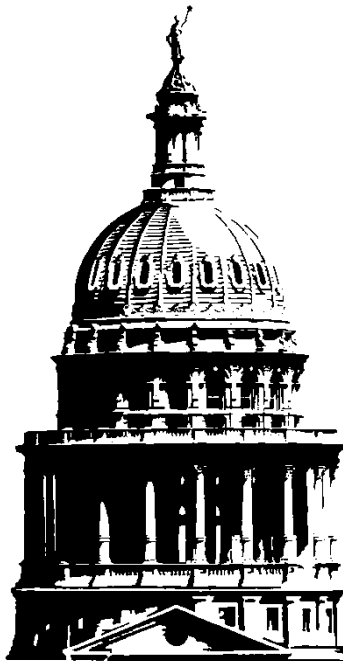


# Qualifying Voters on Election Day Handbook for Election Judges and Clerks 2014

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



Issued by  
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1-800-252-2216 or (512) 463-5650  
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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 regular session of the 83rd Texas Legislature (2013), as well as highlights the changes made by Senate Bill 14, 82nd Texas Legislature (2011), which was implemented following the United States Supreme Court decision in *Shelby County, Alabama v. Holder*, No. 12-96, 2013 WL 3184629 (U.S.) (U.S. Jun. 25, 2013).

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.state.tx.us>.

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# CHAPTER 1

## THINGS TO DO BEFORE THE POLLS OPEN

### SECTION A. PREPARE THE POLLING PLACE

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

1. Oaths: The presiding judge administers the Oath of Election Officer and the Oath of Assistance to himself or herself and to the clerks. [Secs. 62.003, 64.034]  
    “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.”  
  
    “I swear (or affirm) that I will not suggest, by word, sign, or gesture, how the voter should vote; I will confine my assistance to answering the voter’s questions, to stating propositions on the ballot, and to naming candidates and, if listed, their political parties; I will prepare the voter’s ballot as the voter directs; and 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.”
2. Identification: The presiding judge and clerks must wear a form of identification, prescribed by the Secretary of State, while on duty which 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 list of registered voters, if not already annotated, must be marked by the election judge before voting begins on election day to indicate voters whose names appear on the precinct early voting list. [Sec. 62.014(b)]

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)]

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

*House Bill 3102 (2013) amended Section 174.022 of the Texas Election Code to provide that precinct conventions may be held at a time and place determined by rules adopted by the state executive committee of a political party. At the time this handbook is being published, it is unknown what the date, time, and place of precinct conventions for either political party will be. House Bill 3102 did not amend Section 172.1114 of the Texas Election Code and, practically speaking, the second list may not be used to qualify precinct convention participants if the precinct convention has already occurred. You will be given instructions at a later time concerning the second list and procedures to be followed if a voter participated in a political party's convention prior to the primary election, but wishes to vote in the other political party's primary election.*

**NOTE:** If you are using an **e-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.

5. Setup Polling Place: The election workers need to physically arrange the polling place.

**1) Arrange Tables, Chairs and Voting Area**

- Place table(s) and chairs near the entrance to the polling place for the clerks who will be accepting the voters.
- Establish a voting area.
  - Voting booths that provide voters privacy while voting must be provided at all polling places. Voting booths must meet the regulatory specifications for voting booths, or have been approved for use by the Secretary of State. [Sec. 51.032; 1 T.A.C. § 81.70]
  - 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]
  - Make sure voting area is adequately lighted. [Sec. 62.004(3)]
  - 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]
  - 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]

- Establish an area for counting ballots (if applicable).
  - 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.

## 2) Prepare the Table(s) for Accepting and Qualifying Voters

- Place the following election forms and supplies on each table:
  - Lists of registered voters, including supplemental and correction lists, or a revised original list. [Secs. 18.001, 18.002, 18.003, 18.004]
  - Registration omissions list. [Sec. 63.006(b)(2)]
  - Combination form (combination of two or more forms below denoted by an “\*”). [Sec. 63.004]
  - Poll list.\* [Sec. 63.003]
  - Signature roster.\* [Sec. 63.002]
  - Affidavits.
    - Voter with Required Documentation Who is Not on List. [Sec. 63.006]\*
    - Affidavit of Voter Without Required Identification (part of Provisional Ballot Affidavit Envelope). [Sec. 63.011(b)]
    - Voter’s Similar Name Affidavit. [Sec. 63.001(c)]\*
  - Provisional Ballot Affidavit Envelope. [Sec. 63.011]
  - List of Provisional Voters. [1 T.A.C. §§ 81.172—81.176]
  - Polling Place ID Receipt (the Polling Place ID Receipt may have been combined with the Notice to Provisional Voter into a single form). [1 T.A.C. §§ 81.172—81.176 ]
  - Notice to Provisional Voter (may have been combined with the Polling Place ID Receipt). [1 T.A.C. §§ 81.172—81.176 ]
  - Secrecy Envelopes for Provisional Ballots. [1 T.A.C. §§ 81.172—81.176 ]
  - 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 3 “Voter Has Moved” for further information.
  - 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]

**NOTE:** *In a primary election, the presiding judge is given two lists of registered voters. The second list is given to the precinct chair after the polls are closed and is used to qualify participants in the precinct convention. The election judge of a primary election must 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. [Sec. 172.1141] It should be noted that Section 174.022 of the Texas Election Code was amended by House Bill 3102 ( 2013) to provide that precinct conventions*

*may 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.*

- *The party affiliation stamp for stamping voter registration certificates in a primary election. [Sec. 162.004(b)]*
- *Certificates of party affiliation in a primary election for those voters who do not have a voter registration certificate. [Sec. 162.004(c)]*

**NOTE:** *Because voters are no longer required to have their certificates, only their valid form of photo identification, you may be issuing a large number of party affiliation certificates.*

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

**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.

### **3) Post Distance Markers, Sample Ballots, Instructions and Notices**

- 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 electioneering or loitering statutes OUTSIDE the 100 ft. distance marker. [Sec. 32.075]

- Post the voter information poster and other instruction posters (if any) in each voting station and in one or more locations in the polling place where they can be read by persons waiting to vote. [Secs. 62.011, 62.0112, 62.0115]
- Post the list of declared write-in candidates for (*the primary election for the office of precinct chair and county chair*), 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, 171.0231 Texas Election Code; Secs. 11.056(c), 11.304, 130.081, 130.0825, Texas Education Code; Sec. 285.131, Texas Health and Safety Code; Secs. 326.0431 & 326.0432, Texas Local Government Code; Secs. 36.059, 49.101, 63.0945, Texas Water Code]

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

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

- 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]
- *Post the party sign over the entrance to the polling place in a primary election.*

**NOTE:** If a polling place is used to hold an election for more than one political party, then the sign used to indicate the location of a polling place for a primary election or runoff primary election must either not contain the name of, or symbol representing, any political party that is holding an election at the polling place, OR must contain each name of, or each symbol representing, a political party that is holding an election at the polling place. [Sec. 172.127]

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

**NOTE:** There is an exception 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]

- 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]
- 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]



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

**NOTE:** *House Bill 3102 (2013) amended Section 174.022 of the Texas Election Code to provide that precinct conventions may be held at a time and place determined by rules adopted by the state executive committee of a political party. At the time this handbook is being published, it is unknown what the date, time, and place of precinct conventions for either political party will be. House Bill 3102 did not amend Section 172.1111 of the Texas Election Code, but, practically speaking, there may be no notice to be posted.*

- 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.

#### **4) Open and Inspect All Ballot Boxes**

If regular 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]

- Make sure that each ballot box is empty.
- 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]

#### **5) Prepare Official Ballots (Paper and Optical Scan)**

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

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

- Place the presiding judge's full name on the back of each ballot. [Sec. 62.008]
  - If a stamp of the judge's signature is provided, a clerk may stamp the back of each ballot with this signature stamp. An election clerk may not forge the signature of the judge. [Sec. 62.008(b)]
  - 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)]
- Mix the signed or stamped ballots so that they are not in numerical order. [Sec. 62.009(a)]
- Place the mixed ballots face down on the acceptance table(s). [Sec. 62.009(b)]
- 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.

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

## **6) Place Ballot Boxes**

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

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

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

### **7) Place DRE Voting Machines and/or Precinct Ballot Counters**

For elections using direct recording electronic voting machines (“DREs”) or precinct ballot counters, 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:

- The presiding judge shall verify and document the serial numbers of the equipment delivered to the polling site.
- Look for evidence of tampering.
- Verify that the Public Count is “0” on each applicable device.
- Check the accuracy of the date and time on applicable equipment.
- Confirm that all units are open for voting.
- At a minimum, print one zero tape from each applicable device (DREs and precinct ballot counters).
- 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.
- The zero tapes must be placed in a secure location to be returned with the election materials.

### **8) 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 B. POLL WATCHERS**

1. Appointee 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 in the November general election may appoint up to two watchers per polling place. A write-in candidate whose name appears on the list of declared write-in candidates may also appoint poll watchers, and a group of registered voters may appoint a watcher for an undeclared write-in candidate for elections where declaration is not required. [Secs. 33.002 - 33.005]
2. Acceptance and Qualification: A watcher who presents himself or herself at any time on election day with a certificate of appointment must be accepted for service unless the person is ineligible to serve or the number of appointees to which 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:
  - 1) 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]

- 2) not be a candidate for public office in an election held on the day the watcher seeks to serve; [Sec. 33.032]
  - 3) not hold an elective public office; [Sec. 33.033]
  - 4) not be an employee of an election judge or clerk serving at the same polling place; [Sec. 33.035]
  - 5) not been finally convicted of an offense in connection with conduct directly attributable to an election; [Sec. 33.035] and
  - 6) 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]
3. Certificate of Appointment: The poll watcher must present his or her poll watcher's certificate of appointment to the presiding judge when he or she reports for service. [Sec. 33.051(a)]
- 1) The certificate must be in writing and must include the following: [Sec. 33.006]
    - Name, residence address, and voter registration number of the poll watcher;
    - The election and the number of the precinct where the poll watcher is to serve;
    - The signature of the person(s) making the appointment;
    - The signature of the poll watcher;
    - An indication of the capacity in which the appointing authority is acting;
    - 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
    - An affidavit executed by the poll watcher that the poll watcher will not have possession of any mechanical or electronic means of recording images or sound while serving as a watcher unless the poll watcher disables or deactivates the device.

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

**NOTE:** It is not necessary to notarize a certificate of appointment.
  - 3) The presiding judge must keep the certificate of appointment in Envelope No. 2 for return to the custodian of election records after the election. [Sec. 66.023(7)]
  - 4) 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: **NEW LAW** (SB 160, 83<sup>rd</sup> Legislative Session, 2013). 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. Service, Duties, and Privileges of Poll Watchers

1) 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]

**EXCEPTION:** If a poll watcher leaves the polling place in order to use a wireless communication device AND promptly returns, he or she is considered to have served continuously as that term is used for calculating their continuous 5 hours, which allows them to come and go. [Sec. 33.052(b)]

2) 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]

- A watcher is entitled to sit or stand conveniently near the election officers conducting the observed activity. [Sec. 33.056(a)]
- A watcher is entitled to sit or stand near any member of the counting team to verify that the ballots are read correctly and/or that they are tallied correctly. [Sec. 33.056(b)]
- A watcher may make written notes while on duty. However, if the watcher leaves the polling place while the polls are open, he or she may be required to leave his or her written notes with another person selected by the watcher, who is on duty at the polling place. [Sec. 33.056(d)]

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

- If a watcher points out to an election clerk an occurrence that the watcher believes to be irregular and the clerk refers the watcher to the presiding judge, the watcher may not discuss the matter further with the clerk unless the presiding judge invites the discussion. [Sec. 33.058]

4) A watcher who asks to accompany the election officer who delivers election records must be permitted to do so. [Sec. 33.060(a)]

- If the delivery is made in a vehicle, it is sufficient to allow the watcher to follow in a different vehicle and to drive in such a manner that the watcher may keep the delivery vehicle in sight. [Sec. 33.060(b)]

5) 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)]

6) A watcher may not watch a voter vote except when a voter is being assisted by election officers. 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]

- 7) Preventing a watcher from observing any activity the watcher is entitled to observe is a Class A misdemeanor. [Sec. 33.061]

### **SECTION C. ELECTION INSPECTORS**

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

## 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 Identification or Permanent Exemption: An election officer at the acceptance table should ask the voter to present an acceptable form of identification. [Sec. 63.001(b)]

The acceptable forms of identification are:

- 1) Texas Driver License issued by the Department of Public Safety (“DPS”);  
**NOTE:** This form of ID should not be used if “Limited Term” or “Temporary Visitor” appears on the face of the card as this indicates the person is not a U.S. Citizen.
- 2) Texas Election Identification Certificate issued by DPS;
- 3) Texas Personal Identification Card issued by DPS;  
**NOTE:** This form of ID should not be used if “Limited Term” or “Temporary Visitor” appears on the face of the card as this indicates the person is not a U.S. Citizen.
- 4) Texas Concealed 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.  
**NOTE:** A “passport card” which is also issued by the U.S. Department of State, is acceptable.

**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 have one of seven forms of identification listed above. The notation means the voter is exempt from showing one of the seven forms of identification because the voter is disabled and has applied for and received a disability exemption from the voter registrar in accordance with the Texas Election Code.

**NOTE:** If the voter does not have an acceptable form of identification, or does not present the voter’s current voter registration certificate with an “E” notation, then the voter may not vote a regular ballot, but must vote a provisional ballot. [Secs. 63.001(g) & (h), 63.0101, 63.011] However, no later than six calendar days after election day, the voter may present an acceptable form of identification to the voter registrar, which will “cure” the voter’s failure to provide an acceptable form of identification at the polling place. You must notify the voter of his or her right to vote provisionally in accordance with the procedures prescribed in Situation 6.

**NOTE:** With the exception of the United States Citizenship Certificate, the acceptable form of identification must be current or have expired no more than 60 days before being presented for voter qualification at the polling place.

**NOTE:** If the presiding judge reasonably determines that the voter is not the person whose photo appears on the acceptable form of identification presented by the voter, the presiding judge will follow the procedure prescribed in Situation 6.

**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]

2. Located Voter on List of Registered Voters: When presented with an acceptable form of identification or the voter's current voter registration certificate with an "E" notation, the election officer checks the list of registered voters for:
  - 1) the voter's name;
  - 2) the voter's registration status; and
  - 3) any special annotations.

**NOTE:** The two annotations are "S" for suspense and a "voted" annotation if the voter has voted early. Because the acceptable form of identification or the voter's current voter registration certificate with an "E" notation satisfies the requirement for presenting identification formerly 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 acceptable form of identification, follow the procedure prescribed in Situation 2.
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.

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. **The Ideal Voter**

In the ideal voter scenario, the voter presents their acceptable form of identification listed on page 13 or has a notation of an “(E)” after the VUID number on their voter registration certificate. [Secs. 63.001, 63.0101]

Further, the identification provided by the voter will be current or not have expired more than 60 days before the voter is presenting it at the polling place.

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 an ideal voter 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. [Sec. 172.1141] However, House Bill 3102 (2013) amended Section 174.022 of the Texas Election Code to provide that precinct conventions may be held at a time and place determined by rules adopted by the state executive committee of a political party. At the time this handbook is being published, it is unknown what the date, time, and place of precinct conventions for either political party will be. House Bill 3102 did not amend Section 172.1114 of the Texas Election Code and, practically speaking, the second list may not be used to qualify precinct convention participants if the precinct convention has already occurred. You will be given instructions at a later time concerning the second list and procedures to be followed if a voter participated in a political party’s convention prior to the primary election, but wishes to vote in the other political party’s primary election.*

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 the opposite 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 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.) 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. [Sec. 162.014]*

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]
  - 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. [Sec. 162.004(b)]*

**NOTE:** *Because voters are no longer required to present their voter registration certificates (except to show a disability exemption), only their acceptable form of identification, there may be an increase in the issuance of party affiliation certificates.*

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

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’s Name on Acceptable  
Form of Identification Does Not Match Voter’s  
Name on List of Registered Voters**

The voter presents an acceptable form of identification listed on page 13 or has a notation of an “(E)” after the VUID number on their voter registration certificate). [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 voter’s identification, 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.

A voter’s name on the presented identification form is considered substantially similar to the name on the official list of registered voters and a voter’s name on the official list of registered voters is considered substantially similar to the name on the presented identification form if one or more of the circumstances in paragraphs (1) - (4) of this subsection are present. 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, which may be strong indicators that the name on the presented identification form is substantially similar to the name on the official list of registered voters and vice versa if:

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 such as, for illustrative purposes only, Bill for William, or Beto for Alberto, 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 that 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 6), 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]
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. [Sec. 172.1141] However, House Bill 3102 (2013) amended Section 174.022 of the Texas Election Code to provide that precinct conventions may be held at a time and place determined by rules adopted by the state executive committee of a political party. At the time this handbook is being published, it is unknown what the date, time, and place of precinct conventions for either political party will be. House Bill 3102 did not amend Section 172.1114 of the Texas Election Code and, practically speaking, the second list may not be used to qualify precinct convention participants if the precinct convention has already occurred. You will be given instructions at a later time concerning the second list and procedures to be followed if a voter participated in a political party's convention prior to the primary election, but wishes to vote in the other political party's primary election.*
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 the opposite 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.) 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. [Sec. 162.014]*

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)]
8. 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)]
9. *Stamp the voter's registration certificate, if available, with the party affiliation in a primary election. [Sec. 162.004(b)]*

**NOTE:** *Because voters are no longer required to present their voter registration certificates (except to show a disability exemption), only their acceptable form of identification, there may be an increase in the issuance of party affiliation certificates.*

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

10. 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)]
11. 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 Has Moved**

The voter presents an acceptable form of identification listed on page 13 or has a notation of an “(E)” after the VUID number on the voter’s registration certificate, 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 2 above relating to the voter submitting an affidavit, which is part of the combination form, 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. *In primary elections* and the November election for state and county officers, 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 6.)
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. [Sec. 172.1141] However, House Bill 3102 (2013) amended Section 174.022 of the Texas Election Code to provide that precinct conventions may be held at a time and place determined by rules adopted by the state executive committee of a political party. At the time this handbook is being published, it is unknown what the date, time, and place of precinct conventions for either political party will be. House Bill 3102 did not amend Section 172.1114 of the Texas Election Code and, practically speaking, the second list may not be used to qualify precinct convention participants if the precinct convention has already occurred. You will be given instructions at a later time concerning the second list and procedures to be followed if a voter participated in a political party's convention prior to the primary election, but wishes to vote in the other political party's primary election.*
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 the opposite 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 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.) 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. [Sec. 162.014]*

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 registration certificate, if available, with the party affiliation in a primary election. [Sec. 162.004(b)]*

**NOTE:** *Because voters are no longer required to present their voter registration certificates (except to show a disability exemption), only their acceptable form of identification, there may be an increase in the issuance of party affiliation certificates.*

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

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 4.  
**Voter with Acceptable Form of Identification, but  
Voter's Name Not on List of Registered Voters  
(Section 63.006)**

The voter presents an acceptable form of identification listed on page 13 (or has a notation of an "(E)" after the VUID number on the voter's voter registration certificate), **BUT** the voter's name does **not** appear on the precinct's list of registered voters. [Sec. 63.001] A voter who presents an acceptable form of identification, but whose name is not on the precinct list of registered voters, shall be accepted for voting if the voter also presents a voter registration certificate indicating that the voter is currently registered either:

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:
  - 1) is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct;
  - 2) was a resident of the precinct in which the voter is offering to vote at the time the information on the voter's residence address was last provided to the voter registrar;
  - 3) did not deliberately provide false information to secure registration in a precinct in which the voter does not reside; and
  - 4) is voting only once in the election.

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. [Sec. 172.1141] However, House Bill 3102 (2013) amended Section 174.022 of the Texas Election Code to provide that precinct conventions may be held at a time and place determined by rules adopted by the state executive committee of a political party. At the time this handbook is being published, it is unknown what the date, time, and place of precinct conventions for either political party will be. House Bill 3102 did not amend Section 172.1114 of the Texas Election Code and, practically speaking, the second list may not be used to qualify precinct convention participants if the precinct convention has already occurred. You will be given instructions at a later time concerning the second list and procedures to be followed if a voter participated in a political party's convention prior to the primary election, but wishes to vote in the other political party's primary election.*

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 the opposite 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 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.) 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. [Sec. 162.014]*
  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 registration certificate, if available, with the party affiliation in a primary election. [Sec. 162.004(b)]*
- NOTE:** *Because voters are no longer required to present their voter registration certificates (except to show a disability exemption), only their acceptable form of identification, there may be an increase in the issuance of party affiliation certificates.*
- NOTE:** *The party affiliation certificate is not required to be issued to a voter in a runoff primary unless he or she requests it. [Sec. 162.004(c)]*
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 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 4 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. [Sec. 63.009]

Follow the procedures for provisional voter in Situation 6 below.

Situation 6.  
**Provisional Voter**

1. At all elections, the following individuals are eligible to vote a provisional ballot:
  - 1) A voter who does not provide an acceptable form of identification described by Section 63.0101 of the Texas Election Code (the “Code”), regardless of whether the voter presents a valid voter registration certificate; or
  - 2) A voter whose name on the acceptable form of identification listed on page 13 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; or
  - 3) A voter who presented an acceptable form of identification as described by Section 63.0101 of the Code but whose identity cannot be verified by the identification presented; or
  - 4) A voter who has received a disability exemption under 13.002(i) of the Code, but does not have or otherwise fails to present the voter’s voter registration certificate at the polling place indicating such exemption; or
  - 5) Under section 63.009 of the Code (Situation 5), 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 of the Texas Election Code); or
  - 6) 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; or

- 7) A voter who votes during the polling hours that are extended by a state or federal court; or
  - 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; or
  - 9) 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; or
  - 10) Other: \_\_\_\_\_ (with an explanation). [Sec. 63.011; 1 T.A.C. §§81.172—81.176]
2. 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.
  3. The election judge must request the voter who will be voting provisionally to present an acceptable form of identification listed on page 13 to vote a provisional ballot.
  4. If the provisional voter has no acceptable form of identification, the voter must still be permitted to vote a provisional ballot, but the election judge will advise the voter that in order to have the provisional ballot accepted, the voter must present an acceptable form of identification to the voter registrar no later than the 6th day after the election date, or, alternatively, complete an exemption form in the presence of the voter registrar no later than the 6th day after the election date.
  5. 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. However, the election officer may not accept from the voter registrar a determination that the voter is a registered voter of the county.
  6. 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.
  7. 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 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 cancelled mail ballot application;
  - 5) Voting after 7:00 p.m. due to court order;
  - 6) Voter on list, but registered residence address outside the \_\_\_\_\_political subdivision; or
  - 7) Other \_\_\_\_\_ (Please explain).
8. 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. The List of Provisional Voters form contains a box to indicate whether or not the voter submitted an acceptable form of identification, and the election judge shall mark the appropriate box.
  9. The election judge shall add the name of the provisional voter to the poll list or combination form and check the column "Provisional".
  10. The election judge shall have the provisional voter sign the regular signature roster or combination form in the appropriate place.
  11. If provisional voting is being conducted with paper or optical 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.

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.
  12. After the provisional paper or optical scan ballot has been voted, the provisional voter shall:
    - 3) Seal the provisional ballot in a secrecy envelope;

- 4) Seal the secrecy envelope inside the Provisional Ballot Affidavit Envelope; and
- 5) Deposit the Provisional Ballot Affidavit Envelope in the secure container for completed Provisional Ballot Affidavit Envelopes provided at the polling place.

To vote provisionally on a DRE voting machine, the provisional voter, as directed by the election judge, shall either:

- 1) 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
  - 2) 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.
13. Either before the provisional voter votes or at the time the voter is depositing the Provisional Ballot Affidavit Envelope in the ballot box or other secure receptacle, the election judge shall inform the provisional voter that the voter will receive notice in the mail about whether the voter's provisional ballot was counted. The election judge shall also immediately provide to the provisional voter a written Notice to Provisional Voter form which will inform the voter of this fact in writing, along with information that explains the Provisional Ballot Affidavit Envelope will be used by the voter registrar to register the voter or update the voter's registration, as applicable.
14. In addition to the information stated in # 13 (above), The Notice to Provisional Voter form for voters that voted provisional due to a lack of acceptable photo identification described by Section 63.0101 must also contain the following information:
- 1) List of acceptable forms of identification, as well as the forms for available exemptions;
  - 2) The procedure for presenting identification to the voter registrar, executing an affidavit for a temporary exemption in the presence of the voter registrar, and applying for a permanent disability exemption, not later than the sixth day after the election date;
  - 3) A map showing the location of the voter registrar for purposes of presenting acceptable forms of identification as well as seeking exemptions to the identification requirements; and

- 4) 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.
15. Election judges may use two separate Notice to Provisional forms. There may be one form for provisional voters that did not have an acceptable ID as described by Section 63.0101 (requirements described in # 13 above) and one form for all other provisional voters (requirements described in # 13 and # 14 above). However, election judges may use a combined notice for all provisional voters. Please consult with the authority conducting the election (ex: County Clerk, Election Administrator, City Secretary, etc.) for instructions on whether to use a combined Notice to Provisional Voter form or a separate Notice to Provisional Voter form for each group.

SITUATION 7.  
**Early Voting Cancellation**

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 to the presiding judge. [Sec. 84.032]
  - To cancel an application to vote by mail at the polling place, the voter must complete the "Request to Cancel Application to Vote by Mail" and surrender his or her mail ballot to the election officer. The presiding election judge must review the request and write "CANCELLED" on the returned ballot. The judge should place the cancelled ballot and the request in the envelope for cancelled applications. If the voter's request to cancel does not comply, the election judge must state on the request the reason it was denied and place the request in the envelope for requests of cancelled applications. The judge must then deposit the envelope in Ballot Box No. 4 or other designated container prior to delivering the box to the general custodian of election records.
  - If the voter insists he or she did not apply, 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 6.)
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.

**SITUATION 8.**

Early Voting – Notice of Defective Delivery

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

1. Election judges and clerks. [Secs. 32.071, 32.072]
2. Poll watchers and inspectors. [Secs. 33.052, 34.002]
3. Peace officers summoned or appointed by the presiding judge to preserve order. 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]
4. Persons admitted to vote. [Sec. 63.001]
5. Children under 18 years old who are accompanying a parent who is admitted to vote. [Sec. 64.002(b)]
6. Persons admitted to provide assistance to or to interpret for a voter who is entitled to assistance or to an interpreter. [Secs. 61.032, 64.032(c), and 42 U.S.C.A. § 1973aa-6.]
7. Secretary of State and Staff. [Sec. 34.004]
8. Federal Observers. [Voting Rights Act, 42 U.S.C.A., Sec. 1973(f)]
9. Persons accompanying a disabled voter (curbside voting). [Sec. 64.009]
10. Election staff people delivering necessary supplies. [Sec. 51.004]
11. Sheriff delivering election supplies at the request of the county election officer. [Sec. 51.009]
12. Persons approved to assist with electronic voting equipment. [Secs. 125.004, 125.006]
13. Emergency personnel, if needed.
14. Student participating in student election. [Sec. 276.007]
15. Officers specially appointed to assist in running student elections. [Sec. 276.007]
16. Voting system technicians. [Sec. 125.010]
17. *In a primary election, the county chair of a political party conducting a primary election, during the voting period as necessary to perform administrative functions related to conduct of the election.* [Sec. 172.1113]

**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]

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 are not within plain view or hearing of persons waiting to vote or persons voting. [Sec. 61.001]

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

1. Any voter may ask any election 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 C. RENDERING ASSISTANCE TO A VOTER**

1. Voters who are eligible for assistance.
  - 1) Any voter who is physically unable to mark his or her ballot. [Sec. 64.031; 42 U.S.C.A. § 1973aa-6]
  - 2) Any voter who cannot read the languages on the ballot. [Sec. 64.031; 42 U.S.C.A. § 1973aa-6]
2. Definition of Assistance. [Sec. 64.0321]
  - 1) Reading the ballot to the voter;
  - 2) Directing the voter to read the ballot;
  - 3) Marking the voter's ballot as directed by the voter; or
  - 4) Directing the voter to mark the ballot.
3. Manner of rendering assistance.
  - 1) A voter entitled to assistance may choose any person as his or her assistant except the voter's employer, or agent of that employer, or officer or agent of the voter's union. [Sec. 64.032(c); 42 U.S.C.A. § 1973aa-6] Such person must be permitted to serve as an assistant regardless of:
    - The fact that that person has already assisted another voter;
    - The residence of that person;
    - The citizenship of that person;
    - The voter registration status of that person; or
    - The age of that person.
  - 2) 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]
  - 3) The person who is to provide assistance must first take an oath of assistance administered by one of the election officers. [Sec. 64.034]

"I swear (or affirm) that I will not suggest, by word, sign, or gesture, how the voter should vote; I will confine my assistance to answering the voter's questions, to stating propositions on the ballot, and to naming candidates and, if listed, their political parties; [and] I will prepare the voter's ballot as the voter directs; and 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."
  - 4) 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)]

- 5) 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)]
- 6) 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)]
  - Election officers must be administered an oath of assistance before rendering assistance. Election officers only have to take the oath once, and it can be administered along with the oaths of election officers at the beginning of the day. [Sec. 64.034]
 

"I swear (or affirm) that I will not suggest, by word, sign, or gesture, how the voter should vote; I will confine my assistance to answering the voter's questions, to stating propositions on the ballot, and to naming candidates and, if listed, their political parties; [and] I will prepare the voter's ballot as the voter directs; and 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."
  - 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)]
  - 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]
  - If the election is a November general election, each election officer providing assistance must be of a different political party unless there are not two or more officers serving the polling place 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.

#### 4. Curbside voting.

- 1) If a voter is physically unable to enter the polling place without assistance or likelihood of injury to his or her health, one election officer may deliver a ballot to the voter at the entrance or curb of the polling place. [Sec. 64.009(a)]
  - Poll watchers and inspectors must be allowed to accompany the election officer. [Secs. 33.056(a), 34.002(a)]
  - The voter must be qualified by the election officer before the voter can receive the ballot. [Sec. 64.009(b) and (c)]
  - If using a DRE system, the election officer will deliver the DRE voting machine to the voter rather than a ballot.
  - 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)]
- 2) If the voter is not only physically unable to enter the polling place, but is also eligible for voter assistance in marking his or her ballot:
  - Two election officers may assist the voter; [Sec. 64.032(a)] or

- The voter may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union. [Sec. 64.032(c); 42 U.S.C.A. 1973aa-6]
- Make sure to allow the curbside voter the same privacy as a voter at the voting booth.

## **SECTION D. USING ENGLISH AND INTERPRETERS**

1. All election officers, while on duty at the polling place, must use English, except when helping a voter who does not understand English. Whenever English is not used either by a voter or by an election officer, any other election officer or a poll watcher, upon request, must receive an English translation of anything spoken. [Secs. 61.031, 61.036]
2. If a voter cannot communicate in English, an election officer may communicate with the voter in a language the officer and the voter understand. [Sec. 61.031(b)]
3. An interpreter may be used when the voter and the election officer(s) attending to the voter cannot speak the same language. [Sec. 61.032]
  - 1) The voter may select an interpreter who must be a registered voter of the county. [Sec. 61.033] An interpreter may interpret for any number of voters. For each voter, the interpreter must take the oath of interpreter. [Sec. 61.035]
  - 2) The interpreter may be a person provided by the authority conducting the election. However, even if an interpreter is provided, a voter may use an interpreter of his or her own choosing. [Sec. 61.032]
4. If no interpreter is available at the polling place, the authority responsible for appointing the election 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:** 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 E. MISCELLANEOUS PROVISIONS**

### **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]

### **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. [Secs. 61.003] Neither election officers nor peace officers may enforce electioneering or loitering statutes outside the 100 ft. distance marker. [Sec. 32.075]

1. It is the duty of the presiding judge to prevent unlawful electioneering or loitering. [Sec. 32.075(a)]
2. A special peace officer may be appointed by the presiding judge to preserve order. 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]

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

**NOTE:** 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.

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. 31.051(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.

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]

### **Revealing Information**

1. No one connected with the conduct of the election may reveal any of the following information while the polls are open:
  - The names of voters who have or have not voted in the election. [Sec. 61.007(a)(4)]
  - The number of votes cast that have been received by individual candidates and/or for or against propositions. [Sec. 61.007(a)(1)]
  - A candidate's position relative to other candidate's in the tabulation of the votes or whether a measure is passing or failing. [Sec. 61.007(a)(2) and (3)]
  - Unlawfully revealing the above information is a Class A misdemeanor.
2. 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)]

### **Influencing a Voter**

1. 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:
  - interpreters;
  - assistants; [Sec. 64.034]
  - poll watchers; and [Sec. 33.058(a)]
  - inspectors.
2. An offense under this section is a Class B misdemeanor. [Sec. 61.008(b)]

### **Unlawful Use of a Sound Amplification Device**

It is unlawful for a person to use any sound amplification device (e.g., loudspeaker) for political speech or electioneering within 1,000 feet of the polling place. [Sec. 61.004]

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

1. The use of wireless communication devices (e.g., cell phones) are 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]
2. 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]
3. 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]

### **SECTION F. CASTING THE BALLOT**

1. A voter who makes a mistake while marking his or her ballot may take the spoiled ballot to an election officer and exchange it for a new ballot. [Sec. 64.007(a)]  
**NOTE:** A voter may spoil up to 2 ballots and vote a third ballot. [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.
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]  
**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.

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

1. The procedures you follow at your precinct for managing ballots and preparing and distributing records will depend on how and where ballots are counted as follows:
  - Optical Scan Tabulator at the polling place;
  - Optical Scan Tabulator at the central counting station, regional substation, or at the appropriate authority, as applicable;
  - Hand-count at the precinct; and/or
  - DRE or other accessible voting equipment at the precinct.
2. Each voter will mark a paper ballot by hand or by using an electronic ballot marker and then place it in either an optical scan tabulator or a ballot box, depending on your precinct and jurisdiction. Alternatively, voters may vote directly on a DRE machine.
3. The Optical Scan Tabulator at the precinct electronically reads each vote on each paper ballot as it is fed into the machine. The tabulator provides a total of votes for each candidate and measure on the ballot.

**SECTION A. PROCEDURES FOR COUNTING OPTICAL SCAN BALLOTS, INCLUDING WRITE-IN BALLOTS, AT POLLING PLACE USING PRECINCT BALLOT COUNTERS**

1. After the polls close, the election judge must close the precinct ballot counter machine and secure it so that no additional ballots may be deposited.
2. The election judge must produce 2 copies of the election returns from the machine, which keeps a total of the votes cast for each candidate and measure on the ballot.
3. After the returns have been produced, the election judge must secure the machine with lock and seal.
4. If votes are accumulated at a central counting station, the election judge must remove the memory card (or other device which stores the election totals) from the machine, document the breaking of the seal to remove the memory card and place one copy of the returns, along with the memory card into the appropriate envelope (or other container designated by the authority conducting the election); we recommend documentation of these events by at least two election officers. The election judge must seal the envelope and sign across the seal. One election officer and at least one poll watcher, if applicable, must sign the envelope.
  - 1) The counted ballots must first be reviewed for irregularly-marked ballots after tabulation. If the election officers discover more than one irregularly-marked ballot that the tabulator could not accurately tabulate, then the election officers must separate all the irregularly-marked ballots from the others, and bring all the ballots to the central counting station, where the irregularly-marked ballots must be duplicated. The duplicated ballots must then be substituted for the original ballots and automatically counted with the rest of the ballots at the central counting station.
  - 2) If one ballot has been irregularly-marked, then that ballot must be placed in an envelope prescribed by the Secretary of State and delivered to the central counting station. The election officers at central count must examine this irregularly-marked ballot and make adjustments to the totals certified by the precinct election judge to indicate the intent of the voter. The election results for this precinct are then manually entered into the election processing system. The envelope containing the irregularly-marked ballot must be placed in the ballot box with the regularly-marked ballots and preserved for the preservation period. [Sec. 127.157]

3) Below are examples of irregularly-marked ballots:

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"/> 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	<input checked="" 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 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	<input type="checkbox"/> PARTY A	<input checked="" type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> WRITE-IN
First Office	<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"/> _____
Third Office	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			* <input checked="" type="checkbox"/> <u>Joe Doe</u>
Fourth Office	<input type="checkbox"/> Candidate	* <input type="checkbox"/> Candidate			
Fifth Office	* <input checked="" type="checkbox"/> Candidate				
Sixth Office	* <input checked="" 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 voting straight party but casts individual votes in the other party column and for a declared write-in.**  
**(The asterisks indicate the candidates for whom the ballot is counted)**



Candidates for	<input type="checkbox"/> PARTY A	<input checked="" type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> 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 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 4. Illustration of voter failing to mark an "X" in the write-in box. The write-in vote may be counted if the presiding judge can determine intent of voter. (The asterisks indicate the candidates for whom the ballot is counted)**

5. Manually Counting Precinct Count Optical Scan Ballots (if instructed to count ballots taken from precinct counter and/or to count write-in votes; note this is not very typical)
  - 1) 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 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:
  - 2) If the counting officers have not taken the oath administered to election judges and clerks, they must do so before counting voted ballots. (See oath on page 2.)
  - 3) Three original tally lists are required. [Sec. 65.004] These tally lists should be completely filled out, which includes the following:
    - names and offices of candidates; and/or
    - date;
    - propositions;
    - precinct number;
    - type of election;
    - name of presiding judge; and
    - signature of the person keeping the tally list.
  - 4) 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]
  - 5) 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(e)]

**NOTE:** If you have a marked ballot folded along with a blank ballot, you should still count the marked ballot. The voter may have unintentionally picked up two ballots, but only voted one.
  - 6) The officer designated as the reader should remove the ballots from the ballot box. [Sec. 65.005]
  - 7) The reader must read and distinctly announce, to the officers keeping the tally lists, each name of a candidate or proposition for which there is a vote. [Sec. 65.005(a)]

- The failure of a voter to mark his or her ballot in strict conformity with the law does not invalidate the ballot. [Sec. 65.009]
- The failure of a voter to vote a full ballot does not invalidate the ballot. [Sec. 65.009]
- A ballot shall be counted on all races and propositions where the intent of the voter is clearly ascertainable, except where the law expressly prohibits the counting of the ballot. [Sec. 65.009]
- If a provisional ballot is found outside a provisional ballot affidavit envelope, the ballot shall not be counted. [Sec. 65.005(d)]
- An individual vote is not counted if:
  - 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 voted for more candidates than the number of persons to be elected to an office in a municipal, school board, or other political subdivision election where he or she was entitled to vote for more than one candidate in the same race. [Sec. 65.011]
  - 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)]
  - *The election is the primary election for the office of precinct chair or county chair, a November general election, city council officer elections, an independent 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 Texas Election Code; Secs. 11.056(c), 11.304, 130.081, 130.0825, Texas Education Code; Sec. 285.131, Texas Health and Safety Code; Secs. 326.0431 & 326.0432, Texas Local Government Code; Secs. 36.059, 49.101, 63.0945, Texas Water Code]*
  - *The election is a primary and the voter writes in a vote for a candidate for public office; only write-in votes for declared candidates for party officer of county chair and precinct chair may be counted. [Sec. 172.112]*
  - 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. [Sec. 65.010]
  - The ballot is not numbered and the presiding judge determines that the ballot was not provided at the polling place. [Sec. 65.010]
  - The ballot was not deposited in the ballot box. [Sec. 65.010]

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

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

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

10) 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)]

11) 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)]

12) Tallying straight ticket votes.

- Count a straight ticket ballot by tallying the party receiving the vote instead of tallying each party's candidate. [Sec. 65.007(b)]
- A straight ticket ballot is one where the voter marks a party with the intent that all candidates of the party will receive his or her vote. [Sec. 1.005(20)]

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

1. Locked ballot box(es) are not opened at the polling place for any reason. [Secs. 127.066(c), 127.068(a)]
2. The voters deposit their ballots directly into ballot boxes. It may be necessary to shake the box to allow the ballots to settle to the bottom.
3. After the polls close, insert the ballots attached to form labeled "Spoiled or Mutilated" into the ballot box through the ballot box slot. The ballot box should remain locked.
4. Seal the ballot box slot with a paper seal. The presiding judge, election clerk, and two poll watchers of opposing interests, if present, sign the seal. [Sec. 127.066(b)] If the box is designed so that a wire hasp seal is needed to seal the ballot box, the serial number must also be included on the ballot and seal certificate.
5. Deliver the ballot boxes as directed to the central counting station, or regional substation, where ballots will be examined and counted.
6. The examination and processing of ballots takes place at the central counting station rather than at the polling place. [Sec. 127.069]
7. The authority conducting the election may provide by order, resolution, or other official action that the processing of optical scan ballots will begin while the polls are open for voting on election day and may have the ballot boxes containing voted ballots delivered to the central counting station at stated intervals during the day or at one time after the polls close. Otherwise, deliver all boxes at one time after the polls close. [Sec. 127.124]

**SECTION C. 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. If the counting officers have not taken the oath administered to election judges and clerks, they must do so before counting voted ballots. [Sec. 62.003(b)] (See oath of election officers in Chapter 1 or in Section 62.003 of the Texas Election Code.)
3. Three original tally lists are required. [Sec. 65.004] These tally lists should be completely filled out and include the following:
  - names and offices of candidates; and/or
  - propositions;
  - date;
  - precinct number;
  - type of election;
  - name of presiding judge; and
  - signature of the person keeping the tally list.
4. Before the counting begins, Ballot Box No. 3 should be inspected to ensure that it is empty. It should then be locked and remain locked (except as authorized by the presiding judge) and within view of the counting officers.
5. No marks should be made on any ballot by an election 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)]

#### **SECTION D. THE COUNTING PROCEDURE FOR PAPER BALLOTS**

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

**SECTION E. RULES FOR COUNTING PAPER BALLOTS**

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

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

<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"/> <del>PARTY C</del>	<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. In the general election, if a ballot indicates a straight-party vote and a vote for an opponent of one or more of that party’s nominees, a vote shall be counted for that opponent and for each of the party’s other nominees whether or not any of those nominees have received individual votes. [Sec. 65.007(c)] (See Figures 3 and 4.)

Candidates for	<input checked="" 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"/> Candidate	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Fourth Office	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Fifth Office	<input checked="" type="checkbox"/> Candidate				
Sixth Office	<input checked="" type="checkbox"/> Candidate				
Seventh Office	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Eighth Office	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

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

Candidates for	<input checked="" 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"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Third Office	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Fourth Office	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Fifth Office	<input checked="" type="checkbox"/> Candidate				
Sixth Office	<input checked="" type="checkbox"/> Candidate				
Seventh Office	<input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Eighth Office	<input type="checkbox"/> Candidate	<input checked="" type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

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

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

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

4. Ballots not marked in conformity with the law.

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

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

**Figure 5. Illustration of Guideline No. 2.**

**Two party squares marked and individual candidates also marked in one or more columns. (The asterisks indicate the candidates for whom the ballot is counted.)**

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

- 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

- Candidate
- Candidate
- Candidate
- Candidate
- Candidate
- Candidate

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

VOTE FOR NONE, ONE, TWO, OR THREE

- \* Candidate
- Candidate
- \* Candidate
- Candidate
- Candidate
- Candidate

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

- 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)]
  - *The election is the primary election for the office of precinct chair or county chair, a November general election, city council officer elections, an independent 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 Texas Election Code; Secs. 11.056(c), 11.304, 130.081, 130.0825, Texas Education Code; Sec. 285.131, Texas Health and Safety Code; Secs. 326.0431 & 326.0432, Texas Local Government Code; Secs. 36.059, 49.101, 63.0945, Texas Water Code]*
  - *The election is a primary and the voter writes in a vote for a candidate for public office; only write-in votes for declared candidates for party officer of county chair and precinct chair may be counted. See Section d., (3) Write-in Votes below. [Sec. 172.112]*
  - 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	<input checked="" 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 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"/> <u>Joe Doe</u>
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 8. Illustration of lack of knowledge of intent of voter.  
(No portion of this ballot is counted.)**

Candidates for	<input checked="" type="checkbox"/> PARTY A	<input checked="" type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> 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.					

**Figure 9. Illustration of Guideline No. 3.  
Two party squares marked and no individual candidates marked.  
(No portion of this ballot is counted.)**

Guideline No. 3. Where more than one party square is marked, there is a contradiction as to party markings, and no portion of the ballot is counted. **Note: This will not impact other elections listed separately on the same ballot.**

- 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. [T.A.C. §§ 81.172-81.174, 81.176]
- 5) Tallying straight-party vote (See Figures 10, 11 and 12.)
- Count a straight-party vote by tallying for the party receiving the vote instead of tallying for each party candidate(s). [Sec. 65.007(b)] However, if a ballot indicates a straight-party vote and a vote for an opponent of one or more of that party's nominees, a vote shall be tallied for the opponent and for each of the party's other nominees whether or not any of those nominees have received individual votes (See Figures 3 and 4). [Sec. 65.007(c)] Do not tally a straight-party vote in this situation.
  - A straight-party vote is one where the voter marks a party with the intent that all candidates of this party will receive his or her vote. [Sec. 64.004]

Candidates for	<input checked="" 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"/> 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.					

**Figure 10. Casting a straight-party vote by marking the party square.  
(The asterisks indicate the candidates for whom the ballot is counted.)**

Candidates for	<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"/> Candidate	* <input checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	<input 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 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		<input type="checkbox"/> Candidate	
Etc.					

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

Candidates for	<input checked="" 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"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate	<input type="checkbox"/> _____
Second Office	* <input checked="" 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 checked="" type="checkbox"/> Candidate	<input type="checkbox"/> Candidate			
Eighth Office	* <input type="checkbox"/> Candidate	<input type="checkbox"/> Candidate		<input type="checkbox"/> Candidate	
Etc.					

**Figure 12. Illustration of Guideline 4.**

**One party square marked and individual candidates in the party’s column also marked.**

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

Guideline No. 4. Where only one party square is marked, and names of any or all of that party’s nominees are marked individually, but no candidate outside that party is marked, the ballot must be counted as a vote for all nominees of that party whose square is marked. But do not count double the votes. This is often referred to as an “emphasis vote.” Make a tally mark for the party.

- Write-in Votes.
  - *In the primary election for the office of precinct or county chair, 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 Texas Election Code; Secs. 11.056(c), 11.304, 130.081, 130.0825, Texas Education Code; Sec. 285.131, Texas Health and Safety Code; Secs. 326.0431 & 326.0432, Texas Local Government Code; Secs. 36.059, 49.101, 63.0945, Texas Water Code]*
  - *In a primary election, only count write-ins for declared write-in candidates for party offices, i.e., precinct and county chair. [Sec. 172.112]*
  - *If only one candidate files for precinct chair (for the ballot or as a write-in), the election for that office is not held and the county chair shall prepare a sign notifying voters that the candidate will be declared elected to the office at the time of the local canvass. An election officer shall post the sign in one or more locations in the polling place. [Sec. 171.0221]*
  - *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)]*
  - *In all elections other than those listed in subsection (a) above, all write-ins are counted. [Sec. 146.001]*

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

**Figure 13. Casting a write-in vote. Illustration of Guideline 5.**  
**(The asterisks indicate the candidates for whom the ballot is counted.)**

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

Candidates for	<input type="checkbox"/> PARTY A	<input checked="" type="checkbox"/> PARTY B	<input type="checkbox"/> PARTY C	<input type="checkbox"/> INDEPENDENT	<input type="checkbox"/> 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 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.					

**Figure 14. 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.\

## **SECTION F. USING DRE EQUIPMENT AT THE POLLING PLACE**

Closing the polls that use electronic voting devices is different than closing polls that use paper ballots, and you will be provided detailed instructions for use of the equipment by the authority conducting the election. Below are some general guidelines that should be followed, along with the detailed instructions provided locally:

1. Perform the action necessary on each voting device to officially close the polls, so no more votes can be recorded;
2. Verify and document the public count on each voting device, and any other applicable device;
3. Verify that the public count(s) equal the number of voters who signed the roster;

4. Print a minimum of 2 copies of the election results. (Note: during early voting, *do not* print out the precinct results tape.);
5. The presiding judge, an election clerk, and not more than 2 poll watchers, if one or more are present, must sign the election results;
6. Follow the instructions of the authority conducting the election, but if directed to do so, remove the memory card, or other device which stores the election totals, from the accessible voting device, and document breaking of the seal to remove the memory card (we recommend this be documented by two election officers);
7. Place copies of the election results as instructed by the authority conducting the election;
8. If applicable, place the memory card in a secure container as instructed by the authority conducting the election;
9. Disconnect the electronic voting equipment;
10. Disassemble the voting equipment, if instructed by the authority conducting the election;
11. Complete the paperwork;
12. Secure the equipment and other election materials from any unauthorized access;
13. The authority conducting the election will provide detailed instructions on how, when, and where to return the voting system equipment and supplies.

## CHAPTER 5 CLOSING AND SECURING THE POLLING PLACE

**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 (5) and ballot boxes (Nos. 3 & 4). 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., or
  - 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)]
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)]

**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]

4. *After the polls close in the general primary election, the presiding judge delivers the second list of registered voters to the precinct chair for use in qualifying precinct convention participants. [Sec. 172.1141] It should be noted that Section 174.022 of the Texas Election Code was amended by House Bill 3102 ( 2013) to provide that precinct conventions may 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.*
5. The election records are placed in the appropriate envelopes or containers as prescribed below depending on the type of voting method used: precinct optical scan/accessible voting equipment (e.g., DRE), precinct counter/tabulator, central counting optical scan, and hand counted paper ballots.

**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.

6. The presiding judge must deliver Envelope No. 1 to the presiding officer of the local canvassing authority. If that officer is unavailable, the envelope shall be delivered to the general custodian of election records for delivery to the presiding officer before the time set for the local canvass of the election. [Sec. 66.051(a)]

7. The presiding judge shall deliver Envelope No. 2, Ballot Box No. 3, and Ballot Box No. 4 and its key in person to the general custodian of records. [Sec. 66.051(b)]
8. The presiding judge shall retain Envelope No. 3. [Sec. 66.051(c)]
9. The presiding judge must deliver Envelope No. 4 to the Voter Registrar, or if that officer is unavailable, to the general custodian of election records for later delivery to the Voter Registrar. [Sec. 66.051(d)]
10. The presiding judge must deliver the keys for Ballot Box No. 3 or other secured container, to:
  - 1) The sheriff for an election ordered by the governor or a county authority or for a *primary election*. [Sec. 66.060(a)(1)]
 

**NOTE:** In a year in which the office of sheriff appears on the ballot, the key is delivered to the county judge, unless the office of county judge is also on the ballot, in which case the key is delivered to the county auditor, or to a member of the commissioners court who is not on the ballot and who is appointed by the court, if the county does not have a county auditor. [Sec. 66.060(a)(1)]
  - 2) The chief of police or city marshal for an election ordered by a city authority. [Sec. 66.060(a)(2)]
  - 3) The constable of the justice precinct in which the governing body's office is located, or if the constable's office is vacant, to the sheriff of the county for an election ordered by a political subdivision other than a county or city. [Sec. 66.060(a)(3)]
11. Time.
  - 1) Records must be delivered to the appropriate authority immediately after the precinct returns are completed. [Sec. 66.053(a)]
  - 2) 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; and
    - The expected time of finishing the count. [Sec. 66.053(b)]
  - 3) In every election, the precinct election records must be delivered to the appropriate authorities not later than 24 hours after the polls close. [Sec. 66.053(c)]
12. 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]
13. Records must be delivered to the appropriate authorities immediately after the precinct returns are completed and in any case not later than 24 hours after the polls close. [Sec. 66.053(c)]

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

1. Copies of poll lists.
  - 1) There must be three copies of the poll list (four copies of combination form, if used). [Secs. 63.003(b), 66.0241(4)]

2. Five envelopes for distribution of election records are furnished with the supplies. [Sec. 66.003(a)] (*The fifth envelope is for the Statement of Compensation and is delivered to the county chair, along with Envelope No. 1.*)
  - 1) 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 election held by the county).
    - *County chair (primary election).*
    - Mayor (municipal election).
    - Presiding officer of the governing board (other elections).
  - 2) 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).
  - 3) Envelope No. 3 is addressed to the presiding judge. [Sec. 66.003(b)(3)]
  - 4) Envelope No. 4 is addressed to the Voter Registrar. [Sec. 66.003(b)(4)]
  - 5) *Envelope No. 5 is addressed to the County Chair.*
  - 6) Envelope containing cancellation requests is addressed to the general custodian of election records. [Secs. 66.026, 66.051(b)]
3. The records of the election must be distributed as follows:
  - 1) Contents of Envelope No. 1: [Sec. 66.022]
    - Printout of results tape(s).
  - 2) Contents of Envelope No. 2: [Sec. 66.023]
    - Printout of results tape(s);
    - The original of the poll list (or combination form);
    - Original of List of Provisional Voters; [T.A.C. §§ 81.172-81.174, 81.176]
    - The signature roster (or combination form);
    - The precinct early voting list;
    - Any certificates of appointment of poll watchers;
    - Original copy of Statement of Compensation (in some circumstances); [Sec. 32.094]

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

    - The notice of the number of voters who voted during the day;
    - Notice of Defective Delivery;
    - Oaths of Election Officers; and
    - Oaths of Assistance and Oaths of Interpreters.
  - 3) Contents of Envelope No. 3: [Sec. 66.024]
    - Printout of results tape(s);



- A copy of the poll list (or combination form);
  - 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.
- 4) Contents of Envelope No. 4: [Sec. 66.0241]
- 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;
- 5) Contents of Envelope No. 5:
- *Original of the Statement of Compensation in a Primary Election.*
- 6) Contents of Box (optical scan or emergency paper ballots for accessible equipment, if any): [Sec. 66.025]
- Voted ballots;
  - Provisional Ballots and provisional ballot envelopes;  
**NOTE:** Provisional ballots may be stored in a separate container that meets the requirements of Section 51.034 of the Texas Election Code or has been approved by the Secretary of State.
  - A copy of the poll list (or combination form); and  
**NOTE:** If the poll list is too large for the pre-locked, pre-sealed ballot box, it may be placed in another secure container if such placement has been approved by the Secretary of State. [Sec. 66.025]
  - The original of the ballot and seal certificate.
  - 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).
- 7) Contents of Ballot Box No. 4: [Sec. 66.026]
- Printout of results tape(s) (Note: the printout in Envelope #2 should be sufficient enough to avoid placing a set in Ballot Box No. 4; see authority conducting election for further direction);
  - The original of the ballot register;
  - Voted Provisional Ballots sealed in Provisional Ballot Affidavit Envelopes (unless directed otherwise by authority conducting the election);
  - 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:** *For the general primary election, the second list of registered voters is given to the precinct chair for use in qualifying precinct convention participants. [Sec. 172.1141] It should be noted that Section 174.022 of the Texas Election Code was amended by House Bill 3102 (2013) to provide that precinct conventions may 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 C. DISTRIBUTION OF ELECTION RECORDS WHEN BALLOTS ARE TABULATED AT CENTRAL COUNTING STATION

1. Copies of poll lists.
  - 1) There must be three copies of the poll list (four copies of combination form if used). [Sec. 63.003(b)]
2. Five envelopes for distribution of election records are furnished with the supplies. [Sec. 66.003(a)] (*The fifth envelope is for the Statement of Compensation and is delivered to the county chair, along with Envelope No. 1.*)
  - 1) Envelope No. 1 addressed to the presiding officer of the local canvassing authority. [Sec. 66.003(b)(1)]
    - County judge (general election or election held by the county).
    - *County chair (primary election).*
    - Mayor (municipal election).
    - Presiding officer of the governing board (other elections).
  - 2) Envelope No. 2 is addressed to the general custodian of election records. [Secs. 66.001, 66.003(b)(2)]
    - County clerk or county elections administrator (general election, election held by the county, or *primary election*).
    - City clerk or secretary (municipal election).
    - The secretary of the governing board, or if none, the presiding officer of the governing board, or as designated (other elections).
  - 3) Envelope No. 3 is addressed to the presiding judge. [Sec. 66.003(b)(3)]
  - 4) Envelope No. 4 is addressed to the Voter Registrar. [Sec. 66.003(b)(4)]
  - 5) *Envelope No. 5 is addressed to the County Chair.*
  - 6) Envelope containing cancellation requests is addressed to the general custodian of election records. [Secs. 66.026, 66.051(b)]
3. The records of the election must be distributed as follows:
  - 1) Contents of Envelope No. 1: [Sec. 66.022]
    - No records from election precinct since no votes are counted at the precinct.
  - 2) Contents of Envelope No. 2: [Sec. 66.023]
    - The original of the poll list;
    - Original of List of Provisional Voters; [T.A.C. §§ 81.172-81.174, 81.176]
    - The signature roster;
    - The precinct early voting list;
    - Any certificates of appointment of poll watchers;
    - Original copy of Statement of Compensation (in some circumstances); [Sec. 32.094]  
**NOTE:** The presiding judge must follow the instructions of the authority responsible for delivering the election supplies with respect to the time by which and the authority to whom the Statement of Compensation is delivered. The time designated for delivery may not be later than 5:00 p.m. of the third day after election day. If the authority responsible for delivering the election supplies does not indicate to whom the Statement of Compensation should be returned, place it in Envelope No. 2 for return to the custodian of election records. The election judge may also keep a copy of the Statement of Compensation.
  - The notice of the number of voters who voted during the day;

- Notice of Defective Delivery;
  - Oaths of Election Officers; and
  - Oaths of Assistance and Oaths of Interpreters.
- 3) Contents of Envelope No. 3: [Sec. 66.024]
- 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.
- 4) Contents of Envelope No. 4: [Sec. 66.0241]
- 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.
- 5) Contents of Envelope No. 5:
- *Original of the Statement of Compensation in a Primary Election.*
- 6) Contents of Pre-locked, Pre-sealed Ballot Box: [Sec. 66.025]
- Voted ballots;
  - Provisional Ballots and Provisional Ballot Affidavit Envelopes;  
**NOTE:** Provisional ballots may be stored in a separate container that meets the requirements of Section 51.034 of the Texas Election Code or has been approved by the Secretary of State.
  - A copy of the poll list; and  
**NOTE:** If the poll list is too large for the pre-locked, pre-sealed ballot box, it may be placed in another secure container if such placement has been approved by the Secretary of State. [Sec. 66.025]
  - The original of the ballot and seal certificate.
  - 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).
- 7) Contents of Ballot Box No. 4: [Sec. 66.026]
- The original of the ballot register;
  - Voted Provisional Ballots sealed in Provisional Ballot Affidavit Envelopes (unless directed otherwise by authority conducting the election);
  - 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:** *For the general primary election, the second list of registered voters is given to the precinct chair for use in qualifying precinct convention participants. [Sec. 172.1141] It should be noted that Section 174.022 of the Texas Election Code was amended by House Bill 3102 (2013) to provide that precinct conventions may 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 presiding judge must deliver Envelope No. 1, which will be empty, seal Envelope No. 2, seal the opening slot to Ballot Box No. 3, and lock Ballot Box 4 as soon as they are ready for distribution. [See generally, Chapter 66 of the Texas Election Code]
5. Delivery of Ballot Boxes.
  - 1) A certificate (seal certificate) stating the number of the seal to be placed on the pre-locked, pre-sealed ballot box and the number of voted ballots placed in the container must be made out in duplicate (2 copies), signed by the presiding judge, election clerk, and two poll watchers of opposing interest (if present). [Sec. 127.036]
    - Place the original of this certificate in the pre-sealed, pre-locked ballot box.
    - Retain the other copy of the certificate with the election records in Envelope No. 3.

**NOTE:** If pre-locked, pre-sealed ballot boxes are used, you must still complete the ballot and seal certificate. This form notifies the central counting station personnel of how many ballots were cast at the polling place. Therefore, if the machine ballot count is different from the number of ballots cast, central count personnel will be on notice that there may be a tabulating problem.
  - 2) Seal the slot of the pre-sealed, pre-locked ballot box. If the container is a ballot box with an opening through which voted ballots can be deposited, the opening must be sealed with a paper seal and signed by the presiding judge, an election 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.
  - 3) 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.
  - 4) Ballot Box No. 4 and its key are delivered to the general custodian of election records. [Sec. 66.051(b)]
6. The presiding judge retains Envelope No. 3. [Sec. 66.003(b)(3)]
7. *Envelope No. 5 is delivered to the county chair.*
8. *After the polls close in the general primary election, the presiding judge delivers the second list of registered voters to the precinct chair for use in qualifying precinct convention participants. [Sec. 172.1141] It should be noted that Section 174.022 of the Texas Election Code was amended by House Bill 3102 ( 2013) to provide that precinct conventions may 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. MAKING OUT RETURNS AND DISTRIBUTION OF ELECTION RECORDS WHEN HAND COUNTED PAPER BALLOTS ARE USED

1. Making out the returns.
  - 1) 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)]
  - 2) Total each tally list to obtain the total number of votes cast for each candidate and/or for or against each proposition.
  - 3) 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.
  - 1) There must be four copies of the returns. [Sec. 65.014(c)]
  - 2) There must be three copies of the poll list (or four copies of the combination form). [Sec. 63.003(b)]
  - 3) 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 is delivered to the county chair with Envelope No. 1.*)
  - 1) Envelope No. 1 is addressed to the presiding officer of the local canvassing authority. [Sec. 66.003(b)(1)]
    - County judge (general election or election held by the county).
    - *County chair (primary election).*
    - Mayor (municipal election).
    - Presiding officer of the governing board (other elections).
  - 2) 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).
  - 3) Envelope No. 3 is addressed to the presiding judge. [Sec. 66.003(b)(3)]
  - 4) Envelope No. 4 is addressed to the voter registrar. [Sec. 66.003(b)(4)]
  - 5) *Envelope No.5 is addressed to the County Chair.*
4. The records of the election must be distributed as follows:
  - 1) Contents of Envelope No. 1. [Sec. 66.022]
    - The original of the election returns for the precinct.
    - One copy of the tally list.
  - 2) Contents of Envelope No. 2. [Sec. 66.023]
    - 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, if any.
    - Original Statement of Compensation (in some circumstances). [Sec. 32.094]

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

- 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.
- 3) Contents of Envelope No. 3. [Sec. 66.024]
- 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.
- 4) Contents of Envelope No. 4. [Sec. 66.0241]
- 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;
- 5) *Contents of Envelope No. 5.*
- *A copy of the Statement of Compensation in a Primary Election.*
- 6) 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]
- 7) Contents of Ballot Box No. 4. [Sec. 66.026]
- The original of the ballot register.
  - Voted provisional ballot affidavit envelopes.
  - The register of spoiled ballots.
  - Any spoiled ballots.
  - Any defectively-printed ballots.
  - Any envelope containing cancellation requests and cancelled ballots.
  - Any other unused ballots.
- 8) *At the general primary election, the second list of registered voters is given to the precinct chair for use in qualifying precinct convention participants. [Sec. 172.1141] It should be noted that Section 174.022 of the Texas Election Code was amended by House Bill 3102 ( 2013) to provide that precinct conventions may 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.*

5. Manner and time of delivery of records.
  - 1) 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)]
  - 2) 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)]
  - 3) The presiding judge retains Envelope No. 3. [Sec. 66.051(c)]
  - 4) 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)]
  - 5) 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 commissioners 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)]
  - 6) *Envelope No. 5 is delivered to the County Chair.*
  - 7) *After the polls close in the general primary election, the presiding judge delivers the second list of registered voters to the precinct chair for use in qualifying precinct convention participants. [Sec. 172.1141] It should be noted that Section 174.022 of the Texas Election Code was amended by House Bill 3102 ( 2013) to provide that precinct conventions may 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 E. SECURING THE POLLING PLACE**

1. Gather all forms, rubber stamp(s), stamp pad(s), and markers from the voter acceptance table(s) and place them in the box for election supplies. The presiding judge must follow the directions of the authority responsible for furnishing the supplies regarding their assembly and return. [Sec. 66.062(a) and (b)]
2. Complete the Register of Official Ballots and Register of Spoiled Ballots. [Sec. 65.013]
  - 1) Make sure the total number of ballots received for the polling place has been recorded.
  - 2) Enter the number of ballots provided to voters as indicated by the number of voters on the poll list.
  - 3) Collect and count the number of unused ballots.
  - 4) Enter the number of unused ballots on the Register of Official Ballots.

- 5) Count the number of spoiled and defectively-printed ballots in Ballot Box No. 4, and enter these numbers on the Register of Official Ballots.
  - 6) Enter the number of Provisional Ballots cast as shown on the List of Provisional Voters. [1 T.A.C. §§ 81.172—81.176]
  - 7) 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]
3. Take down distance markers and 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.)
  4. *Take down the party sign (Primary Election) and place it in the box for unused election supplies.*
  5. Secure polling place for the night as directed by the local authority.