

TITLE 42, CHAPTER 146, SUBCHAPTER III, Part A: § 15482  
42 USC 15482 or HAVA Section 302

## § 15482. Provisional voting and voting information requirements

### **(a) Provisional voting requirements**

If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows:

**(1)** An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election.

**(2)** The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is—

**(A)** a registered voter in the jurisdiction in which the individual desires to vote; and

**(B)** eligible to vote in that election.

**(3)** An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4).

**(4)** If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law.

**(5)**

**(A)** At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted.

**(B)** The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted.

States described in section [1973gg-2 \(b\)](#) of this title may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot.

### **(b) Voting information requirements**

**(1) Public posting on election day**

The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.

**(2) Voting information defined**

In this section, the term “voting information” means—

- (A)** a sample version of the ballot that will be used for that election;
- (B)** information regarding the date of the election and the hours during which polling places will be open;
- (C)** instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;
- (D)** instructions for mail-in registrants and first-time voters under section 15483 (b) of this title;
- (E)** general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and
- (F)** general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

**(c) Voters who vote after the polls close**

Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a) of this section. Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order.

**(d) Effective date for provisional voting and voting information**

Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2004.

**See (b)(2)(B) for *Fail-Safe Voting***

TITLE 42 USC, SUBCHAPTER III, Part A: § 15483

42 USC 15483 or HAVA Section 303

## § 15483. Computerized statewide voter registration list requirements and requirements for voters who register by mail

### **(a) Computerized statewide voter registration list requirements**

#### **(1) Implementation**

##### **(A) In general**

Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the “computerized list”), and includes the following:

- (i)** The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State.
- (ii)** The computerized list contains the name and registration information of every legally registered voter in the State.
- (iii)** Under the computerized list, a unique identifier is assigned to each legally registered voter in the State.
- (iv)** The computerized list shall be coordinated with other agency databases within the State.
- (v)** Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.
- (vi)** All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.
- (vii)** The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi).
- (viii)** The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State.

##### **(B) Exception**

The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after October 29, 2002, there is no voter registration requirement for individuals in the State with respect to elections for Federal office.

#### **(2) Computerized list maintenance**

##### **(A) In general**

The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:

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(i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6).

(ii) For purposes of removing names of ineligible voters from the official list of eligible voters—  
(I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6 (a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and

(II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6 (a)(4)(A)), the State shall coordinate the computerized list with State agency records on death.

(iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2 (b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law.

### **(B) Conduct**

The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that—

(i) the name of each registered voter appears in the computerized list;

(ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and

(iii) duplicate names are eliminated from the computerized list.

### **(3) Technological security of computerized list**

The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section.

### **(4) Minimum standard for accuracy of State voter registration records**

The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following:

(A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote.

(B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters.

### **(5) Verification of voter registration information**

#### **(A) Requiring provision of certain information by applicants**

(i) In general Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes—

(I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or

(II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number.

**(ii)** Special rule for applicants without driver's license or social security number If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list.

**(iii)** Determination of validity of numbers provided The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law.

**(B) Requirements for State officials**

**(i)** Sharing information in databases The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration.

**(ii)** Agreements with Commissioner of Social Security The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 405 (r)(8) of this title (as added by subparagraph (C)).

**(C) Omitted**

**(D) Special rule for certain States**

In the case of a State which is permitted to use social security numbers, and provides for the use of social security numbers, on applications for voter registration, in accordance with section 7 of the Privacy Act of 1974 (5 U.S.C. 552a note ), the provisions of this paragraph shall be optional.

**(b) Requirements for voters who register by mail**

**(1) In general**

Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4 (c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if—

**(A)** the individual registered to vote in a jurisdiction by mail; and

**(B)**

**(i)** the individual has not previously voted in an election for Federal office in the State; or

**(ii)** the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a) of this section.

**(2) Requirements**

**(A) In general**

An individual meets the requirements of this paragraph if the individual—

**(i)** in the case of an individual who votes in person—

**(I)** presents to the appropriate State or local election official a current and valid photo identification; or

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**(II)** presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or

**(ii)** in the case of an individual who votes by mail, submits with the ballot—

**(I)** a copy of a current and valid photo identification; or

**(II)** a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

### **(B) Fail-safe voting**

**(i)** In person An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section [15482 \(a\)](#) of this title.

**(ii)** By mail An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section [15482 \(a\)](#) of this title.

### **(3) Inapplicability**

Paragraph (1) shall not apply in the case of a person—

**(A)** who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 ([42 U.S.C. 1973gg-4](#)) and submits as part of such registration either—

**(i)** a copy of a current and valid photo identification; or

**(ii)** a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter;

### **(B)**

**(i)** who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 ([42 U.S.C. 1973gg-4](#)) and submits with such registration either—

**(I)** a driver's license number; or

**(II)** at least the last 4 digits of the individual's social security number; and

**(ii)** with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or

**(C)** who is—

**(i)** entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act [[42 U.S.C. 1973ff](#) et seq.];

**(ii)** provided the right to vote otherwise than in person under section [1973ee-1 \(b\)\(2\)\(B\)\(ii\)](#) of this title; or

**(iii)** entitled to vote otherwise than in person under any other Federal law.

### **(4) Contents of mail-in registration form**

#### **(A) In general**

The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 ([42 U.S.C. 1973gg-4](#)) shall include the following:

**(i)** The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

**(ii)** The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day.

**(iii)** The statement “If you checked ‘no’ in response to either of these questions, do not complete this form.”

**(iv)** A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time.

**(B) Incomplete forms**

If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law).

**(5) Construction**

Nothing in this subsection shall be construed to require a State that was not required to comply with a provision of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.) before October 29, 2002, to comply with such a provision after October 29, 2002.

**(c) Permitted use of last 4 digits of social security numbers**

The last 4 digits of a social security number described in subsections (a)(5)(A)(i)(II) and (b)(3)(B)(i)(II) of this section shall not be considered to be a social security number for purposes of section 7 of the Privacy Act of 1974 (5 U.S.C. 552a note ).

**(d) Effective date**

**(1) Computerized statewide voter registration list requirements**

**(A) In general**

Except as provided in subparagraph (B), each State and jurisdiction shall be required to comply with the requirements of subsection (a) of this section on and after January 1, 2004.

**(B) Waiver**

If a State or jurisdiction certifies to the Commission not later than January 1, 2004, that the State or jurisdiction will not meet the deadline described in subparagraph (A) for good cause and includes in the certification the reasons for the failure to meet such deadline, subparagraph (A) shall apply to the State or jurisdiction as if the reference in such subparagraph to “January 1, 2004” were a reference to “January 1, 2006”.

**(2) Requirement for voters who register by mail**

**(A) In general**

Each State and jurisdiction shall be required to comply with the requirements of subsection (b) of this section on and after January 1, 2004, and shall be prepared to receive registration materials submitted by individuals described in subparagraph (B) on and after the date described in such subparagraph.

**(B) Applicability with respect to individuals**

The provisions of subsection (b) of this section shall apply to any individual who registers to vote on or after January 1, 2003.

**ELECTIONS CODE**  
**SECTIONS 14310 – 14313**

**Provisional Voting**

14310. (a) At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows:

(1) An elections official shall advise the voter of the voter's right to cast a provisional ballot.

(2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter's registration and eligibility to vote. The written instructions shall include the information set forth in subdivisions (c) and (d).

(3) 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.

(b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for vote by mail ballots, and shall be completed in the same manner as vote by mail envelopes.

(c) (1) During the official canvass, the elections official shall examine the 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 or the provisional ballot envelope is not signed, 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.

(2) 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.

(3) 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.



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(A) 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.

(B) 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.

(d) The Secretary of State shall establish a free access system that any voter who casts a provisional ballot may access to discover whether the voter's provisional ballot was counted and, if not, the reason why it was not counted.

(e) The Secretary of State may adopt appropriate regulations for purposes of ensuring the uniform application of this section.

(f) This section shall apply to any vote by mail voter described by Section 3015 who is unable to surrender his or her unvoted vote by mail voter's ballot.

(g) Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted.

14311. (a) A voter who has moved from one address to another within the same county and who has not reregistered to vote at that new address may, at his or her option, vote on the day of the election at the polling place at which he or she is entitled to vote based on his or her current residence address, or at the office of the county elections official or other central location designated by that elections official. The voter shall be reregistered at the place of voting for future elections.

(b) Voters casting ballots under this section shall be required to vote by provisional ballot, as provided in Section 14310.

14312. This article shall be liberally construed in favor of the provisional voter.

14313. (a) Upon the declaration of a state of emergency by the Governor and the issuance of an executive order authorizing an emergency worker to cast a ballot outside of his or her home precinct, elections officials in the counties included in the executive order shall, upon demand, issue to an emergency worker a provisional ballot that may be identical to the provisional ballot offered to other voters in the county, using a process to be determined by the elections official. The elections official shall transmit for processing any ballot cast, including any materials necessary to process the ballot, pursuant to this section to the elections official in the county where the voter is registered to vote.

(b) To be counted, a ballot cast pursuant to this section shall satisfy both of the following requirements:

(1) Be cast by the voter no later than the close of the polls on election day.

(2) Be received by the county elections official where the voter is registered on or before the 10th day following the date of the election.

(c) Upon receipt of the returned ballot, the elections official shall process the ballot pursuant to the procedures in subdivision (c) of Section 14310.

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(d) If the requirements in subdivisions (b) and (c) are met and the ballot is eligible to be counted, the ballot shall be duplicated and all other materials preserved according to the procedures set forth in this code.

(e) "Emergency worker" for the purposes of this section means a person who is officially engaged in responding to the proclaimed state of emergency and whose vocation has been identified in an executive order relating to the state of emergency.

## **ELECTIONS CODE**

### **SECTIONS 15350, 15100 – 15112**

#### **Processing and Counting Provisional Ballots**

15350. Provisional ballots cast pursuant to Section 14310 shall be processed and counted in accordance with the provisions outlined in Chapter 3 (commencing with Section 15100) and pursuant to the requirements of Sections 14310 and 14311.

15100. The provisions of this chapter apply to the processing of vote by mail ballots during the 29-day period before any election, during the semifinal official canvass, and during the official canvass.

15101. (a) Any jurisdiction in which vote by mail ballots are cast may begin to process vote by mail ballot return envelopes beginning 29 days before the election. Processing vote by mail ballot return envelopes may include verifying the voter's signature on the vote by mail ballot return envelope and updating voter history records.

(b) Any jurisdiction having the necessary computer capability may start to process vote by mail ballots on the seventh business day prior to the election. Processing vote by mail ballots includes opening vote by mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election. All other jurisdictions shall start to process vote by mail ballots at 5 p.m. on the day before the election.

(c) Results of any vote by mail ballot tabulation or count shall not be released prior to the close of the polls on the day of the election.

15102. The official shall appoint a special counting board or boards in numbers that he or she deems adequate to count the vote by mail ballots. The official shall provide for the forms of tally books and the distribution of the duties of the members of the canvassing board. When the tally is done by hand, there shall be no less than four persons for each office or proposition to be counted. One shall read from the ballot, the second shall keep watch for any error or improper vote, and the other two shall keep the tally.

15103. The elections official shall pay a reasonable compensation to each member of the canvassing board of vote by mail ballots. This compensation shall be paid out of the treasury of the agency conducting the election as other claims against it are paid.

15104. (a) The processing of vote by mail ballot return envelopes, and the processing and counting of vote by mail ballots shall be open to the public, both prior to and after the election.

(b) Any member of the county grand jury, and at least one member each of the Republican county central committee, the Democratic county central committee, and of any other party with a candidate on the ballot, and any other interested organization, shall be permitted to observe and challenge the manner in which the vote by mail ballots are handled, from the processing of vote by mail ballot return envelopes through the counting and disposition of the ballots.

(c) The elections official shall notify vote by mail voter observers and the public at least 48 hours in advance of the dates, times, and places where vote by mail ballots will be processed and counted.

(d) Vote by mail voter observers shall be allowed sufficiently close access to enable them to observe and challenge whether those individuals handling vote by mail ballots are following established procedures, including all of the following:

- (1) Verifying signatures and addresses by comparing them to voter registration information.
- (2) Duplicating accurately any damaged or defective ballots.
- (3) Securing vote by mail ballots to prevent any tampering with them before they are counted on election day.

(e) No vote by mail voter observer shall interfere with the orderly processing of vote by mail ballot return envelopes or the processing and counting of vote by mail ballots, including the touching or handling of the ballots.

15105. Prior to processing and opening the identification envelopes of vote by mail voters, the elections official shall make available a list of vote by mail voters for public inspection, from which challenges may be presented. Challenges may be made for the same reasons as those made against a voter voting at a polling place. In addition, a challenge may be entered on the grounds that the ballot was not received within the time provided by this code or that a person is imprisoned for a conviction of a felony. All challenges shall be made prior to the opening of the identification envelope of the challenged vote by mail voter.

15106. Except as otherwise provided, the processing of vote by mail ballot return envelopes, the processing and counting of vote by mail ballots, and the disposition of challenges of vote by mail ballots shall be according to the laws now in force pertaining to the election for which they are cast. 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.

15107. If a challenge is overruled, the board shall open the identification envelope without defacing the affidavit printed on it or mutilating the enclosed ballot and, without viewing the ballot, remove it and destroy the numbered slip, if any remains, and store the ballots in a secure location.

15108. If a challenge is allowed, the board shall endorse on the face of the identification envelope the cause of the challenge and its action thereon.

15109. Except as otherwise provided in this chapter, the counting and canvassing of vote by mail ballots shall be conducted in the same manner and under the same regulations as used for ballots cast in a precinct polling place.

15110. Reports to the Secretary of State of the findings of the canvass of vote by mail ballots shall be made by the elections official pursuant to Chapter 3 (commencing with Section 15150) and Chapter 4 (commencing with Section 15300).

15111. The elections official shall keep an accurate list of all voters who have received and voted a vote by mail ballot at each election and compare this list with the roster of voters as provided in Section 15278. That list shall include the election precinct of the voter.

15112. When elections are consolidated pursuant to Division 10 (commencing with Section 10000), and only one form of ballot is used at the consolidated election, the ballots cast by vote by mail voters shall be counted only in connection with elections to which vote by mail voter privileges have been extended by law.

Whenever the period of time within which vote by mail voters' ballots shall be received by the elections official in order to be counted, as provided for any election by this code or any other law of this state, is different from that period of time provided for another election, and the elections are consolidated and only one form of ballot used for both elections, all vote by mail voters' ballots issued for the consolidated election may be counted for both elections if received by the elections official within whichever period of time is longer.

**ELECTIONS CODE  
SECTION 14240**

**Challenging a Voter**

14240. (a) A person offering to vote may be orally challenged within the polling place only by a member of the precinct board upon any or all of the following grounds:

- (1) That the voter is not the person whose name appears on the index.
- (2) That the voter is not a resident of the precinct.
- (3) That the voter is not a citizen of the United States.
- (4) That the voter has voted that day.
- (5) That the voter is presently on parole for the conviction of a felony.

(b) On the day of the election no person, other than a member of a precinct board or other official responsible for the conduct of the election, shall challenge or question any voter concerning the voter's qualifications to vote.

(c) If any member of a precinct board receives, by mail or otherwise, any document or list concerning the residence or other voting qualifications of any person or persons, with the express or implied suggestion, request, or demand that the person or persons be challenged, the board member shall first determine whether the document or list contains or is accompanied by evidence constituting probable cause to justify or substantiate a challenge. In any case, before making any use whatever of such a list or document, the member of the precinct board shall immediately contact the elections official, charged with the duty of conducting the election, and describe the contents of the document or list and the evidence, if any, received bearing on voting qualifications. The elections official shall advise the members of the precinct board as to the sufficiency of probable cause for instituting and substantiating the challenge and as to the law as herein provided, relating to hearings and procedures for challenges by members of the precinct board and determination thereof by a precinct board. The elections official may, if necessary, designate a deputy to receive and answer inquiries from precinct board members as herein provided.

## ELECTIONS CODE

### SECTION 2194

(See 2194(c)(1))

#### Revealing Voter's Home Address and/or Signature

2194. (a) The voter registration card information identified in subdivision (a) of Section 6254.4 of the Government Code:

(1) Shall be confidential and shall not appear on any computer terminal, list, affidavit, duplicate affidavit, or other medium routinely available to the public at the county elections official's office.

(2) Shall not be used for any personal, private, or commercial purpose, including, but not limited to:

(A) The harassment of any voter or voter's household.

(B) The advertising, solicitation, sale, or marketing of products or services to any voter or voter's household.

(C) Reproduction in print, broadcast visual or audio, or display on the Internet or any computer terminal unless pursuant to paragraph (3).

(3) Shall be provided with respect to any voter, subject to the provisions of Sections 2166.5, 2166.7, and 2188, to any candidate for federal, state, or local office, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes, as determined by the Secretary of State.

(b) (1) Notwithstanding any other provision of law, the California driver's license number, the California identification card number, the social security number, and any other unique identifier used by the State of California for purposes of voter identification shown on a voter registration card of a registered voter, or added to voter registration records to comply with the requirements of the Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.), are confidential and shall not be disclosed to any person.

(2) Notwithstanding any other provision of law, the signature of the voter shown on the voter registration card is confidential and shall not be disclosed to any person, except as provided in subdivision (c).

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(c) (1) The home address or signature of any voter shall be released whenever the person's vote is challenged pursuant to Sections 15105 to 15108, inclusive, or Article 3 (commencing with Section 14240) of Chapter 3 of Division 14. The address or signature shall be released only to the challenger, to elections officials, and to other persons as necessary to make, defend against, or adjudicate the challenge.

(2) An elections official shall permit a person to view the signature of a voter for the purpose of determining whether the signature matches a signature on an affidavit of registration or a petition, but shall not permit a signature to be copied.

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(d) A governmental entity, or officer or employee thereof, shall not be held civilly liable as a result of disclosure of the information referred to in this section, unless by a showing of gross negligence or willfulness.

(e) For the purposes of this section, "voter's household" is defined as the voter's place of residence or mailing address or any persons who reside at the place of residence or use the mailing address as supplied on the affidavit of registration pursuant to paragraphs (3) and (4) of subdivision (a) of Section 2150.



**ELECTIONS CODE**  
**SECTION 17301–17302**

**Records Retention**

17301. (a) The following provisions shall apply to those elections where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.

(b) The packages containing the following ballots and identification envelope shall be kept by the elections official, unopened and unaltered, for 22 months from the date of the election:

- (1) Voted polling place ballots.
- (2) Paper record copies, as defined by Section 19251, if any, of voted polling place ballots.
- (3) Voted vote by mail voter ballots.
- (4) Vote by mail voter identification envelopes.
- (5) Voted provisional voter ballots.
- (6) Provisional ballot voter identification envelopes.
- (7) Spoiled ballots.
- (8) Canceled ballots.
- (9) Unused vote by mail ballots surrendered by the voter pursuant to Section 3015.
- (10) Ballot receipts.

(c) If a contest is not commenced within the 22-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots, or forgery of vote by mail voters' signatures is not commenced within the 22-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official shall have the ballots destroyed or recycled. The packages shall otherwise remain unopened until the ballots are destroyed or recycled.

17302. (a) The following provisions shall apply to all state or local elections not provided for in subdivision (a) of Section 17301. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The packages containing the following ballots and identification envelopes shall be kept by the elections official, unopened and unaltered, for six months from the date of the election:

- (1) Voted polling place ballots.
- (2) Paper record copies, as defined by Section 19251, if any, of voted polling place ballots.
- (3) Voted vote by mail voter ballots.
- (4) Vote by mail voter identification envelopes.
- (5) Voted provisional voter ballots.
- (6) Provisional ballot voter identification envelopes.
- (7) Spoiled ballots.
- (8) Canceled ballots.
- (9) Unused vote by mail ballots surrendered by the voter pursuant to Section 3015.
- (10) Ballot receipts.

## California Elections Code

(c) If a contest is not commenced within the six-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots, or forgery of vote by mail voters' signatures is not commenced within the six-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official shall have the packages destroyed or recycled. The packages shall otherwise remain unopened until the ballots are destroyed or recycled.

**ELECTIONS CODE**  
**SECTION 3019**

**Signature Comparison**

3019. Upon receipt of the vote by mail ballot the elections official shall compare the signature on the envelope with that appearing on the affidavit of registration and, if they compare, deposit the ballot, still in the identification envelope, in a ballot container in his or her office. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot. If the ballot is rejected because the signatures do not compare, the envelope shall not be opened and the ballot shall not be counted. The cause of the rejection shall be written on the face of the identification envelope.

If the elections official has compared the signature of the voter's application with the affidavit pursuant to Section 3009, the application may be used rather than the affidavit to make the signature check required by this section.

No ballot shall be removed from its identification envelope until the time for processing. No ballot shall be rejected for cause after the envelope has been opened.

In determining from the records of registration if the signature and residence address on the identification envelope appear to be the same as that on the affidavit of registration, the elections official or registrar of voters may use the duplicate file of affidavits of registered voters or the facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with the law.

## Codes Relating To Provisional Voting

### Definitions

335.5. The "official canvass" is the public process of processing and tallying all ballots received in an election, including, but not limited to, provisional ballots and vote by mail ballots not included in the semifinal official canvass. The official canvass also includes the process of reconciling ballots, attempting to prohibit duplicate voting by vote by mail and provisional voters, and performance of the manual tally of 1 percent of all precincts.

### Voter Bill of Rights

2300. (a) All voters, pursuant to the California Constitution and this code, shall be citizens of the United States. There shall be a Voter Bill of Rights for voters, available to the public, which shall read:

(1) (A) You have the right to cast a ballot if you are a valid registered voter.

(B) A valid registered voter means a United States citizen who is a resident in this state, who is at least 18 years of age and not in prison or on parole for conviction of a felony, and who is registered to vote at his or her current residence address.

(2) You have the right to cast a provisional ballot if your name is not listed on the voting rolls.

(3) You have the right to cast a ballot if you are present and in line at the polling place prior to the close of the polls.

(4) You have the right to cast a secret ballot free from intimidation.

(5) (A) You have the right to receive a new ballot if, prior to casting your ballot, you believe you made a mistake.

(B) If at any time before you finally cast your ballot, you feel you have made a mistake, you have the right to exchange the spoiled ballot for a new ballot. Vote by mail voters may also request and receive a new ballot if they return their spoiled ballot to an elections official prior to the closing of the polls on election day.

### Vote by Mail Voter Cannot Surrender VBM Ballot

3016. Any vote by mail voter who is unable to surrender his or her vote by mail voter's ballot within the meaning of Section 3015 shall be issued a provisional ballot in accordance with Section 14310.

### Poll Worker Training Standards

12309.5. (a) No later than June 30, 2005, the Secretary of State shall adopt uniform standards for the training of precinct board members, based upon the recommendations of the task force appointed pursuant to subdivision (b). The uniform standards shall, at a minimum, address the following:

(1) The rights of voters, including, but not limited to, language access rights for linguistic minorities, the disabled, and protected classes as referenced and defined in the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.).

(2) Election challenge procedures such as challenging precinct administrator misconduct, fraud, bribery, or discriminatory voting procedures as referenced and defined in the federal Voting Rights Act (42 U.S.C. Sec. 1973 et seq.).

(3) Operation of a jurisdiction's voting system, including, but not limited to, modernized voting systems, touch-screen voting, and proper tabulation procedures.

(4) Poll hours and procedures concerning the opening and closing of polling locations on election day. Procedures shall be developed that, notwithstanding long lines or delays at a polling location, ensure that all eligible voters who arrive at the polling location prior to closing time are allowed to cast a ballot.

(5) Relevant election laws and any other subjects that will assist an inspector in carrying out his or her duties.

(6) Cultural competency, including, but not limited to, having adequate knowledge of diverse cultures, including languages, that may be encountered by a poll worker during the course of an election, and the appropriate skills to work with the electorate.

(7) Knowledge regarding issues confronting voters who have disabilities, including, but not limited to, access barriers and the need for reasonable accommodations.

(8) Procedures involved with provisional, fail-safe provisional, vote by mail, and provisional vote by mail voting.

(b) The Secretary of State shall appoint a task force of at least 12 members who have experience in the administration of elections and other relevant backgrounds to study and recommend uniform guidelines for the training of precinct board members. The task force shall consist of the chief elections officer of the two largest counties, the two smallest counties, and two county elections officers selected by the Secretary of State, or their designees. The Secretary of State shall appoint at least six other members who have elections expertise, or their designees, including members of community-based organizations that may include citizens familiar with different ethnic, cultural, and disabled populations to ensure that the task force is representative of the state's diverse electorate. The task force shall make its recommendations available for public review and comment prior to the submission of the recommendations to the Secretary of State and the Legislature.

(c) The task force shall file its recommendations with the Secretary of State and the Legislature no later than January 1, 2005.

**HAVA; Posting Voting Information in Each Polling Place; Secretary of State Posters**

14105.3. (a) The federal Help America Vote Act of 2002 (P.L. 107-252) requires voting information to be publicly posted at each polling place on the day of each election for federal office. Voting information is defined as including general information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated.

(b) The Secretary of State shall print posters and other appropriate materials setting forth the voter rights listed in Section 2300. The posters shall be printed in as many languages as the Secretary of State determines are necessary, but, at a minimum, in sufficient languages to comply with Section 14201 and with the federal Voting Rights Act of 1965, as amended by Public Law 94-73.

The Secretary of State shall distribute the posters and materials to all county elections officials sufficiently in advance of statewide elections.

#### **Posting Voting Information in Each Polling Place**

14200. A member of each precinct board shall cause the following voting information to be publicly posted at each polling place on the day of each election:

(a) A sample version of the ballot that will be used for the election.

(b) Information regarding the date of the election and the hours during which polling places will be open.

(c) Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot.

(d) Instructions for mail-in registrants and first-time voters under Section 303(b) of the Help America Vote Act of 2002 (P.L. 107-252).

(e) General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated.

(f) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation as they pertain to elections.

#### **Issuing a Provisional Ballot to a Voter not in Roster Index**

14217. If the precinct board is unable to find a voter's name upon the index of registration, it shall inform the voter that he or she may cast a provisional ballot and the procedure for doing so. If the voter elects to cast a provisional ballot, the precinct board shall furnish the voter with a provisional ballot, in accordance with Section 14310.

#### **Paper Ballots at Polling Places Using Direct Recording Electronic Voting Devices**

14300. (a) In the case of an election for a state or federal office, each polling place using a direct recording electronic voting system, as defined by Section 19251, the elections official shall provide paper ballots equivalent to the following percentages:

(1) For a statewide general election, no less than 10 percent of the registered voters in the polling place.

(2) For a statewide direct primary election, for each partisan ballot form for which at least 10 percent of the registered voters in the polling place are eligible to request, no less than 5 percent of the registered voters in the precinct eligible to request that ballot form at the polling place. For nonpartisan voters, the total number of paper ballots

among all ballot forms that they are eligible to request shall be no less than 5 percent of registered nonpartisan voters at the polling place.

(3) For any other state or federal election contest, no less than 5 percent of registered voters at the polling place.

(4) For purposes of this section, the number of registered voters shall be based on the registration on the 88th day prior to the day of the election.

(b) The elections official shall establish procedures for the use of the paper ballots described in this section in the event the direct recording electronic voting system becomes nonfunctional.

(c) Upon request, the precinct board shall provide a paper ballot to a voter, regardless of the availability of the direct recording electronic voting system, as long as supplies remain available.

(d) The paper ballots described in this section may consist of provisional ballots.

(e) Any vote cast on a provisional ballot subject to this section by an otherwise qualified voter shall be counted as a regular ballot and shall not be subject to the requirements of Section 14310.

#### **Provisional Voting for Court-Ordered Extended Voting Hours**

14402.5. If the time for closing the polls is extended pursuant to a court order, all votes cast during the time that the closing of the polls is extended shall be by provisional ballot. Any provisional ballots cast pursuant to this section shall be separated and held apart from other provisional ballots cast by voters prior to the time the closing of the polls was extended.

#### **Official Final Canvass Tasks**

15302. The official canvass shall include, but not be limited to, the following tasks:

(a) An inspection of all materials and supplies returned by poll workers.

(b) A reconciliation of the number of signatures on the roster with the number of ballots recorded on the ballot statement.

(c) In the event of a discrepancy in the reconciliation required by subdivision (b), the number of ballots received from each polling place shall be reconciled with the number of ballots cast, as indicated on the ballot statement.

(d) A reconciliation of the number of ballots counted, spoiled, canceled, or invalidated due to identifying marks, overvotes, or as otherwise provided by statute, with the number of votes recorded, including vote by mail and provisional ballots, by the vote counting system.

(e) Processing and counting any valid vote by mail and provisional ballots not included in the semifinal official canvass.

(f) Counting any valid write-in votes.

(g) Reproducing any damaged ballots, if necessary.

(h) Reporting final results to the governing board and the Secretary of State, as required.

**Processing and Counting Provisional Ballots**

15350. Provisional ballots cast pursuant to Section 14310 shall be processed and counted in accordance with the provisions outlined in Chapter 3 (commencing with Section 15100) and pursuant to the requirements of Sections 14310 and 14311.

**Secretary of State; Voting System Procedures for Recounting Ballots**

15601. The Secretary of State, within the Secretary of State's existing budget, shall adopt regulations no later than January 1, 2008, for each voting system approved for use in the state and specify the procedures for recounting ballots, including vote by mail and provisional ballots, using those voting systems.



**2 CCR § 20107**

**Cal. Admin. Code title 2, § 20107**

**BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS**

**TITLE 2. ADMINISTRATION**

**DIVISION 7. SECRETARY OF STATE**

**CHAPTER 1. VOTER REGISTRATION**

**ARTICLE 7. VOTING**

This database is current through 5/29/09, Register 2009, No. 22  
§ 20107. Standards for Proof of Residency or Identity When Proof Is Required by Help  
America Vote Act.

(a) This section shall apply in all instances where voters and new registrants are required by the federal Help America Vote Act of 2002 (Pub. L. 107-252, 116 Stat. 1666, 42 U.S.C. 15483) to prove residency or present documents to establish identity.

(b) This section shall be liberally construed to permit voters and new registrants to cast a regular ballot. Any doubt as to the sufficiency of proof or a document presented shall be resolved in favor of permitting the vote or new registrant to cast a regular ballot.

(c) If a voter or new registrant does not present proof or a document that complies with this section, then the voter or new registrant shall be advised by the poll worker or other election official with whom the voter or new registrant is conferring that he or she may vote a provisional ballot and the voter or new registrant shall be permitted to do so.

(d) For purposes of this regulation, proof of residency or identity, shall consist of presenting an original or copy of any of the documents described below in either paragraph (1) or (2).

(1) Current and valid photo identification provided by a third party in the ordinary course of business that includes the name and photograph of the individual presenting it. Examples of photo identification include, but are not limited to, the following documents:

- (A) driver's license or identification card of any state;
- (B) passport;
- (C) employee identification card;
- (D) identification card provided by a commercial establishment;
- (E) credit or debit card;
- (F) military identification card;
- (G) student identification card;
- (H) health club identification card;
- (I) insurance plan identification card; or
- (J) public housing identification card.

## CALIFORNIA CODE OF REGULATIONS

(2) Any of the following documents, provided that the document includes the name and address of the individual presenting it, and is dated since the date of the last general election, unless the document is intended to be of a permanent nature such as a pardon or discharge or unless the date requirements of paragraph (F) apply, including:

- (A) utility bill;
- (B) bank statement;
- (C) government check;
- (D) government paycheck;
- (E) document issued by a governmental agency;
- (F) sample ballot or other official elections document issued by a governmental agency dated for the election in which the individual is providing it as proof of residency or identity;
- (G) voter notification card issued by a governmental agency;
- (H) public housing identification card issued by a governmental agency;
- (I) lease or rental statement or agreement issued by a governmental agency;
- (J) student identification card issued by a governmental agency;
- (K) tuition statement or bill issued by a governmental agency;
- (L) insurance plan card or drug discount card issued by a governmental agency;
- (M) discharge certificates, pardons, or other official documents issued to the individual by a governmental agency in connection with the resolution of a criminal case, indictment, sentence, or other matter;
- (N) public transportation authority senior citizen and disabled discount cards issued by a governmental agency;
- (O) identification documents issued by governmental disability agencies;
- (P) identification documents issued by government homeless shelters and other government temporary or transitional facilities;
- (Q) drug prescription issued by a government doctor or other governmental health care provider;
- (R) property tax statement issued by a governmental agency;
- (S) vehicle registration issued by a governmental agency; or
- (T) vehicle certificate of ownership issued by a governmental agency.

Note: Authority cited: Section 12172.5, Government Code; and Section 2124, Elections Code. Reference: Section 14310, Elections Code; and Section 303, Pub. L. No. 107-252, 116 Stat. 1666 (2002) [42 U.S.C. 15483].

### HISTORY

1. New section filed 1-18-96 as an emergency; operative 1-16-96 pursuant to Government Code section 11349.3 (Register 96, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-17-96 or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of Government Code section 11346.1(g) (Register 96, No. 39).

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3. New section filed 9-27-96; operative 9-27-96 pursuant to Government Codesection 11343.4(d) (Register 96, No. 39).

4. Amendment of subsection (b) and new subsection (d) filed 1-20-98 as an emergency; operative 1-20-98 (Register 98, No. 4). A Certificate of Compliance must be transmitted to OAL by 5-20-98 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 1-20-98 order, including amendment of section heading, transmitted to OAL 5-15-98 and filed 6-23-98 (Register 98, No. 26).

6. Amendment of section heading, repealer and new section and amendment of Note filed 2-5-2004 as an emergency; operative 2-5-2004 (Register 2004, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-4-2004 or emergency language will be repealed by operation of law on the following day.

7. Amendment of section heading, repealer and new section and amendment of Note refiled 6-1-2004 as an emergency, including further amendment of subsection.

(a); operative 6-1-2004 (Register 2004, No. 23). A Certificate of Compliance must be transmitted to OAL by 9-29-2004 or emergency language will be repealed by operation of law on the following day.

8. Amendment of section heading, repealer and new section and amendment of Note refiled 9-29-2004 as an emergency; operative 9-29-2004 (Register 2004, No. 40). A Certificate of Compliance must be transmitted to OAL by 1-27-2005 or emergency language will be repealed by operation of law on the following day.

9. Amendment of section heading, repealer and new section and amendment of Note refiled 1-26-2005 as an emergency; operative 1-27-2005 (Register 2005, No. 4). A Certificate of Compliance must be transmitted to OAL by 5-27-2005 or emergency language will be repealed by operation of law on the following day.

10. Amendment of section heading, repealer and new section and amendment of Note refiled 5-27-2005 as an emergency; operative 5-27-2005 (Register 2005, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-26-2005 or emergency language will be repealed by operation of law on the following day.

11. Certificate of Compliance as to 5-27-2005 order, including amendment of section, transmitted to OAL 9-23-2005 and filed 11-7-2005 (Register 2005, No. 45).



**Secretary of State  
Bruce McPherson**

STATE OF CALIFORNIA

## **Uniform Vote Counting Standards**

Version II Effective: May 18, 2006

**California Secretary of State  
Uniform Vote Counting Standards**

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# California Secretary of State Uniform Vote Counting Standards

## Section I Introduction

Pursuant to Section 301 (a)(6) of the Help America Vote Act (HAVA) of 2002, the Secretary of State has developed these standards to define the circumstances under which “marking” of a ballot constitutes a vote and when a vote will or will not count for each category of voting system certified and in use in California.

## Section II Definitions

The following are practical definitions as used herein and are not the definitions provided in the California Elections Code or federal law/HAVA, but are nonetheless consistent with state and federal law.

Blank Ballot	A blank ballot is one on which the voter has made no marks in any voting position target, or one which has been marked with an unreadable marker, or one which has been consistently marked outside of the “read” area of the scanner.
Candidate	A candidate is a person who is seeking nomination or election to a specified office and who either has met the legal requirements to have his/her name printed on the ballot or is eligible to have his/her name written in on the ballot and counted as the voter’s choice for the contest.
Damaged Ballot	A damaged ballot is one that has been torn, bent, or otherwise mutilated or rendered unreadable such that it cannot be processed by the ballot tabulating equipment designed for use with the ballot.
Duplicated Ballot	A duplicated ballot is a ballot which is a true copy of the originally cast ballot. It is created when damage, improper marking or some other action/defect prevents the original ballot from being read by a ballot tabulating machine, and is used to properly process and count the votes originally cast by the voter. (Elections Code §15210 provides the method by which a duplicate ballot must be created.)
Listed Candidate	A listed candidate is a candidate whose name appears on the ballot at the time the voter received the ballot, as opposed to a write-in candidate.
Measure	A measure is a ballot proposition, which appears on a ballot and requires voter action in order to enact or reject a proposed law.
Overvote	An overvote occurs when a voter marks more than the maximum number of voting position targets allowed in the contest.
Punch Card Ballot	A punch card ballot is a ballot card that contains voting position targets that a marking device must pierce to form a hole in order to record a voter’s choice for a candidate or measure.
Undervote	An undervote occurs when a voter marks less than the maximum number of voting position targets allowed in a contest.
Voting Position Target	A voting position target refers to that area of the ballot adjacent to each candidate or measure, or that area of the ballot, specifically designated to record the voter’s choice for that contest. The term applies to all types of voting position targets on ballots, regardless of what form they may take, including, but not limited to, rectangle, oval, circle, square, hole punch, cross punch, slotting and open arrow.

### **Section III General Standards**

The following general standards shall apply in the counting of all ballots and votes, regardless of the voting system used, for both the initial count and for any recount.

- A.** A ballot that is marked or signed by the voter in such a way that it can be identified from other ballots must be voided and none of its votes counted. Examples of such markings include, but are not limited to: voter signature, initials, voter name and address, voter identification number, social security number or driver's license number, messages or text, or unusual markings not related to indication of the vote choice for a contest. Generic text meant to clarify the voter's choice regarding a contest, such as the word "yes" or "no" next to a candidate's name, shall not be sufficient cause to void a ballot. If there are distinctly identifiable markings on one page of a multiple-page ballot, the entire ballot must be voided. (Elections Code §§13204, 14287, 15154, and 15208.)
- B.** A vote for any candidate or ballot measure shall not be rejected solely because the voter failed to follow instructions for marking the ballot. If, for any reason, it is impossible to determine the choice of the voter for any candidate or ballot measure, the vote for that candidate or ballot measure shall be considered void. (Elections Code §19001.)
- C.** A mark is considered valid when it is clear that it represents the voter's choice and is the technique consistently used by the voter to indicate his or her selections. Such marks may include, but are not limited to, properly filled-in voting position targets, checkmarks, X's, circles, completed arrows, or any other clear indication of the voter's choice, such as the word "yes" next to a candidate's name or a voting position target for a ballot measure.  
  
Conversely, a mark crossed out by the voter, or the word "no" next to a candidate's name or a voting position target for a ballot measure shall not be considered to be a valid vote but will, instead, be deemed an indication that the voter did not choose to cast a vote for that candidate or measure.
- D.** In determining the validity of a partially filled-in voting position target, the consistency of a voter's marks on the entire ballot shall be taken into consideration. A "hesitation mark" such as a dot in the voting position target shall not be considered a valid mark unless it is demonstrated that the voter consistently marked his or her ballot in such a manner.
- E.** If a contest is marked with more choices than there are offices to be filled or measures that may prevail, the vote shall not be counted for that contest, but shall be counted in all other contests in which there is no overvote and the voter's choice can be clearly determined.
- F.** If a contest is marked with fewer choices than there are offices to be filled or measures that may prevail, the vote choice(s) for all otherwise properly marked candidates or measures shall be counted.
- G.** Write-in votes are counted pursuant to the provisions established in Elections Code §§14420 and 15342.

### **Section IV Mark Sense (Optical Scan) Voting Systems**

When optical scan technology is used to count the votes on a ballot, the provisions of this section shall apply.

The following standards shall be used to determine whether there is a clear indication on the ballot that the voter has made a definite choice. The examples used in this section refer to the "voting position target" as defined in Section II of this document. The same principles demonstrated in the examples below shall apply to all types of voting position targets on

optical scan ballots, regardless of what form they may take (e.g. rectangle, oval, circle, square, hole punch, cross punch, slotting, open arrow).

#### **A. Standards Indicating a Valid Vote**

A voter's choice shall be considered a valid vote, if the:

1. Voter indicates vote choice by consistently filling inside the entire voting position target.
2. Voter indicates vote choice by consistently filling in less than the entire voting position target for all vote choices on the ballot and the ballot is processed in a manner consistent with the use procedures provided and approved for the voting system.
3. Voter indicates vote choice by consistently placing a distinctive mark, such as (X) or (√) or (←), inside the associated voting position target for a candidate choice or ballot measure.
4. Voter indicates vote choice by consistently placing a distinctive mark, such as (X) or (√) or (←), in the corresponding space directly above, below or beside the associated voting position target for a candidate or ballot measure.
5. Voter marks vote choices by encircling the entire voting position target for a candidate or ballot measure.
6. Voter indicates voting error correction by using correction tape, strikeover, white-out or generic written note of instruction and marks another vote choice for the same contest on the ballot.
7. Voter writes in a qualified write-in candidate's name, or a reasonable facsimile of the spelling of the name, in the designated write-in spaces directly below the list of candidates for that office and marks the associated write-in voting target position.
8. Voter writes in a listed candidate's name in the designated write-in space and marks the associated write-in voting target position. In such cases, the vote shall be counted as a single vote for the listed candidate.
9. Voter marks a voting target position for a listed candidate and also enters the listed candidate's name in the designated candidate write-in space. In such cases, the vote shall be counted as a single vote for the listed candidate.
10. Voter writes in qualified write-in candidate's name, or a reasonable facsimile of the spelling of the name, on the secrecy sleeve envelope or stub and indicates the contest for which the vote is being cast, in the case of voting systems where write-in spaces appear separately from the list of candidates for an office and do not provide voting position targets, .

#### **B. Standards Indicating an Invalid Vote**

A voter's choice shall be considered an invalid vote, if the:

1. Voter uses random markings, indentations, punctures or impressions, squiggly/dimpled or crimp marks, pinholes or pinpricks on a ballot, and there is no distinctive and consistent voting pattern to clearly indicate voter choice(s).
2. Voter indicates vote choice by filling in less than the entire voting position target, and the voter has not consistently marked the entire ballot in the same manner, making voter's choice unclear.
3. Voter inconsistently places a mark above, below or beside the associated



voting position target on a ballot, instead of inside the voting position target, and voter's choice cannot be clearly determined.

4. Voter writes in the name of a person who has not qualified as a write-in candidate.
5. Voter writes in a listed candidate's name in the designated write-in space and fills in the associated voting position target for a different listed candidate in the same contest.
6. Voter writes in a candidate name that is unrecognizable/undecipherable and it cannot be determined for whom the vote is intended to be cast..
7. Voter writes in a qualified write-in candidate's name in the designated write-in space and does not fill in the associated voting position target for the write-in candidate.
8. Voter uses pressure-sensitive stickers, rubber stamps, glued stamps, or any other device not provided for in the voting procedures for the voting systems approved by the Secretary of State to indicate the name of the voter's choice for a write-in candidate.

### **C. Abandoned Ballot**

If a voter leaves the voting booth without casting the ballot, the precinct official shall cause the ballot to be cast without examining the ballot.

## **Section V Punch Card Voting Systems**

When a card reader is used to count the votes cast on a punch card ballot, the provisions of this section shall apply. The following standards shall be used to determine whether the voter has made a definite choice.

### **A. Standards Indicating a Valid Vote**

A voter's choice shall be considered a valid vote, if the:

1. Vote cast on a lever-type punch card voting machine (Datavote) is cast by a voter either operating the lever adjacent to the name of the candidate or measure for which the voter chooses to vote or by writing in the name of a qualified write-in candidate in accordance with the ballot instructions and then recording such votes on the machine by the actuation of the main lever.
2. Punch card ballot is initially processed by a card reader and stops the card reader from counting it or proceeding, is able to be inspected and processed in accordance with the standards of Section IV Mark Sense (Optical Scan) Voting Systems.

### **B. Standards Indicating an Invalid Vote**

A voter's choice shall be considered an invalid vote, if the:

1. Voter uses random markings, indentations, punctures or impressions, squiggly/dimpled or crimp marks, pinholes or pinpricks on a ballot, and there is no distinctive and consistent voting pattern to clearly indicate voter's choice.
2. Voter writes in the name of a person who has not qualified as a write-in candidate.
3. Voter writes in a listed candidate's name in the designated write-in space and punches the associated voting position target for a different listed candidate in the same contest.
4. Voter writes in the name of a candidate whose name cannot be deciphered.

This invalidates only the contest for which the name has been written; all remaining valid votes shall be counted.

5. Voter writes in a qualified write-in candidate's name in the designated write-in space and does not punch the associated voting position target for the write-in candidate.
6. Voter uses pressure-sensitive stickers, rubber stamps, glued stamps, or any other device not provided for in the voting procedures for the voting systems approved by the Secretary of State to indicate the name of the voter's choice for a write-in candidate.

### **C. Abandoned Ballot**

If a voter leaves the voting booth without casting the ballot, the precinct official shall cause the ballot to be cast without examining the ballot.

## **Section VI Other Paper Voting Systems**

A paper ballot shall be subject to the standards in the section applicable to the system on which it is processed (e.g., optical scan or punch card voting system).

When paper ballots, or voting responses on paper other than a ballot, are counted by the hand and eye, the provisions of Section IV Optical Scan Voting Systems shall apply.

## **Section VII Direct Recording Electronic (DRE) Voting Systems**

When DRE technology is used to cast and count the votes on a ballot, the provisions of this section shall apply. The following standards shall be used to determine whether the voter has made a definite choice.

### **A. Standards Indicating a Valid Vote**

A voter's choice shall be considered a valid vote, if the:

1. Voter operates the DRE in a manner to cause an "X" or "√" or "highlight" or similar designation to display in the voting target position of the name of the candidate or measure for which the voter chooses to vote, followed by the voter activating the cast vote indicator;
2. Voter operates the DRE in a manner to cause the name of a qualified write-in candidate to be entered in the designated write-in space, followed by the voter activating the cast vote indicator;
3. Voter operates the DRE in a manner to cause the name of a candidate listed on the ballot to be entered in the designated write-in space, followed by the voter activating the cast vote indicator;
4. Voter operates the DRE in a manner to cause the cast ballot indicator to be activated and has not voted for more contests or candidates than the number for which the voter is eligible to vote.

**Note: DRE systems prevent the casting of an invalid vote.**

### **B. Abandoned Ballot**

If a voter leaves the voting booth without causing the ballot to be cast, the precinct official shall cause the ballot to be cast, without examining how any votes have been recorded on the machine.

## **Section VIII Absentee Voting Systems**

An absentee ballot shall be subject to the standards provided in the approved use procedures for the system on which it is processed and the provisions of the Elections Code. In addition, the following standards shall also apply.

### **A. Standards for Valid Absentee Ballots**

A voter's choice shall be considered a valid vote, if the:

1. Voter's signature on the returned absentee identification envelope compares with the signature on the affidavit of registration pursuant to Elections Code §§3011 and 3019. If the elections official has compared the signature of the voter's application with the affidavit pursuant to Elections Code §3009, the application may be used rather than the voter registration affidavit to make the signature comparison.
2. Damaged, torn or otherwise non-processable ballot can be duplicated to exactly reflect the voter's choices and thereby enable the ballot to be processed on the system provided for that purpose. Standards for duplicating ballots are set forth in Elections Code §15210 and in the voting system use procedures.
3. Voter prints name on the signature portion of the absentee ballot envelope, and it compares with the printed signature on the signature portion of the affidavit of voter registration. If the elections official has compared the signature of the voter's application with the affidavit pursuant to Elections Code §3009, the application may be used rather than the affidavit to make the signature comparison.
4. Voter uses a variation of the signature appearing on the affidavit of voter registration caused by the substitution of initials for the first or middle name, or both, and the signature compares with that on the affidavit of voter registration. If the elections official has compared the signature of the voter's application with the affidavit pursuant to Elections Code §3009, the application may be used rather than the affidavit to make the signature comparison.
5. Voter does not sign the absentee ballot envelope in the appropriate space, but the signature does appear elsewhere on the envelope and compares with the signature in the affidavit of voter registration. If the elections official has compared the signature of the voter's application with the affidavit pursuant to Elections Code §3009, the application may be used rather than the affidavit to make the signature comparison.
6. Voter uses a mark on both the absentee ballot envelope and the affidavit of voter registration, and the mark compares.
7. Absentee ballot envelope is not dated, but is otherwise properly executed and is received by the elections official before the close of the polls on Election Day.
8. Voter indicates vote choice(s) by writing the name(s) of the candidate(s) or indicating the vote(s) on the measure(s) in a letter or note, and returns it in an absentee envelope with a valid signature. If the voter's choice(s) can be determined, the ballot shall be duplicated to reflect the voter's choices and processed as if cast by the voter. (Elections Code §15210 provides the method by which a duplicate ballot must be created.)
9. Voter, instead of using his or her official ballot, marks a sample ballot and mails it in the absentee envelope and the signature on the envelope compares with the signature on the affidavit of voter registration. If the

elections official has compared the signature of the voter's application with the affidavit pursuant to Elections Code §3009, the application may be used rather than the affidavit to make the signature comparison.

10. Two or more ballots are returned in one absentee ballot envelope, and there are an equal number of distinct signatures on the envelope that can be attributed to eligible absentee voters and each of these signatures compares with the affidavits of voter registration. If the elections official has compared the signature of the voter's application with the affidavit pursuant to Elections Code §3009, the application may be used rather than the affidavit to make the signature comparison.
11. Voter is a special absentee voter who is temporarily living outside of the territorial limits of the United States or the District of Columbia and transmits a voted ballot by facsimile and the ballot is submitted consistent with the provisions of Elections Code §§3103.5 and 3011.

#### **B. Standards for Invalid Absentee Ballots**

A voter's choice shall be considered an invalid vote, if the:

1. Absentee ballot envelope is not signed by the voter.
2. Absentee ballot envelope is signed using power of attorney.
3. Absentee ballot envelope is received after the close of the polls on Election Day.
4. Absentee ballot envelope is returned by a third party who is not eligible or authorized to return the voted ballot on behalf of the absent voter.
5. Voter, who is not a special absentee voter, transmits his or her voted ballot by facsimile.
6. Voter's signature on the absentee ballot envelope, when compared to the signature on the affidavit of voter registration, does not appear to be the same, including:
  - a. Voter uses a mark on the absentee envelope that it is not properly witnessed, and the affidavit of voter registration has a signature of the voter.
  - b. Voter printed his or her name on the signature portion of the absentee ballot envelope but has a written signature on the signature portion of the affidavit of voter registration.
7. Absentee ballot return envelope contains two or more voted absentee ballots but there are less than an equal number of distinct signatures on the absentee envelope.

### **Section IX Provisional Ballots**

A provisional ballot shall be subject to the standards in the section applicable to the system on which it is processed. In addition to those standards, the following standards shall also apply.

#### **A. Standards for Valid Provisional Ballot and Vote**

A voter's choice shall be considered a valid vote, if the:

1. Voter casts a provisional ballot and the voter's eligibility can be confirmed and the voter's choice is clearly marked, the vote shall be counted.
2. Voter casts a provisional ballot for a precinct other than the precinct in which the voter was legally entitled to vote, all votes properly cast in contests for

which the voter was legally entitled to vote will be counted. (Elections Code §14310.)

**B. Standards for Invalid Provisional Ballot and Vote**

A voter's choice shall be considered an invalid vote, if the:

1. Voter casts a provisional ballot and the voter's eligibility cannot be confirmed, the ballot shall not be counted.
2. Voter casts a provisional ballot for a precinct other than the precinct in which the voter was legally entitled to vote, in which case all votes cast in contests for which the voter was not legally entitled to vote will not be counted. (Elections Code §14310.)