

# DRAFT PROTOCOL FOR OBSERVING PROVISIONAL BALLOT PROCESSING

CACEO Provisional Subcommittee  
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## Solano County Procedures

### 1. General Provisions

Election processes and procedures generally are open to observation subject to time and space constraints. Election officials will attempt to make reasonable accommodations for observers; however, observers may not interfere with election processes and those processes will go on as determined by the Registrar of Voters regardless of the observers' presence or absence.

**This protocol summarily addresses election day and canvass provisional activities based on Solano County. Counties should consider adapting it to meet your individual circumstances and polling place procedures.**

Observers may

- Observe the process by which provisional ballots are issued at polling places.
- Observe the return of provisional ID envelopes from polling places on election night.
- Observe the final canvass process by which provisional ID envelopes/ballots are reconciled with ballots issued.
- Observe the means by which provisional ID envelopes/ballots are secured during the final canvass.
- Observe the process by which signatures on provisional ID envelopes are compared with voters' signatures on file.
- Make notes as long as said notes do not contain confidential voter information.
- Review established procedures for processing provisional ballots and observe whether election office staff are following said procedures.
- Challenge whether individuals handling provisional ballot ID envelopes are following established procedures, including verifying signatures by comparing them to voter registration information; duplicating accurately damaged or defective ballots, including ballots that must be counted in a precinct different from the one in which it was cast; and securing provisional ballots and ID envelopes to prevent tampering before they are counted.

Observers shall

- Sign in and out of the election office.
- Wear a Visitor's Badge at all times while in the elections office.
- Behave in a respectful, responsible manner at all times.
- Direct questions to designated supervisors.

Observers shall not do any of the following unless expressly permitted by the elections official:

- Enter ROV operational areas without an escort.
- Interfere, in the judgment of the elections official, with the election processes or activities, including those occurring at polling places.
- Physically handle any election office materials or equipment, including ballots and envelopes.
- Sit at official worktables or view confidential voter information on any work terminal.
- Display any election material or wear campaign badges, buttons, or apparel in any polling place, including the Elections Office on election day.
- Use cellular phones, pagers, or two-way radios inside the elections office.
- Talk to or attempt to stop the central counting site workers while they are processing ballots.
- Make physical contact with election personnel.
- Eat or drink in the election office.
- Take photographs or make audio or video recordings of election office materials, personnel, or procedures.

## 2. Provisional Procedures

### a. Polling Place

Provisional ballots are issued to voters whose registration or right to vote cannot be immediately determined. Provisional ballots shall be issued to voters:

**These Polling Place procedures are presented for illustrative purposes only. They are taken from Solano County's poll worker training plan. Counties should substitute their own procedures.**

- who are listed on the precinct roster as a Vote by Mail voter if they do not surrender a VBM ballot; or
- who are not on the roster at the precinct where they are attempting to vote; or
- who have registered by mail, have not provided proof of their identity, and are first-time voters in a federal election (aka, HAVA ID voter).

Poll workers shall follow these procedures for issuing a Provisional ballot:

1. The voter must print and sign his name on the pink provisional roster. A Provisional

Voter never signs the white roster pages.

2. The Inspector completes the Election Official section of the provisional envelope.
3. The voter completes the Voter section of the provisional envelope. The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote.
4. The Inspector must give the provisional voter a Voter Registration Card to fill out **UNLESS** the voter is a vote-by-mail voter that is voting provisionally because they do not have a ballot to surrender or is a HAVA ID voter without acceptable ID. Place the completed registration forms in Bag 4 after being reviewed.
5. The Inspector places the provisional ballots and the provisional envelope in a pink provisional secrecy sleeve and gives to voter. Instruct the voter to return the voted ballots in the provisional envelope, and pink secrecy sleeve.
6. The Inspector:
  - Reviews the envelope for completeness.
  - Enters a ✓ by voter's name on the pink provisional roster.
  - Gives the provisional voter a handout describing the process and free access system.
  - Places the sealed provisional envelope into the Official Red bag.
7. The Inspector must also advise the voter that the handout contains a toll-free telephone number to inquire about the status of his vote. Tell voters that provisional ballots are counted after all other ballots but all valid provisional ballots will be counted.
8. After the polls close, place all voted provisional ballot envelopes and the provisional roster in Bag 4 and place it in the Red Transport Case.

**b. Election Night**

1. All precinct Red Transport Cases will be brought to the ROV office in Fairfield election night.
2. Red Transport Cases shall be opened and contents dispersed according to type of contents.
3. Provisional Ballot Bag 4s will be staged in the receiving area by supervisorial district.

4. If the number of provisional ballots is recorded on the Bag 4 label, the Provisional Receiving Log will be annotated with that number. If there is no number on the label, staff will count the number of envelopes in the bag and record that on the Provisional Receiving Log.
5. At the end of election night activities, provisional ballot envelopes shall be securely stored.

**c. Final Canvass Reconciliation**

One of the purposes of the Final Canvass is to reconcile the number of ballots issued to the precincts with the number of ballots counted, spoiled, and unused, including ballots issued to provisional voters.

See *Roster Balancing Instructions* for detailed instructions.

**d. Validating Provisional Ballot ID Envelopes**

During the official canvass, ROV staff shall examine voter registration records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of signatures on vote by mail ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot.

Provisional ballots shall not be included in any semiofficial or official canvass, except upon: (A) the elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or (B) the order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this paragraph regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters. No fee shall be charged to the claimant by the clerk of the court for services rendered in an action under this section. (EC § 14310(c)(1)-(2))

The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official. If the ballot cast by the voter contains the same candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct, the elections official shall count the votes for the entire ballot. If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or her assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct. (EC § 14310(c)(3))

For specific Provisional voter validation instructions, see *Provisional Voter DIMS Instructions* for the election.

### 3. Challenge Procedures

Challenge procedures are based on EC §§ 15101-15108, 14240, and 2194(c) as they may apply to provisional ID envelope and provisional ballot processing. Observers may request a list of provisional voters prior to the opening of provisional ID envelopes.

Observers may challenge whether ROV staff handling provisional ballot ID envelopes are following established procedures, including verifying signatures by comparing them to voter registration information; duplicating accurately damaged or defective ballots, including ballots that must be counted in a precinct different from the one in which it was cast; and securing provisional ballots and ID envelopes to prevent tampering before they are counted. (EC § 15104(d))

Additionally, observers may challenge a provisional voter because the voter's name on the provisional ID envelope is not the person whose name appears on the voter registration file; the voter is not a resident of the county; the voter is not a citizen of the United States; the voter has voted in the current election; or the voter is presently on parole for the conviction of a felony. (EC §§ 15105, 14240) Because the voter is not present, the challenger shall have the burden of establishing extraordinary proof of the validity of the challenge at the time the challenge is made. (EC § 15106)

Challenges must be made prior to opening the provisional ballot envelope except for challenges pertaining to accurate ballot duplication or ballot security, which must occur before ballots are counted. Observers shall, on the form provided by the ROV, identify the provisional ballot ID envelope in sufficient detail for the elections official to determine the envelope being challenged and the cause for the challenge. The elections official will inform the challenger of the determination. If the election official decides the ballot will be counted, she or he will inform the challenger of when the envelope will be opened.

If the challenge is upheld, the election official will endorse the face of the provisional ballot ID envelope with the cause of the challenge and determination. The challenge form shall be securely attached to the envelope.

**EXCERPTED FROM SECRETARY OF STATE ELECTION OBSERVATION PLAN****General Rules for Observers**

Consider providing observers with a checklist and/or questionnaires to be completed and returned to you.

Observers may:

- Observe the proceedings at the polls, including the opening and closing procedures.
- Obtain information from the precinct index that is posted near the entrance.
- Make notes and watch election procedures.
- View election-related activities at the central counting site on Election Day.
- View the canvass of the vote activities following the election.
- View vote-by-mail and provisional ballot processing.
- Ask questions of poll workers or voters at the polls as long as they do not interfere with the conduct of any part of the voting process.
- Ask questions of supervisors at the central counting site as long as they do not interfere with the conduct of the election procedures.

Observers are responsible for:

- Checking in at each site, whether polling place or central counting site.
- Wearing an identification badge.
- Maintaining a professional manner while observing the election process.
- Ensuring they do not interfere with the election process.

Observers may not:

- Interfere, in the judgment of the elections official, with the conduct of the election.
- Physically handle any voting materials or equipment.
- Sit at the official worktables or view confidential voter information on any work terminal.
- Communicate with voters (within 100 feet of the entrance to a polling place) regarding the casting of a vote, or speak to a voter regarding his or her qualifications to vote.
- Display any election material or wear campaign badges, buttons or apparel.
- Wear the uniform of a peace officer, a private guard, or security personnel.
- Use cellular phones, pagers, or two-way radios inside the polling place and/or within 100 feet of the entrance to the polling place.
- Talk to or attempt to stop the central counting site workers while they are processing ballots.
- Use the telephones, computers or other polling place facilities at polling places or the central counting site.
- Make physical contact with election personnel.
- Eat or drink in the polls or the central counting site.
- Assist in operations at any polling place or the central counting site.

**PROVISIONAL CHALLENGE FORM**

Provisional Voter's Name: \_\_\_\_\_

Provisional Envelope ID: \_\_\_\_\_ Date: \_\_\_\_\_

Challenger's Name: \_\_\_\_\_

Representing: \_\_\_\_\_

Reason for challenge: \_\_\_\_\_

ROV Staff Determination:

Count Ballot                       In Precinct Cast                       In Assigned Precinct \_\_\_\_\_

Don't Count Ballot

ROV Final Decision:

Count Ballot                       In Precinct Cast                       In Assigned Precinct \_\_\_\_\_

Don't Count Ballot

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Provisional Envelope ID: \_\_\_\_\_ Date: \_\_\_\_\_

Challenger's Name: \_\_\_\_\_

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