Procedures (1 T.A.C. 81.172)

- A provisional ballot **must** be offered to... (cont.)
 - 6) A voter who has applied for a ballot by mail, but has not yet properly cancelled the mail ballot application.
 - 7) A voter who votes during the polling hours that are extended by a state or federal court.
 - 8) A voter who is registered to vote but attempting to vote in a precinct other than the one in which the voter is registered.
 - 9) A voter who is on the precinct list of registered voters, but whose registered residence address is outside the political subdivision for which the voter is seeking to vote.
 - 10) Other _____ (with an explanation).



Polling Place Procedures (1 T.A.C. 81.173)

- If a voter fits into one of the above categories, the election worker shall inform the voter of their right to cast a provisional ballot.
 - If the voter does not appear on the list of registered voters, the election worker may assist the voter in determining if they are registered in another precinct.
 - Using an e-pollbook, or calling Voter Registrar.



Did Voter Register Through DPS?

- If the voter believes they are registered, the election judge **must** ask if the voter registered, or updated their registration, at DPS.
- If voter went to DPS, the election judge **must** note this and the approximate date that the voter went to DPS on the green Affidavit of Provisional Voter envelope.



Recommended Procedure

- In addition to asking about DPS, the election judge may ask information about when/how the voter believes they have registered:
 - When did you mail in your card?
 - What was the name and/or location for which you registered through a VDR?

All of these help the voter!!!



Polling Place Procedures (1 T.A.C. 81.173)

- If the voter is not appearing on the list of registered voters, the election worker should inform the voter that the ballot will be counted if it is determined they are a registered voter of the precinct.
- If voter is casting a provisional ballot due to lack of an acceptable or supporting ID, the election worker should inform the voter that the ballot will only be counted if the voter appears at the Voter Registrar's office and shows acceptable ID (List A or List B), or executes a temporary affidavit (if applicable) or permanent exemption (if applicable).



Polling Place Procedures (1 T.A.C. 81.173)

After notifications...

1. Voter should complete a green Affidavit of Provisional Voter envelope on the front side.
2. Election judge should complete their portion on the reverse side, and **sign it**.
3. Election judge should add voter's name to List of Provisional Voters/Early Voting List of Provisional Voters.
4. Election judge should add name of voter to combination form/poll list, and indicate they are a provisional voter.
5. Voter should sign the combination form/poll list.
6. The election judge should provide a Notice to Provisional Voter to the voter.



Provisional Ballots

1 TAC 81.174 & 81.175

7-15, 12/2021 Prescribed by Secretary of State Election Code Sec. 63.011	Type of Election / Tipo de Elección	Precinct Number/Polling Location where voted Núm. de Precinto-Lugar de votación	Precinct Number where registered (if known) Núm. de Precinto-inscrito para votar (si se sabe)	Date of Election / Fecha de la Elección	Authority Conducting Election / Autoridad Administrando la Elección
Affidavit of Provisional Voter (Declaración Jurada de Votante Provisional) (Ballot number if using DRE _____)					
<p>TO BE COMPLETED BY VOTER: I am a registered voter of this political subdivision and in the precinct in which I'm attempting to vote and have not already voted in this election (either in person or by mail). I am a resident of this political subdivision, have not been finally convicted of a felony or if a felon, I have completed all of my punishment including any term of incarceration, parole, supervision, period of probation, or I have been pardoned. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I understand that giving false information under oath is a misdemeanor, and I understand that it is a Class A Misdemeanor to vote in an election for which I know I am not eligible.</p> <p>PARA QUE EL VOTANTE LO LLENE: Estoy inscrito como votante en esta subdivisión política y en el precinto en cual estoy intentando a votar y aun no he votado en esta elección (en persona o por correo). Soy residente de esta subdivisión política, no he sido definitivamente declarado culpable de un delito grave o si soy el autor de un delito grave, he cumplido toda mi condena inclusive el período de encarcelamiento, la libertad condicional, la libertad supervisada, la libertad vigilada, o he sido indultado. No me han determinado por un juicio final de una corte de la legalización de un testamento, ser totalmente incapacitado mentalmente o parcialmente incapacitado sin el derecho de votar. Entiendo que dar información falsa bajo juramento es un delito menor y entiendo que es un delito menor de clase A votar en una elección para la que sé que no soy elegible.</p>					
Last Name (Include Suffix if any) / Apellido usual (Incluir sufijo si lo hay)		First Name / Su nombre de pila		Middle Name (if any) / Segundo nombre (si tiene)	Former Name / Nombre anterior
Residence Address: Street Address and Apartment Number, City, State, and ZIP. If none, describe where you live (Do not include P.O. Box, Rural Rt. Or Business Address) Domicilio: calle y número de apartamento, Ciudad, Estado, y Código Postal: A falta de estos datos, describa la localidad de su residencia. (No incluya el apartado de correos, camino rural, ni dirección comercial.)				Gender: (Optional) / Sexo (Optativo) <input type="checkbox"/> Male (Hombre) <input type="checkbox"/> Female (Mujer)	
Mailing Address: City, State, and ZIP. If mail cannot be delivered to your residence address. / Dirección postal: Ciudad, Estado y Código Postal (si es imposible entregarle correspondencia a su domicilio).				Date of Birth: Month, Day, Year Fecha de nacimiento: mes, día, año □□ / □□ / □□□□	
TX Driver's License No. or TX Personal I.D. No. (Issued by Dept. of Public Safety) (Número de su Licencia de Conducir de Texas o de su Cédula de Identidad de Texas expedida por el Departamento de Seguridad Pública de Texas). □□□□□□□□		Social Security No. (last 4 digits required if you do not have a TX Driver's License or TX Personal I.D. Number) / Número de Seguro Social. (Si no tiene Licencia de Conducir de Texas ni Cédula de Identidad Personal de Texas, se requiere los últimos 4 números de su seguro social) XXX-XX-□□□□		<input type="checkbox"/> I have not been issued a TX Driver's License Number, TX Personal I.D. Number or a Social Security Number. Yo no tengo una Licencia de Conducir de Texas, Cédula de Identidad Personal de Texas ni un Número de Seguro Social.	
Check appropriate box: ARE YOU A UNITED STATES CITIZEN? Marque el cuadro apropiado: Soy ciudadano/a de los Estados Unidos Yes <input type="checkbox"/> Si No <input type="checkbox"/> No			Signature of Voter / Firma del votante X _____		



Provisional Ballot Affidavit

TO BE COMPLETED BY ELECTION JUDGE:

VOTER PRESENTED ACCEPTABLE FORM OF IDENTIFICATION OR A SUPPORTING FORM OF IDENTIFICATION AND EXECUTED A REASONABLE IMPEDIMENT DECLARATION

Yes No

REASON FOR VOTING PROVISIONALLY

1. Failed to present acceptable form of photo identification, a supporting form of identification with an executed Reasonable Impediment Declaration, 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 is outside the _____ political subdivision.
7. Registered at Department of Public Safety (DPS): When: _____ Where: _____
8. Other: _____ (Please explain)

Sworn and subscribed to before me this date: _____

Signature of Election Judge

TO BE COMPLETED BY THE COUNTY VOTER REGISTRAR FOR STATUS:

I, the voter registrar/deputy registrar, did research the records of my office and the following conclusion(s) was made:

FOR VOTERS WHO DID NOT PRESENT ACCEPTABLE PHOTO IDENTIFICATION AT THE POLLING PLACE

1. Voter presented acceptable form of identification **OR** a supporting form of identification and executed a Reasonable Impediment Declaration within 6 calendar days of election day.
2. Voter met disability exemption within 6 calendar days of election day.
3. Voter executed religious objection affidavit within 6 calendar days of election day.
4. Voter executed natural disaster affidavit within 6 calendar days of election day.
5. Voter did not satisfy identification or affidavit requirements, listed in categories 1-4 above, within 6 calendar days of election day.

FOR VOTERS WHO VOTED PROVISIONALLY FOR OTHER REASONS

6. Not a registered voter or registration not effective in time for this election.
7. Registered to vote, erroneously listed in wrong precinct.
8. Registered to vote in a different precinct within the county.
9. Information on file indicating applicant completed a voter registration application, but it was never received in the voter registrar's office.
10. Voter erroneously removed from the list.
11. Voter is not registered to vote in _____ political subdivision.
12. Other: _____ (Please explain)

Signature of Voter Registrar

Date

Action taken by the Early Voting Ballot Board: ACCEPTED REJECTED Signature of Ballot Board Judge: _____

Print

Reset



Paper Shortage - Provisional Envelopes

- SOS was asked if a printer could provide provisional envelopes in a color other than green.
- SOS approved this request, so long as the printing on the envelope is still legible and the color is not one that might confuse the envelope with other forms.



Voting a Provisional Ballot (1 T.A.C. 81.173)

- Optical Scan/Paper Ballots:
 - Voter should pick their own ballot from disarranged supply of provisional ballots, if applicable.
 - Voter should mark their ballot and then place inside the white secrecy envelope.
 - Voter should place white secrecy envelope into the green Affidavit of Provisional Voter envelope.
 - Voter should then deposit into separate and secured container for provisional ballots.



Voting a Provisional Ballot (1 T.A.C. 81.173)

- DREs:
 - The election judge shall prepare voting system for provisional voting in accordance with instructions provided by you and vendor.
 - If there is a code that needs to be written on the green Affidavit of Provisional Voter envelope, or slip of paper with code needs to be placed inside by the voter, this will need to be done.
 - After submitting their ballot on the DRE, voter should then deposit into separate and secured container for provisional ballots.



There is nothing under the Texas Election Code that allows “curing” of provisional ballots other than those for ID purposes.



Questions?

elections@sos.texas.gov

