2026
Indiana
Election Administrator's Manual

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KEY PLAYERS

On the national level, the *United States Election Assistance Commission* and the *Federal Election Commission* are the primary agencies responsible for administering election law. *The United States Department of Justice* also acts to enforce voting rights and election crime laws. *The United States Department of Defense* assists military and overseas voters. *The Federal Communications Commission* enforces certain campaign advertising rules for television and radio stations. The *Office of the Special Counsel* of the U.S. Merit Systems Protection Board administers the Hatch Act and the little Hatch Act, which governs political activity by Federal and certain state and local government employees. The *United States Department of Homeland Security* and its partners play a vital role in assist states with managing risks to election infrastructure. These federal agencies can serve as valuable resources for those individuals needing answers to questions. See the next page for relevant contact information.

On the state level, *The Secretary of State* is the chief election official of Indiana and has several responsibilities related to the implementation of the Help America Vote Act of 2002. *The Election Division of the Indiana Secretary of State* is responsible for the administration of various routine election functions and is a bipartisan agency. The Election Division performs many election-related tasks to assist the Secretary of State and the Indiana Election Commission, including campaign finance, candidate filings, and certification of election results.

When you read an Indiana Election Division publication such as this *2026 Election Administrator's Manual*, it is the product of bipartisan drafting and editing of language that reflects a clear consensus of the agency. On occasion, the Co-Directors of the Election Division encounter a disagreement between themselves regarding the law applicable to a particular situation, or the procedures to be followed. When this occurs, the disagreement may be noted in these publications.

The *Indiana Election Commission* is a four member bipartisan body appointed by the governor, responsible for establishing election policies and enforcing certain parts of the state election laws, such as determining whether a challenged candidate should appear on a ballot, and whether a civil penalty should be assessed for a campaign finance violation. The Commission also approves and certifies, through a bipartisan process, all voting equipment for sale and use in Indiana elections.

On the county level, the bipartisan *county election board*, *circuit court clerk* and, in some counties, a bipartisan *board of voter registration* is responsible for administering different areas of election law. In some smaller towns, a town election board may be responsible for conducting town elections. The county commissioners are responsible for performing certain functions such as selecting the polling locations in the county and changing precinct boundary lines, subject to approval by the Election Division (or by the Commission if the precinct boundary change is contested).

NOTE: In non-vote center counties, the county executive is responsible for selecting Election Day voting locations. Alternatively, a county can adopt a vote center model. In this case, the county election board, by unanimous agreement, adopts and amends the plan, which includes election day and in-person absentee voting locations.

On Election Day, thousands of precinct inspectors, judges, clerks, assistant clerks, and poll sheriffs (or officials with different titles that perform these roles in vote center counties) are responsible for administering elections in Indiana's polling locations. On this special day, these crucial workers make the election a reality for Hoosier voters. The *2026 Indiana Election Day Handbook* is a key resource for helping them in their duty.

Political parties and partisan committees are active at all levels of government and are responsible in Indiana for filling vacancies on the ballot and in certain elected offices. The political parties are also called upon to muster an army of dedicated individuals who volunteer their services for staffing precinct election boards and performing other Election Day tasks. Without these volunteers, a successful election would not be possible. Indiana's officials have chosen a system in which election administration has bipartisan support to carry out its functions and safeguard the integrity of the ballot box.

Federal Offices with Election Duties

The U.S. Election Assistance Commission

The U.S. Election Assistance Commission (EAC), a bipartisan body, was established by the Help America Vote Act of 2002 and is primarily responsible for administering programs created by that statute at the federal level, including developing Voluntary Voting System Guidelines. The EAC can be reached at:

633 3rd Street NW, Suite 200
Washington, DC 20001
Telephone(s): 202-451-2031 or Toll-Free (866) 747-1471
Website: www.eac.gov

The Federal Election Commission

The Federal Election Commission (FEC), a bipartisan body, administers federal campaign finance laws, maintains the campaign finance reports filed by candidates to federal offices, and administers disclaimer requirements concerning web sites and email distribution lists. The Federal Election Commission also compiles official voting results from all of the states for federal offices.

Campaign finance reports filed with the FEC are accessible on the FEC's website at www.fec.gov. A public terminal permitting access to this website is available in the offices of the Election Division.

1050 First Street, NE
Washington, DC 20463
Telephone(s): 202-694-1100 or Toll-Free (800) 424-9530
Website: www.fec.gov

United States Department of Justice

On occasion, a voter or a candidate may believe that a person has **violated a federal election law** and wishes to contact a federal law enforcement officer. These persons can be referred to:

Department of Justice, Criminal Division, Public Integrity Section
1301 New York Ave, 10th Floor
Washington, DC 20005
Website: www.justice.gov/criminal/pin/
Telephone: (202) 514-1412
FAX: (202) 514-3003

Department of Justice, Civil Rights Division
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
Website: www.justice.gov/crt
Telephone(s): (202) 514-3847 or (TTY) (202) 514-0716

Federal Communications Commission

The Federal Communications Commission administers the federal regulations regarding political advertisements on radio, television and cable. Questions and concerns regarding broadcast political advertisements can be referred to the Federal Communications Commission at:

Federal Communications Commission
Policy and Rules Division
45 L Street NE
Washington, DC 20554
Website: www.fcc.gov/media/policy/policy-division
Telephone(s): (888) 225-5322 or (202) 418-1440
E-mail Address: campaignlaw@fcc.gov

United States Department of Defense

The Federal Voting Assistance Program (FVAP) assists military voters and civilian overseas voters by: (1) providing information about state election procedures and deadlines; and (2) furnishing federal absentee registration forms and federal write-in absentee ballots to these voters. For information or assistance, contact:

Mr. J. Scott Wiedmann, Director
Federal Voting Assistance Program
Department of Defense
4800 Mark Center Drive, Suite 05E22
Alexandria, VA 22350-5000
Telephone: (800) 438-8683 (VOTE)
Internet Address: www.fvap.gov
E-Mail: vote@fvap.gov

Office of the Special Counsel

The Office of the Special Counsel of the U.S. Merit Systems Protection Board can provide information about the application of the "Hatch Act," which restricts political activity by federal employees and about the "Little Hatch Act," which restricts political activity by certain state or local employees whose agencies are federally funded. For information, contact:

Hatch Act Unit, U.S. Office of Special Counsel
1730 M Street NW, Suite # 218
Washington, DC 20036-4505
Telephone(s): (202) 804-7002 or Toll Free (800) 85HATCH; (800) 854-2824Internet Address: www.osc.gov
E-Mail: hatchact@osc.gov

United States Department of Homeland Security

Through its Cybersecurity and Infrastructure Security Agency (CISA), the Department of Homeland Security provides an array of services that state and local election officials can utilize to reduce both cyber and physical risk to their election systems and facilities. CISA's services are available upon request and are strictly voluntary when requested by state and local election officials. The critical infrastructure designation also brings the structure and support of the National Infrastructure Protection Plan (NIPP) to bear on behalf of the election infrastructure community.

Internet Address: www.dhs.gov/topic/election-security

State Offices with Election Duties

The Secretary of State of Indiana

The Secretary of State is the chief election official of Indiana, except for the coordination of Indiana's responsibilities under the National Voter Registration Act (NVRA), which is a duty for the bipartisan co-directors of the Indiana Election Division. The Secretary of State is a statewide elected official, who is chosen by the voters of Indiana to serve a four-year term.

The Secretary of State has several election-related responsibilities under the federal Help America Vote Act of 2002 (HAVA) and Indiana law, including the following:

1) Encouraging students at colleges and universities to serve as poll workers or assistants.
2) Encouraging high school and home-schooled students to serve as poll workers or assistants.
3) Developing and implementing the Help America Vote Act (HAVA) Indiana State Plan, including the statewide voter registration system, in cooperation with the Co-Directors of the Division.
4) Performing the duties of the chief state election official under HAVA.

The Secretary of State works with the Co-Directors of the Indiana Election Division in maintaining a statewide voter registration system.

The Secretary of State approves applications for certification of electronic poll book models for use in Indiana elections. The Secretary may certify an electronic poll book following an examination of the poll book and receipt of a report prepared by the Voting System Technical Oversight Program (VSTOP), which is currently administered by the Bowen Center at Ball State University.

Indiana Election Commission

The Indiana Election Commission (IEC) is a bipartisan four-member commission responsible for administering and interpreting certain Indiana election laws. The four members of the Commission are appointed by the Governor upon recommendation by the state chair of each of the two major political parties. The Commission enforces certain campaign finance laws; determines whether the names of challenged candidates may appear on the ballot; and conducts hearings regarding complaints under the Help America Vote Act of 2002 (HAVA). The Commission also certifies voting systems that are marketed or used in Indiana following review of the application for system certification and recommendation concerning the application from VSTOP. Before a voting system can be marketed, sold, leased, installed, implemented, or used in an election, or modified after sale to a county, the vendor must demonstrate that the system will meet minimum standards set by state law.

The Indiana Election Division

The Election Division of the Office of the Indiana Secretary of State assists the Indiana Election Commission and the Secretary of State in the administration of Indiana election laws, including the following:

1) Overseeing and implementing the National Voter Registration Act ("Motor Voter") for Indiana.
2) Implementing the Help America Vote Act of 2002 (HAVA) in Indiana.
3) Maintaining maps and legal descriptions of all precincts in Indiana.
4) Approving proposed precinct boundary changes for conformity with state law, subject to any challenge being filed with the IEC.
5) Maintaining campaign finance reports filed by candidates for state legislative and statewide offices and by political action committees and regular party committees that contribute to candidates for these offices.
6) Managing statutorily required statewide voter list maintenance project in odd-numbered years.
7) Approving uniform election and registration forms.
8) Advising and instructing local election officials on election administration.
9) Publishing brochures and manuals to assist candidates, political parties, the media, and the general public in understanding election administration issues.
10) Accepting candidate filings for federal, statewide, state legislative, and judicial offices, including prosecuting attorneys.
11) Publishing election returns on the Division's web site.
12) Providing information regarding voter registration and absentee ballot procedures to military and overseas voters.

State law requires that the Election Division staff consist of an equal number of employees from the Democratic and Republican parties (Indiana's two major political parties). The staff is divided into legal, voter registration and precinct mapping, and campaign finance departments. The Division is headed by two co-directors of opposite political affiliation, appointed by the Governor, following nomination by the major political party state chairs.

If a local election administrator, candidate, party official, or member of the public is unclear concerning the application of Indiana campaign finance requirements or general election law provisions, the Election Division can be used as an interpretive resource.

The Election Division requests that any person who wishes to obtain information in writing from the Election Division concerning election law submit a written request to the Division for that information.

The Indiana Election Division may **provide information regarding election administration issues.** However, where important legal rights are concerned, individuals must consult with their own attorney to be fully and properly advised. The Election Division does not serve as a judge or jury to determine the **facts** in a dispute. Inquirers are sometimes advised that they must decide if they should go to court as the proper forum to establish or protect their legal rights.

Local Offices with Election Duties

County Executive

In non-vote center counties, the county commissioners (or in Marion County, the Mayor of Indianapolis as "county executive" or in the Board of Elections and Registration in Lake, Porter, and Tippecanoe counties) must designate precinct polling places **not less than twenty-nine (29) days** before Election Day. (IC 3-11-8-3; IC 3-11-8-3.1). The county executive shall locate the polls for each precinct in an accessible and secure facility. In locating the polls for a

precinct, a county shall consider the relevant factors to ensure the security of the location set forth in guidance provided by the secretary of state. (IC 3-11-8-6)

Precinct polling places are permanent and remain unchanged until the board of county commissioners, county executive, or, in the case of Lake, Porter, and Tippecanoe counties, the Board of Elections and Registration, orders otherwise. As a result, county commissioners (or the county executive or, in Lake, Porter, and Tippecanoe counties, the Board of Elections and Registration) are only ***required*** to designate polling places if there is a ***change.*** (IC 3-11-8-3.1)

More than three-fourths of Indiana's 92 counties are designated vote center counties, which means a voter can cast their ballot on Election Day at any polling place. However, before a county election board may finalize its initial Election Day vote center plan, the county commissioners and county council must adopt a resolution approving the designation of the county as a vote center county. (IC 3-11-18.1-3) Once this designation is made, the county's vote center plan may be adopted by unanimous vote of the county election board and filed with the Indiana Election Division in order to be effective. Subsequent amendments to the vote center plan, including changes in vote center locations, require the unanimous consent of the county election board and become effective when the amendment is filed with the Indiana Election Division. (IC 3-11-18.1-15)

Whether a vote center or non-vote center county, county commissioners no longer publish legal notice of the polling locations at least ten (10) days before each election. Instead, the county election board is required to publish notice of polling locations at least twenty-one (21) days before the election. (IC 3-11-8-3.2; IC 3-11-18.1-9) (Note: IC 5-3-1-1.6 may permit the publication of this notice in an electronic edition or the political subdivision's website, if certain criteria are met.)

The county executive sets the pay rate for precinct election officials (IC 3-6-6-25) and is required to provide the space necessary for the county election board and, if applicable, the board of registration, to meet and conduct their affairs. (IC 3-6-5-10; IC 3-7-12-26)

County commissioners may unanimously agree to establish or abolish a board of voter registration, except in Marion, Lake, Porter, and Tippecanoe counties where state law has expressly created a board of registration or a board of elections and registration. (IC 3-7-12, generally)

County commissioners must provide the county election board with office space in (or conveniently located near) the county courthouse. (IC 3-6-5-10)

Lastly, the county executive is responsible for maintaining the precinct boundaries within their county. However, this work is often coordinated with the county clerk as precinct boundary line or name changes directly impact election administration and voter registration record keeping. (IC 3-11-1.5, generally)

Clerk of the Circuit Court

In most Indiana counties, the elected Clerk of the Circuit Court is the chief voter registration and chief election official of the county. Some counties (as of this writing Allen, LaPorte, Madison, Marion, Vanderburgh, and Vigo counties) have established a separate bi-partisan Board of Registration, which serves as the chief voter registration official. In Lake, Porter, and Tippecanoe counties, the Board of Elections and Registration serves as the county's chief voter registration and election official. The directors of the Lake County Board of Elections and Registration and the Porter County Board of Elections and Registration are to perform all the election and voter registration duties of the circuit

court clerk required under state law. In Tippecanoe County, the employees appointed by the Board of Elections and Registration perform all the board's elections and registration duties required by the state election code, except for any election duty required to be performed by the circuit court clerk. All county clerks serve as Secretary, *ex officio*, on the county election board or board of elections and registration in Lake, Porter, and Tippecanoe counties. (IC 3-6-5-8) More information about the County Election Board is found later in this *Manual*.

Board of Registration

Several counties in Indiana have a bi-partisan Board of Registration, which manages voter registration activities in their county. As of this writing, those counties are Allen, LaPorte, Madison, Marion, Vanderburgh, and Vigo. The current version of the *Voter Registration Guidebook* contains more information about the office's responsibilities.

County Election Board

Most counties have a three-member bipartisan county election board comprised of the county clerk and two appointed members, one each from the two major political parties (Democratic and Republican). In Lake, Porter, and Tippecanoe Counties, separate state statutes govern the organization of the county board of elections and registration. For example, Lake and Porter counties have a five-member County Board of Elections and Registration, while Tippecanoe has a three-member County Board of Elections and Registration. Reference those specific citations for Lake, Porter, and Tippecanoe Counties rather than referring to the information provided in this manual. See IC 3-6-5.2 (Lake County), IC 3-6-5.6 (Porter County), and IC 3-6-5.4 (Tippecanoe County).

CEB Membership

The circuit court clerk is automatically a member and serves as secretary of the county election board by virtue of serving as the elected clerk of the circuit court. Except for Lake, Porter, and Tippecanoe counties, the county chairperson of each major political party nominates, in writing, an individual to serve on the county election board. The circuit court clerk **is required** to appoint whomever the county chairperson nominates. (IC 3-6-5-5) In Lake, Porter, and Tippecanoe Counties, the county chairperson of each major political party appoints, in writing, individuals to serve on the county election board. (IC 3-6-5.2-4; IC 3-6-5.4-4; IC 3-6-5.6-4) The distinction of who appoints the two major party members of the election board is important, as a person who has the authority to appoint a member of the county election board may not appoint an individual who is a relative as defined by IC 3-6-5.9, generally.

The members of a county election board shall select one (1) of the appointed members to serve as chairman. As noted, the clerk serves as the secretary of the board. The term of a county election board chairman ends January 1, following the election of the county circuit court clerk. (IC 3-6-5-8) But if the appointed member of the board who is serving as chair resigns or is removed from the board, the circuit court clerk will serve as acting chairman until the vacancy is filled. The clerk will notify the political party chairman of the member who served as chairman of the vacancy. To select a new election board chairman, the clerk will call a meeting of the county election board who shall select one of the appointed members to serve as chairman.

The term of county election board member is not specified by state law. However, Article 15, Section 2 of the Indiana Constitution provides that most offices created by state law, such as a county election board member, may not have a term that exceeds four (4) years. The county chairperson may remove the board member affiliated with the chair's political party at any time. Before a county election board member assumes the duties of this office, the individual must take and file an oath of office (Form CEB-6). (IC 3-6-5-6)

If a vacancy occurs on a county election board for a reason **other than removal by a county chairperson,** the circuit court clerk **must** notify the county chairman or chairperson within five (5) days of the vacancy. The county chairperson then has five (5) days in which to nominate a successor. The circuit court clerk **must** appoint whomever the county chairman or chairperson nominates.

If the county chairman or chairperson fails to make the appropriate nomination by the deadline, then the circuit court clerk may proceed to select a person of the clerk's own choosing to serve on the county election board. The person the clerk selects, however, must be of the same major political party in which the vacancy occurred. The circuit court clerk has an additional five (5) days to make an appointment to the county election board if the county chairman or chairperson fails to nominate a successor to fill a vacancy. (IC 3-6-5-7) The individual selected by the county clerk to fill the vacancy on the county election board continues to serve at the pleasure of the county chair and may be removed by the chair at any time. (IC 3-6-5-6)

A county election board member may appoint a proxy to serve in the member's place on the county election board unless otherwise specified in the proxy, the CEB proxy has the same authority to act and vote on all matters as the member. As an election draws near, situations arise that may require members to meet on short notice. A county election board member unable to attend a meeting may appoint both a proxy of record and an alternate proxy by filing a written statement with the circuit court clerk naming the proxy. (IC 3-6-5-4.5) There is no specific state form to use as the written proxy statement, though examples are available in the appendix of this *Manual*. The CEB proxy has the same authority to act and vote on all matters, as does the CEB member.

The county election board member may revoke the authority of the proxy at any time. The proxy's authority may be either general or limited with regard to duration or subject matter. The member making the appointment must define the authority of the proxy in the written statement.

Certain individuals are prohibited from serving on the county election board. **A candidate for elected office, an elected official, or a member of a candidate's campaign finance committee may not serve as an appointed member of the board or be a proxy for an appointed member of the board.** (IC 3-6-5-3; IC 3-6-5.2-4.5; IC 3-6-5.4-4.5; IC 3-6-5.6-5) "Elected office" does not include political party offices, including county chairman, state convention delegate, or precinct committeeman.

These state laws do not define which individuals are considered a "member" of a committee. However, the Indiana Court of Appeals has ruled that the individual serving as chairman and the individual serving as treasurer are automatically considered campaign finance committee members and may be held personally liable for unpaid committee debts.

If an appointed member becomes a candidate for elected office, an elected official, or a member of a candidate's campaign finance committee, the person must immediately resign from the board. It is expected that a county election board may engage in other political activity other than the specific activities disallowed above.

Some county election boards employ individuals as deputy election commissioners or as an employee of the board instead of an employee of the clerk. In this case, a person who is a candidate for elected office may not be appointed as a deputy election commissioner or employed by a county election board and cannot continue to serve as a deputy election commissioner or employee of the county election board. (IC 3-6-5-24)

NOTE: In most counties, deputy clerks are tasked with election duties. If this person is an employee of the county clerk, not the county election board, then IC 3-6-5-24 (prohibition on running for elected office and being employed

by the county election board) does not apply. Only a few counties in Indiana have a county election board that exists as a stand-alone agency and those persons employed by the county election board are subject to IC 3-6-5-24.

The circuit court clerk may not serve as a member of a candidate's campaign finance committee other than the clerk's own candidate's campaign finance committee. (IC 3-6-5-3(d)) Additionally, a county clerk has a statutory responsibility to manage elections in his or her jurisdiction, even if clerk is running for an elected office and appears on the ballot. In the event the clerk is also a candidate for any elected office, state law requires the county to use on its absentee and provisional ballots a generic seal prescribed by the Indiana Election Division and does not permit the clerk's signature to be printed on the ballot. However, the requirements to use a generic seal and no signature do not apply if the county clerk is only a candidate for a party office, that is, state convention delegate or precinct committeeman. (IC 3-5-4-9) County clerks may choose to limit their election activities when their name is on the ballot, though only the two limitations related to absentee and provisional ballots exist in state law.

Finally, an appointed member of a county election board or board of elections and registration may not be a relative of any individual that has the authority to appoint a member of the board. (IC 3-6-5.9) In all counties except for Lake, Porter, and Tippecanoe County, the individual that has the authority to appoint a member of the board is the circuit court clerk (see IC 3-6-5, generally); therefore, the appointed members of the county election board may not be related to the county clerk. In Lake, Porter, and Tippecanoe County, the individual that has the authority to appoint a member of the board is the Democratic and Republican party county chairs; therefore, the appointed members of the county election board may not be related to the county chair.

"Relative" refers to any of the following:

1) The individual's spouse.
2) A parent of the individual or a parent of the individual's spouse.
3) A child of the individual or a child of the individual's spouse.
4) A sibling of the individual or a sibling of the individual's spouse.
5) An aunt or an uncle of the individual or an aunt or an uncle of the individual's spouse.
6) A niece or nephew of the individual or a niece or nephew of the individual's spouse.
7) A grandparent of the individual or a grandparent of the individual's spouse.
8) A grandchild of the individual or a grandchild of the individual's spouse.

Compensation of Members

Each member of the county election board is entitled to receive compensation for serving on the board. The amount of the compensation is established by the county fiscal body, which is the county council or, in Marion County, the city-county council. Since state statute does not prescribe a specific amount of compensation for the county election board members, the county council may pay county election board members whatever amount they determine to be appropriate in their county.

Indiana Code 3-6-5-9 states: Each county fiscal body shall determine, in the manner provided by law, the compensation of 1) the appointed members of the county election board; and 2) the clerk for the clerk's services as secretary of the county election board.

General Duties

The primary job of the county election board is to administer the election process within the county. The county election board supervises and oversees the conduct of the General Election year primaries, the General Election in November, city primaries and elections, and in some cases, town primaries and elections. The county

election board may also be called upon to conduct a special election in accordance with state law.

In conducting an election, the county election board is responsible for preparing and distributing ballots, preparing the polling locations for election day, and maintaining the county's voting systems and, if applicable, electronic pollbooks. The circuit court clerk may exercise these powers and duties with assistance of the appointed members of the county election board. Some statutes specifically require the circuit court clerk to perform some election duties (such as affixing the clerk's seal to absentee ballots). In Lake and Porter counties, the director of the board of elections and registration performs the election related duties of the circuit court clerk.

The county election board may also, **by unanimous resolution** (including the approval of the circuit court clerk), authorize an employee of the county election board to perform the election duties of the circuit court clerk. The resolution must specify the duties and responsibilities and expires sixty (60) days after the clerk leaves office. (IC 3-6-5-14.5) **The county election board may hire clerks and other employees** necessary for the execution of its powers. The county election board may determine the duties, rank, and salaries of its employees. (IC 3-6-5-23)

A circuit court clerk, with the approval of the county election board, shall exercise the powers and perform the duties of the board whenever the facilities of the clerk's office make it more reasonable and efficient for the clerk to do so. (IC 3-6-5-19)

County commissioners must provide the county election board with office space in (or conveniently located near) the county courthouse. (IC 3-6-5-10)

CEB Meetings, Investigations, Complaints & Challenges

The chairman of the county election board must call meetings whenever the chairman considers it necessary for the performance of the board's duties. (IC 3-6-5-11) If the chairman fails to call meetings, then the other two members may meet and perform the powers and duties of the county election board. (IC 3-6-5-12)

Unless specifically authorized to conduct an "executive session" under the Indiana Open Door Law, **all meetings of the county election board are open to the public to observe, although the board is not required to provide the opportunity for public comment. This consists of all official action that a county election board may take under the Indiana election code including candidate challenge hearings, campaign finance enforcement or disposition of complaints regarding election code violations.**

Under current law, there are limited circumstances when a county election board or board of elections and registration is required to hear oral public comment at a public meeting. There is not a general rule that an oral public comment period has to be made available at all public meetings of the board. Instead, if public comment is required or permitted, those comments must be presented before the board takes final action. (IC 5-14-1.5-3)

Generally, members of the county election board (or their proxy) must be physically present at the meeting. But a member of the county election board who is not physically present at a meeting of the governing body may participate in a meeting by any electronic means of communication that allows all participating members of the governing body to simultaneously communicate with each other and allows the public to simultaneously attend and observe the meeting, except for executive session. The participation of the member by electronic communications must be established by policy adopted by the governing body. A member may not participate in a meeting of the governing body by electronic communication if the governing body will be taking final action on certain matters including initiating a referendum. (IC 5-14-1.5-3.5)

Additionally, if a disaster emergency is in effect for all or part of the area within the county election board's jurisdiction, the member of a governing are not required to be physically present at a meeting if meeting person would present an imminent risk to the health or safety of the members of the public and the governing body who attend the meeting because of the particular danger, threat, or emergency conditions that are the basis for the declaration of the disaster emergency. (IC 5-14-1.5-3.7)

If this occurs, then the members of a governing body may meet by any means of electronic communication, if the following are satisfied: (1) at least quorum of the members of the county election board participate in the meeting by means of electronic communication or in person; and (2) the public is able to simultaneously attend and observe the meeting, unless the board is meeting in an executive session. The minutes prepared must state the name of each member of the county election board who participated in the meeting by using any electronic means of communication and was absentee and identify the electronic means of communication by which member of the board participated in the meeting and the pubic attended and observed the meeting if the meeting was not held in executive session. Lastly, all votes taken during a meeting held electronically as permitted by IC 5-14-1.5-3.7 must be taken by a roll call vote.

In most cases, forty-eight (48) hours' notice must be given (not including Saturdays, Sundays, and legal holidays) by **posting a written agenda (if any) and notice of the meeting at the principal office of the board and by mailing or delivering a notice to all news media requesting such notice. In general, the county election board is not required to publish a legal notice of the meeting in a newspaper unless it wishes to do so. (IC 5-14-1.5-5)**

Note: State agencies, executive, legislative, and fiscal bodies of a county, city, town, or township and elected school boards must live stream their meetings unless there is no internet capability, then the body may record their meeting and place it online.

However, this only applies to county election board meetings when the board holds a meeting in the same room where a local governing body is already required to have the equipment to live stream or record their meetings. If the technology is available in the space, then the county election board will need to live stream or, if internet capabilities are not present, record and place the meeting online.

Archived copies of the live stream must provide the agenda, minutes, and memoranda. Meeting notices must include the website for live streaming or archived copies of live streamed meetings in the meeting notice. Recorded meetings must be available for at least 90 days.

If a technology failure disrupts the ability to live stream or record the meeting, it does not prevent the body from conducting the meeting or the validity of actions taken at the meeting. Violators are subject to civil or criminal liabilities. (IC 5-14-1.5-2.9; IC 34-30-2.1-40.5)

As secretary, the circuit court clerk must prepare minutes of all meetings, including the "yes" and "no" votes of each member on all questions. (IC 3-6-5-13) The minutes should also indicate which members are present and if the board provides a sign-in sheet, which members of the public were present or gave comments or testimony before the board. Particularly in meetings on controversial matters, which could lead to later legal action, it may be useful to record the board's proceedings as a transcript may be later called upon. **The circuit court clerk is required to permanently maintain the minutes of all meetings of the county election board and to include a copy of one (1) regular ballot from each township of the county and one (1) provisional ballot from any precinct in the county as a part of the minutes.** (IC 3-6-5-13)

A county election board may also investigate and rule on questions concerning reported election law violations. If the county election board has substantial reason to believe that an election violation has or will occur, the board may conduct a hearing to resolve the issue. The county election board has the power to subpoena witnesses, and question those witnesses under oath. If, after affording due notice and an opportunity for a hearing, the county election board believes that an act constitutes or will constitute an election violation, the board may take whatever action it deems proper under the circumstances. This includes referring the matter to the attorney general for civil action or the county prosecuting attorney for criminal prosecution. (IC 3-6-5-31; IC 3-14-5-3)

Indiana election law provides that the following offenses are Level 6 felonies, which subject a person to up to two and one-half years of imprisonment, a $10,000 fine, or both, upon conviction. The laws cited below should be studied carefully, since they may contain requirements or exemptions that are not set forth in detail in this summary.

1) Paying a person to apply for an absentee ballot, to cast an absentee ballot, to register to vote, and to vote. It is also unlawful to pay or offer to pay an individual any property based on the number of signatures obtained to place a candidate or public question or the ballot or based on the number of voter registration or absentee applications. However, payment for gathering signatures, voter registration forms, or absentee applications can be made as long as payment is not based on payment per individual item. (IC 3-14-2-1)
2) Soliciting a person known to be ineligible to register to vote or to vote to complete or submit an absentee ballot application. (IC 3-14-2-2.5)
3) Signing the name of another person to an absentee ballot application or voter registration application, knowing that the application contains a false statement or subscribing the name of another person to an absentee ballot application or voter registration application without writing the person's own name and address as an attesting witness. (IC 3-14-2-3)
4) Knowingly making a false statement concerning the name, address, or voter identification number of a person by signing a person's signature on a poll list to affirm false information concerning a voter printed on the poll list or making a written or oral affirmation to the poll clerks providing false information in addition to the information concerning the voter printed on the poll list. (IC 3-14-2-11).
5) Allowing a person to vote who is not entitled to vote or by use of an unauthorized procedure by a precinct election officer or a public official with election duties under Title 3. (IC 3-14-2-14)
6) Unauthorized delivery of ballots by a member of a county election board. (IC 3-14-2-15)
7) Applying for or receiving a ballot in a precinct other than the precinct in which a person may vote. (IC 3-14-2-16)
8) Showing a marked ballot to another person in a way to reveal the contents of the ballot, except when a voter is receiving assistance in marking the ballot in a manner authorized by law. (IC 3-14-2-16)
9) Examining a ballot that a voter has prepared for marking or soliciting the voter to show the ballot, except when a voter is receiving assistance in marking the ballot in a manner authorized by law. (IC 3-14-2-16)
10) Receiving from a voter a ballot prepared for voting, except by an inspector, county election board member, absentee voter board member, or a member of the voter's household, an individual designated as the attorney in fact for the voter, the U.S. mail, or a bonded courier company when delivering an envelope containing an absentee ballot. (IC 3-14-2-16)
11) Delivering an absentee ballot to an election official that is not the ballot cast by the voter. (IC 3-14-2-16)
12) Making a distinguishing mark on the ballot to indicate to another person how the voter voted or doing anything to enable another person to see how a person has cast a ballot on a voting system. (IC 3-14-2-17; IC 3-14-2-18)
13) Destroying or defacing a ballot or delivering a package of ballots to an unauthorized person if the person has been entrusted with custody of the ballots. (IC 3-14-2-23; IC 3-14-2-24; IC 3-14-2-25; IC 3-14-3-14)
14) Tampering with or destroying a ballot box, poll list, tally sheet, voting system, or voting supplies. (IC 3-14-2-

26; IC 3-14-2-28; IC 3-14-3-5; IC 3-14-3-6; IC 3-14-3-8; IC 3-14-3-10; IC 3-14-3-11)

15) Fraudulently causing a vote total to be taken down incorrectly or making a false statement or return of the votes. (IC 3-14-2-27)
16) Procuring or submitting a voter registration application or casting and tabulating a ballot known by the person to be materially false, fictitious, or fraudulent. (IC 3-14-3-1.1)
17) Interfering with a watcher. (IC 3-14-3-3)
18) Obstructing or interfering with an election officer or a voter within the chute. (IC 3-14-3-4)
19) Knowingly injuring an election officer or voter. (IC 3-14-3-4)
20) Failing to receive the vote of a legal voter. (IC 3-14-3-9)
21) Interfering with the secrecy of voting. (IC 3-14-3-11)
22) Inducing or persuading a voter to vote for a candidate, while acting as a precinct election officer or absentee voter board member. (IC 3-14-3-17)
23) Inducing or procuring a person to apply for or cast an absentee ballot, or to vote or refrain from voting for or against a candidate or public question at an election, a caucus, an appointment of a candidate by a political party chairman or central committee officers, or a political convention, by giving, offering, or promising money or other property. (IC 3-14-3-19)
24) Receiving, accepting, or soliciting money or other property to apply for or cast an absentee ballot, or to vote or refrain from voting for or against a candidate or public question at an election or political convention. (IC 3-14-3-20)
25) Conspiring to obtain property an individual would be entitled to receive as compensation for serving as an elected official by securing false or fraudulent absentee ballot applications or voter registration applications and to transport fraudulent voter registration applications or absentee ballot applications by private or commercial carrier operating entirely within Indiana (IC 3-14-3-20.5)
26) Including a threat, argument, or political motto in employee pay envelopes to influence the political opinions or actions of the employees or exhibiting in the workplace a threat to influence the political actions of employees. (IC 3-14-3-21)
27) Intimidating, threatening, or coercing an individual for voting or attempting to vote or urging another person to vote. (IC 3-14-3-21.5)
28) Serving as an inspector or judge in violation of state law. (IC 3-14-4-1)
29) Omitting to perform a duty required under election laws by a precinct election officer or public official with duties imposed by Title 3. (IC 3-14-4-3)
30) Disclosing how a voter voted by an inspector, judge, or other election officer. (IC 3-14-4-7)
31) Disclosing absentee vote totals before the closing of the polls. (IC 3-14-4-10)
32) Except for casting a replacement ballot according to the election code, a voter who knowingly or intentionally votes more than once in the same election. (IC 3-14-2-3)

The following offenses are Class A misdemeanors, which subject a person up to one year of imprisonment, a fine of not more than $5,000, or both:

1) Filing a declaration of candidacy or other similar document to place or remove a candidate from the ballot, knowing that any part of the document is falsely made. (IC 3-14-1-1)
2) Refusing to receive and record a declaration of candidacy or other similar document when presented in accordance with the election laws or suppressing such a document that has been duly filed. (IC 3-14-1-1)
3) Mailing an absentee ballot application to another individual without a disclaimer identifying the person who sent the application and stating that the application was not solicited by the person who received it and was not sent by a state or local official. (IC 3-14-1-3)
4) Registering or offering to register to vote more than once (3-14-2-4)

5) Recklessly destroying or failing to deliver a completed absentee ballot application or completed voter registration form (IC 3-14-2-5)
6) Improperly releasing or removing registration materials from the statewide voter registration system (IC 3-14-2-6)
7) Recklessly voting at an election unless the person is a registered voter (IC 3-14-2-10)
8) Failing to cast or return an official ballot in the prescribed manner (IC 3-14-3-2)
9) "Electioneering" as defined in IC 3-14-3-16:
    a. In the presence of a person known to possess an absentee ballot, unless the electioneering is by the person's spouse, member of their household, or guardian of an incapacitated person;
    b. In the area where in-person absentee ("early") voting occurs, including the entirety of the clerk's office or other established satellite (or additional) early voting location, and within 50 feet to the entrance where in person absentee early voting occurs; or
    c. In the chute or area where voting occurs on election day.

    NOTE: "Electioneering" does not include material mailed to a voter, or a telephone or an electronic communication to a voter expressing support or opposition to a candidate or a political party or expressing approval or disapproval of a public question. (IC 3-14-3-16)

The following offense is a Class A misdemeanor, but becomes a Class Level 6 felony if a government employee has a prior unrelated offense under this statute:

> Knowingly or intentionally using the money, equipment, goods, and materials (including mail and messaging systems) of the employee's government employer to solicit a contribution or advocate the election or defeat of a candidate or public question or knowingly or intentionally distributing campaign materials advocating the election or defeat of a public question on real property belonging to the person's employer during normal business hours. (IC 3-14-1-17)

The following offenses are Class C infractions, which subject a person to a judgment of up to $500:

1) A person who, knowing that the person is not a voter and will not be a voter at the next election, applies for registration or procures registration as a voter. (IC 3-14-2-2)
2) A person who during an election knowingly removes a ballot from the polls (IC 3-14-3-13)
3) A person who recklessly enters or remains in the polls or the chute without authorization. (IC 3-14-3-15)

See the current edition of the *Indiana Campaign Finance Manual,* published by the Indiana Election Division, for information regarding criminal violations of the campaign finance laws, and the county election board's authority to impose civil penalties for campaign finance related violations. See the current edition of the *Voter Registration Guidebook*, published by the Indiana Election Division, for information regarding criminal violations of the voter registration law.

Under the Help America Vote Act of 2002 (HAVA), as implemented by Indiana law (IC 3-6-5.1), a voter may choose to file a complaint with the county election board that the requirements of HAVA have not been met. These complaints could include the lack of voting systems at a polling place to permit a blind or visually impaired voter to cast a ballot privately and independently. If a voter files a complaint under this procedure, the clerk and county election board must conduct an investigation and issue a written report containing their findings. (IC 3-6-5.1)

Candidate Challenge Hearings

A county election board may also investigate and rule on questions concerning the validity of a declaration of candidacy or other petitions or certifications to place the name of a candidate on the ballot. A filing that is made **after the deadline set by state law** "may not be received for filing" by a county or state election office after the applicable deadline. This would apply to a declaration of candidacy, a recount petition and a candidate vacancy filing after the primary, and to all other election document filings, except when state law explicitly permits late filings. (IC 3-5-4-1.9; IC 3-13-1-21)

PLEASE NOTE: This law requiring a filing to be rejected if presented after the deadline does not apply to campaign finance reports or voter registration applications. Campaign finance reports are to be accepted after the reporting deadline but are subject to fines. Please see the current version of the *Indiana Campaign Finance Manual* for more information. Federal and state voter registration forms may be received after the statewide voter registration deadlines, but depending on the postmark on the envelope, may be processed for the current election. Please see the current version of the *Indiana Voter Registration Guidebook* for more information.

Generally, a circuit court clerk may not refuse to accept a declaration of candidacy filed on the proper form and is NOT responsible for bringing a question or dispute regarding a declaration of candidacy to the attention of the county election board when the declaration is filed with the clerk. (IC 3-5-4-8(c); IC 3-14-1-1(4))

Instead, under Indiana's "Put Up or Shut Up Law," before the board can act concerning a declaration of candidacy, **a voter of the election district or a major political party chair of a county in which any part of the election district is located must file a sworn statement** (CAN-1) with the board questioning the eligibility of the candidate and setting forth the facts known to the voter. (IC 3-8-1-2)

There are seven (7) exceptions to this requirement:

1) **A circuit court clerk must determine whether a sufficient number of signatures have been obtained to meet the requirements to nominate a minor party or independent candidate, or a school board candidate, by petition.** If the clerk determines, based on the certification of the signatures by the county voter registration office, that the petition does not have enough signatures to nominate the candidate(s) on the petition, the clerk must deny certification to the petitioner(s). A challenge to this denial can then be brought before the county election board by a registered voter in the election district by filing a CAN-1 form. (IC 3-8-1-2; IC 3-8-6-12; IC 3-8-2.5-6)

2) **A county voter registration office must determine whether petition carrier laws have been complied with before certifying petitions.** A law that applies to all candidate petitions, as well as petitions to place a public question on the ballot, requires that the petition carrier must also complete a signed affirmation, under penalties of perjury, that the individual has no reason to believe that any signer on the page is ineligible to sign the petition; and below the affirmation include printed information that identifies the petition carrier (name, address, and date of birth). (IC 3-8-2-7) This requirement applies to the candidate whenever the candidate personally circulates petitions. A signature page that does not comply with these requirements must be received for filing and retained as other election materials are retained and the county voter registration office shall not make a determination regarding the validity of the signatures on the signature page.

   The county voter registration office shall also notify the petition carrier and allow the petition carrier to make certain additions and corrections to the information to be provided by the petition carrier on the signature

page. If the final date and hour for filing a petition with the county voter registration office has not passed, a petition carrier may sign the affirmation or add identification information required to be provided by the petition carrier. However, if the final date and hour for filing a petition with the county voter registration office has passed, a petition carrier may not sign the affirmation or add identification information required to be provided by the petition carrier, or add or correct information supplied by or requested from a person who signs the petition as a petitioner. Please see the current version of the *Indiana Voter Registration Guidebook* for more information.

Candidate or public question petitions that do not comply with the petition carrier affirmation and information requirements, may be challenged after the final date and hour for filing the petition with the county voter registration office. A challenge may be filed with the county election board, or the Indiana election division as otherwise provided by law.

3) **A clerk must reject a candidate filing that is required to be filed with the Secretary of State or Election Division to be effective (such as a CAN-2 declaration of candidacy for circuit, superior, probate, and small claims court judge or prosecuting attorney).**

4) **A clerk must reject candidate documents offered after the filing deadline.**

5) **A clerk must reject a declaration of candidacy, petition of nomination, declaration of intent to be a write-in candidate, or certificate of candidate selection that <u>does not</u> also include a statement of economic interests (CAN-12).**

6) **Filings tendered on a candidate form not currently approved for use by the Indiana Election Division must be rejected.**

7) **The clerk may not receive a Certificate of Candidate Selection (CAN-29) to fill a local office <u>ballot</u> vacancy if the related Call of Caucus or Meeting (CAN-30) or Declaration of Candidacy to fill a Local Office Ballot Vacancy (CAN-31) was not filed at all, or not timely filed, with the clerk.**

A question regarding a declaration of candidacy or petition of nomination must be filed with the county election board <u>not later than noon</u> (prevailing local time):

1) Eighty-one (81) days before the primary and resolved not later than noon (prevailing local time), sixty-eight (68) days before the primary (for candidates to be nominated by a major party at a primary election) (IC 3-8-2-14(a)(b));
2) Seventy-four (74) days before the general election and resolved by noon (prevailing local time), sixty (60) days before the date of the general election for candidate for a state legislative office (State Representative or State Senator) or state office other than a judicial office (IC 3-8-8-3; IC 3-8-8-7);
3) Seventy-four (74) days before the general or municipal election and resolved by noon (prevailing local time), sixty (60) days before the date on which the general or municipal election will be held for candidates nominated by petition (independent and third party candidates) (IC 3-8-6-14);
4) Seventy-four (74) days before the general or municipal election and resolved by noon (prevailing local time), sixty (60) days before the election for candidates selected to fill a vacancy (frequently due to no candidate running on the primary ballot) (IC 3-13-1-16.5);

5) Seventy-four (74) days before the general election and resolved not later than noon (prevailing local time), sixty (60) days before the general election (for school board candidates) (IC 3-8-2.5-7);
6) Sixty-seven (67) days before the general election and resolved not later than noon (prevailing local time), fifty-four (54) days before the general election (for school board write-in candidates) (IC 3-8-2.5-7);
7) Fourteen (14) days before the general or municipal election and resolved not later than noon (prevailing local time), seven (7) days before Election Day for candidates selected to fill a vacancy occurring less than thirty (30) days before Election Day (IC 3-13-2-11);
8) Eighty-eight (88) days before the general or municipal election and resolved not later than noon (prevailing local time), eighty-one (81) days before Election Day for write-in candidates (IC 3-8-2-14(c)); and
9) September 4 before the general or municipal election and resolved not later than noon (prevailing local time), on September 11 before the election or municipal election (for a Democratic, Republican, or Libertarian candidate for a small town office nominated under IC 3-8-5) (IC 3-8-5-14.7).

To resolve the challenge, the bipartisan county election board must conduct a public meeting. The Board must give notice under the Open Door Law. The Board should also provide a copy of the challenge to the challenged candidate, along with written notice of the meeting. Although it is preferable to send these documents to the candidate by certified mail, return receipt requested, or via FedEx or USPS services with tracking, it may be necessary to contact the candidate by telephone, email, by regular mail or any combination of these methods due to the short period of time during which the Board must conduct this meeting. The important point is to give as much notice to the challenged candidate as possible regarding the content of the complaint and the time and location of the Board's meeting. If either the challenger or candidate will be represented by an attorney, the Board may request that the attorney enter an appearance with the Clerk before the meeting so that communications from the Board will be sent directly to the attorney.

At the meeting itself, the chairman of the Board may wish to begin by setting some rules of procedure and explaining the rules to those present as the first item of business. It may be a good idea, although optional, to limit the amount of time for each side to present information. For example, the Board may provide that the person filing the challenge has 15 minutes to present information, that the challenged candidate has 15 minutes to respond, and that the challenger and the candidate each have an additional 5 minutes to rebut what the other side has presented. It may also be useful to remind audience members that all remarks or questions should be addressed to the chair, and that discussions (or arguments!) between audience members will not be allowed. If you think that emotions will be heated at the meeting, and that it will be difficult to keep order, you may wish to contact the Sheriff's office to request that a uniformed deputy be present. Usually this is enough to prevent any serious breach of order.

The Board may then ask each person who plans to testify for one side or the other to stand and take an oath that they will testify truthfully before the Board. The Board can then recognize the challenger. The challenger, or individuals called by the challenger, should be asked to begin by stating their name and address for the minutes. The Chairman of the Board should be recognized if any Board member wishes to question an individual who is testifying. As a courtesy, the time taken by Board member questions should not be deducted from the time that is to be made available to the challenger or the candidate.

After both sides have presented their evidence, Board members must consider this information and reach a decision. **This discussion must take place in public**. A private (or "executive") session for this purpose is not allowed under the Open Door Law. When the Board members have finished their discussion, any member of the Board (including the Chairman) can make a motion to uphold or deny the challenge. If the motion is seconded, then the Chairman should call for a vote. The minutes of the meeting must show how each Board member voted on each motion.

After the meeting, the Clerk should send a short letter to both the candidate and the challenger given written notice of the Board's decision. This letter can be very straightforward and state that at the Board's meeting on a specific date, the Board voted to uphold (or deny) the challenge, and that as a result, the candidate will (or will not) appear on the ballot.

A person who files a declaration of candidacy or other document to place a candidate on the ballot, knowing that any part of the document is falsely made, or a person who refuses to receive and record the document when presented in accordance with the election laws, commits a Level 6 felony. (IC 3-14-1-1)

Election Reporting Requirements, Generally

Not later than noon (local prevailing time), thirteen (13) days *after* a primary, general, municipal, or special election, the county election board must submit their canvassed and final election results. These reports, such as the CEB-10, CEB-11, CEB-12, CEB-13, CEB-23, CEB-24, CEB-25, CEB-26A, CEB-26B, CEB-26C, CEB-36, or CEB-37, are required to be filed in SVRS by this deadline.

Not later than noon (local prevailing time) fourteen (14) days *after* a primary, general, municipal or special election, the county election board must submit a CEB-9 Section I report to the Election Division. The report must describe the county election board's activities in administering the election and include a statement of election expenses for administering elections and a copy of the canvass sheets for the election. The Election Division may require additional information in this report as well. Additionally, counties are to attach and upload precinct level and summary level election results in the CEB-9 module. (Counties who opt to use the precinct mapping module in SVRS to submit results only need to attach their summary level results to the CEB-9 module.)

A county no longer will file any *paper* version of the CEB-9, CEB-10, CEB-11, CEB-12, CEB-13, CEB-23, CEB-24, CEB-25, CEB-26A, CEB-26B, CEB-26C, CEB-36, or CEB-37 forms or CEB-9 Section I election report form, including precinct level results, to certify general, municipal, primary, or public question election results to the Election Division**. The former requirement that these reports be signed and sealed by the circuit court clerk has been repealed and the county must use the SVRS to provide these reports to the State.** Counties may choose to print the reports from the SVRS for their board members to sign and maintain for the county's records but should not file those paper documents with the Indiana Election Division.

NOTE: The SVRS reporting module includes the CEB-9 Section II form, which requests detailed information from counties for the federal general election (that is, the election held in November in even-numbered years), and voter wait time data provided by Election Day poll workers in the PRE-1 Oath Book. Except for the federal general election, counties only need to complete the wait time information on the CEB-9 Section II report. After the November general election in presidential or non-presidential years, counties will need to complete the wait time and detailed information found in the CEB-9 Section II report not later than December 1. This information is used in a report to Congress compiled by the US Election Assistance Commission in its biannual Election Administration and Voting Survey (EAVS).

Indiana law also requires that a county election board forward challenge affidavits returned by precinct election officers following the close of the polls to the foreman of the grand jury when the jury is next in session. The grand jury is required to inquire into the truth or falsity of the affidavits and file a report of the results of its inquiry with the court. (IC 3-14-5-2) This procedure does not apply when the only reason that an affidavit was executed was that an individual was required to provide "additional documentation" as a first time voter who registered by mail and has now complied with that requirement. (IC 3-14-5-1) The prosecuting attorney is to return the affidavits

to the county election board when any grand jury investigation or proceeding is finished. State law also requires that the county election board open sealed bags and envelopes returned by the precinct inspector and judge and forward a copy of each challenge affidavit to the Secretary of State of Indiana. (IC 3-14-5-2)

Physical & Cyber Security of Voting Systems and Election Materials

State and federal law has evolved to mitigate risks associated with the physical and cyber security of voting systems, electronic pollbooks, and statewide voter registration systems. The county election board plays a critical role in this process. Below are some high-level policy efforts related to this issue, though most are discussed in greater detail in this *Manual*, specifically the "Voter Registration," "Voting Systems & ePollbooks," and "Election Day" sections.

- Each county voter registration office shall file a statement with the Election Division setting forth the name and contact information for at least one individual for the state to communicate with regarding cybersecurity issues. (IC 3-7-26.3-15)
- Each county shall submit the name and contact information of the county's IT provider to the Secretary of State and shall notify the Secretary of any changes. (IC 3-5-4-12.5)
- To access the statewide voter registration system, an individual must use "two-factor authentication," such as a token or other method approved by the Secretary of State and the Co-Directors of the Election Division. (IC 3-7-26.3-15)
- The Secretary of State established "proficiency standards" for county users of the statewide voter registration system to permit the user to access the voter registration system. County users must demonstrate to the Secretary of State and the Election Division that the user has been sufficiently trained and can properly access the system and comply with the laws governing the operation of the system. (IC 3-7-26.3-35)
- A county voter registration office may revoke an individual's authorization to access the system for good cause and shall file a report of the revocation with the Secretary of State and the Election Division not later than seven (7) days after the revocation is effective. (IC 3-7-26.3-35)
- The county election board is responsible for establishing access protocols for voting systems and electronic poll books, including specifying when variations from access policies are permitted. (IC 3-11-15-46)
- A county election board must file a report with the secretary of state not later than forty-eight (48) hours after receiving notice of the following from a federal, state, or local government agency:
    - a voting system or electronic poll book has been improperly obtained or altered in a manner that violates Indiana law; or
    - the data concerning the county maintained in the statewide voter registration system (SVRS) has been accessed or altered by a person in violation of Indiana law. (IC 3-11-17-7)
- Delivery methods of electronic pollbooks and voting systems have specific handling requirements to prevent tampering of voting systems after leaving the custody of the county election board. (IC 3-11-3-10; IC 3-11-3-11(b); IC 3-11-3-16(b); IC 3-11-8-7.5)
- Return methods of voting systems have specific handling requirements to prevent tampering of voting systems after the polls close on the election day and the voting system is being returned to the custody of the county election board. (IC 3-12-3-2.2; IC 3-12-3.5-4.5)
- Election systems vendors must perform background checks so that an employee or contractor of the vendor with a felony conviction may not have access to the vendor's voting system and must disclose to the Indiana Election Division any information regarding the nature and extend of any foreign national's ownership or control of the vendor. (IC 3-5-2.1-49.6; IC 3-11-15-45; IC 3-11-17-2; IC 3-11-17-7.2; IC 3-11-17-8)

If the federal government provides money or the general assembly appropriates funds to cover the costs of a thread protection service for cybersecurity, each county shall enter into an agreement with the Indiana Secretary of State to

use a threat intelligence and enterprise security company designated by the Secretary of State to provide hardware, software, and services which investigates cybersecurity attacks and protects against malicious software; and analyzes information technology security risks.

The agreement to provide services to a county has no effect on any threat intelligence and enterprise security service provided to the county by any other agreement with the provider or by any county employee or contractor and must be designed to complement any existing service agreement or service used by the county when the county enters into the agreement. (IC 3-5-4-12) This requirement expires January 1, 2028.

NOTE: The county election board is responsible for the care and custody of all ballot card voting systems, electronic voting systems, and electronic poll books when not in use. For more detail, see the text behind "*Voting Systems & e-Poll Books"* in this *Manual*.

Election Costs & Budgeting

Each county election board shall prepare annually a budget estimate itemizing its expenditures for the previous year and its estimates of the amount of money necessary to be appropriated for the next year. The board shall submit the budget estimate at the time and in the manner and form other county budget estimates are required to be filed. (IC 3-6-5-16)

GENERAL ELECTION YEAR

All general elections are conducted by the county election board. The county auditor shall pay the expenses of voter registration and for all election supplies, equipment, and expenses out of the county treasury in the manner provided by law. The county fiscal body (county council) must make appropriations necessary to cover these costs. (IC 3-5-3-1) However it is prohibited for a political subdivision that conducts or administers an election from receiving or expending funds received from a person for preparing, administering, or conducting an election, including registering voters. This does not prohibit a political subdivision from receiving or expending funds from the state or from the federal government to prepare for, administer, or conduct an election. (IC 3-5-3-1)

The legislative body of a county may also establish a county election and registration fund for the purpose of paying for county election and voter registration expenses. (IC 3-5-3-2) The legislative body may annually levy a tax on all taxable property in the county, in the manner that other taxes are levied, sufficient to meet the average annual expenses incurred by the county and deposit the tax revenue into the fund. After a county election and registration fund has been established, the county shall budget and pay for all the election expenses from the fund. (IC 3-5-3-3)

After a county election and registration fund has been established, the county executive shall monitor the fund to determine if it contains sufficient money to meet the obligations of the fund. Whenever the executive finds that there is not sufficient money in the fund, the executive may request that the county fiscal body adopt an ordinance authorizing a transfer between funds. If the ordinance is adopted, the executive shall order the county auditor to transfer the amount specified in the ordinance from the general fund of the county to the election and registration fund. (IC 3-5-3-4)

In a county that does not have an election and registration fund established under this chapter, the county shall budget and pay for all the election expenses from the general fund of the county. (IC 3-5-3-5)

The State Board of Accounts is a good resource for county election administrators and may be helpful when planning or paying for election costs. For example, SBOA has previously created materials on poll worker and absentee voter

board pay to assist counties with paying those costs and offers training at least once a year for county clerks. More information, including contacts, can be found on www.in.gov/sboa.

MUNICIPAL ELECTION YEAR

Generally, municipal elections held in odd-numbered years, such as 2027 and 2031, are conducted by the county election board. (IC 3-10-6-8; IC 3-10-7-2) When a municipal election is held in an odd numbered year, the costs incurred by the county election board must be reimbursed by the municipality where the election of officers took place. (IC 3-5-3-7)) In a year in which a town election coincides with a general election (that is, an even-numbered election year), the county election board may not access the town for the cost of the election. (IC 3-5-3-11)

However, a "small" town can enter into a written agreement with the county election board to pay set cost for the county conducting the municipal primary or municipal election or both. (IC 3-10-7-4) This agreement may not be entered into after September 21 of a year in which a municipal election is to be held in the town. (IC 3-10-7-4(c)) A "small" town that enters into an agreement described in IC 3-10-7-4(a) shall continue to nominate candidates by convention conducted under IC 3-8-5 or by petition filed under IC 3-8-6 unless the town nominates candidates in a primary election as provided in IC 3-8-5-2.

A county election board that enters into an agreement with a "small" town shall conduct the municipal election in the same manner as it conducts a general election in a town that has a population of three thousand five hundred (3,500) or more. (IC 3-10-7-4(d)) For more information about election costs apportionment for "small" towns, please see the current version of the *Town Election Guidebook* published by IED in the odd-numbered municipal election year.

Otherwise, different formulas are used to determine the election costs paid by cities or towns, depending upon whether the county is a vote center county or a non-vote center (that is, a precinct-based) county.

For non-vote center counties, except for those "small" towns entering into a fixed cost agreement under IC 3-10-7-4, all costs that can be directly apportioned to a specific municipality, such as the cost of printing ballots for that municipality's election, are fully charged back to the municipality and must be reimbursed not later than December 31 in the year the election takes place. (IC 3-5-3-7)

Any costs that were incurred ninety (90) days before the primary election until the day after the municipal election and that cannot be apportioned directly to a specific municipality must be divided. Twenty-five percent (25%) of the indirect costs must be absorbed by the county election board with the remaining 75% be apportioned among each municipality that held an election and did not already enter into an agreement with the county election board to pay a set cost for conducting the election. (IC 3-5-3-8) The remaining 75% must be divided among each municipality that held an election based on the same ratio of total ballots cast among all municipal elections. (IC 3-5-3-9)

Example: The county election board conducts the municipal election in the Boone City, the town of Davis, and the town of Edwardsville. The total ballots cast in all three municipal elections was 1,000. 550 ballots were cast in Boone City, 300 in Davis, and 150 in Edwardsville. Based on this ratio, Boone City would be charged with paying the county election board 55% of the indirect costs apportioned among the municipalities. Davis would be responsible for 30% of the costs, with Edwardsville paying the remaining 10%.

However, election costs are determined using a different formula in a county which has adopted a vote center plan. All election expenses incurred administering a municipal primary or municipal election shall be apportioned among the cities and towns in the same ratio that the number of ballots who cast a ballot in the city or town bears to the total number of voters who cast a ballot in all of the cities and towns in the county at that municipal primary or

municipal election.

Registration expenses incurred by a circuit court clerk or board of registration for the salaries of members of a board of registration appointed under IC 3-7-12-9; the salaries of chief clerks appointed under IC 3-7-12-17; and the salaries of assistants employed under IC 3-7-12-19; may not be charged to a municipality. However, the municipality may be charged for wages of extra persons employed to provide additional assistance reasonably related to the municipal election. (IC 3-5-3-1(c))

All expenses for a municipal primary election or municipal election that is conducted by a county election board shall be allowed by the county executive and shall be paid out of the general fund of the county, without appropriation. The county auditor shall certify the amount of that allowance to the fiscal officer of the municipality not later than thirty (30) days after the municipal primary or municipal election. The fiscal body of the municipality shall make the necessary appropriation to reimburse the county for the expense of the primary election or election not later than December 31 of the year in which the municipal election is conducted. (IC 3-5-3-7)

SPECIAL ELECTIONS IN "OFF-YEARS"

Holding an "off-year" special election for certain public questions is no longer permitted. Instead, a referendum or local public question under IC 20-46-1 (school tax levy referendum), IC 20-46-9 (school safety tax levy referendum), IC 6-1.1-20 (controlled project referendum) may only be placed on the ballot at a general election held in an even-numbered year. Certification of a local public question under this subsection must occur not later than noon August 1. (IC 3-10-9-3)

A public question may be certified to a county election board in an "off-year" between the presidential federal election year and a non-presidential election year (for example, 2029 will be an "off-year") if state law permits the public question referendum to be conducted as a special election. The current version of the "Referendum Brochure" published by the Indiana Election Division lists the only types of special elections that may be called in Indiana.

There are very specific procedures and deadlines that must be met in order for a jurisdiction to call for a special election. The "Public Questions" section of this *Manual* will provide some insight, but it is recommended the entity requesting a special election consult with their own attorney to be fully and properly advised of the process. However, a special election held for a public question must be held on the first Tuesday after the first Monday in May or November; it may not be called on any other day throughout the year. The entity requesting a special election in an "off-year" is responsible for all costs.

If a question is properly certified to a county election board, a special election is largely conducted in the same manner as a regular election. There are exceptions to reduce the number of in-person absentee voting in the clerk's office (though all absentee ballots, including military and overseas voters using an FPCA, must be mailed not later than 45-days before the election). (IC 3-11-4-18; IC 3-11-10-26.5)

Vote center counties may need to amend their plan to change or limit the number of vote centers available during the special election. Indiana law permits a county to reduce the number of vote centers ONLY in the event of an "off-year" special election to one (1) vote center on Election Day, unless the number of active voters in the jurisdiction requesting the special election exceeds 10,000. (IC 3-11-18.1-6)

No "Home Rule" Authority for Conducting Elections

The county election board and local units of government do not have the power to adopt an ordinance, resolution or order concerning a general election, municipal election, primary election, school district election, or special election that is described in IC 3-5-1-2, or to otherwise conduct an election unless expressly granted by statute. An ordinance, resolution, or order concerning elections and adopted before January 1, 2023, is void unless a statute expressly granted the unit of government the power to adopt the ordinance, resolution, or order. (IC 36-1-3-8)

Campaign Finance Fines

When the county election board collects fines for late or defective campaign finance (that is, civil penalties), the funds shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the funds appropriated for the administration of elections, voter registration, and campaign finance enforcement in the county. (IC 3-9-4-1-17(j)) Money in the campaign finance enforcement account established under IC 3-9-4-17(j) does not revert to the county general fund at the end of a county fiscal year. (IC 3-9-4-17(k))

Other Duties

The list of duties of the county election board found in this *Manual* is not exhaustive, and many sections provide greater detail on the procedures to be followed by the county election board. For example, the "Campaign Finance" chapter covers how to generally conduct campaign finance hearing. Further, the Indiana Election Division publishes other manuals and guides to assist local election administrators implement procedures found in Indiana election law.

County Filings Using Email and Fax to File with Indiana Election Division

When a circuit court clerk, county voter registration official, or county election board is required by Title 3 to make a filing to the Indiana Election Division or Indiana Election Commission, the filing may be made by fax or email. This specifically includes amendments to a county voter center plan. This does not apply to candidate nomination petitions described in IC 3-8-2, IC 3-8-3, or IC 3-8-6 that a county voter registration official may forward to the election division or election result documents described in IC 3-12-5. (IC 3-5-4-1.7; IC 3-11-18.1-15)

Prohibitions Against Local Government from Receiving Certain Donations or Expending Funds from Certain Persons or from Joining or Participating in Certain Organizations

A local government may not accept private money donations or receive or expend funds received from a person for preparing, administering, or conducting elections or employing individuals on a temporary basis for the purpose of preparing, administering, or conducting elections, including registering voters. However, a local government may receive or expend funds from the state or from the federal government to prepare for, administer, or conduct elections (IC 3-5-3-1(d))

A local government that conducts or administers an election may not join an organization or participate in a program (other than a program authorized by local, state, or federal government) with a person who directly finances preparing or conducting elections or employs temporary workers for the purpose of preparing, administering, or conducting elections, including registering voters. (IC 3-5-3-1(e))

CANDIDATE & OFFICE HOLDER INFORMATION

Candidate Qualifications, Generally

All candidates, regardless of party affiliation (major party, minor party, independent, write-in), must meet the same qualifications before the candidate may run for a particular office or fill an elected office vacancy. **The information below is not exhaustive!** Qualifications by office are detailed in the current version of the *Indiana Candidate Guide*, published by the Indiana Election Division. Specific references to candidate qualifications can be found in Indiana Code 3-8-1 and the Indiana State Constitution. Election administrators may find it helpful to distribute relevant parts of the current version of the *Indiana Candidate Guide* to interested office seekers. **Candidates should consult with their own personal attorney to be fully and properly advised.**

Registered Voter Requirement

Except for certain city and town judges, a person is **not** qualified to run for a state office; a state legislative office; a local office; or a school board office unless the person is **a registered voter IN THE ELECTION DISTRICT the person seeks to represent** not later than the deadline set by statute for filing a declaration of candidacy, petition of nomination or certificate of nomination. (IC 3-8-1-1) This includes candidates seeking a pro tempore appointment to fill an office vacancy, which is covered later in this chapter. A candidate for U.S. Senate or U.S. Representative is not required to be a registered voter in the state of Indiana; rather, they must be an inhabitant of the state when elected. (Article 1, Section 2, Clause 2 and Article 1, Section 3, Clause 3 of the Constitution of the United States; IC 3-8-1-7; IC 3-8-1-8)

If a voter registration application form is received by county voter registration officials and the person is registering to vote for the first time or needs to update a residence address, the application is considered "pending" for a period of seven (7) days once entered in SVRS and an acknowledgement card is printed. In other words, a voter whose application is in "pending" status is not considered a registered voter at the new residence address for at least seven days after the county processes the form. A person considering a run for office who needs to update their registration or register to vote for the first time should take care to submit documents in a timely fashion to avoid issues relating to "pending" status. Please note: The voter acknowledgement card must be mailed to the individual; it cannot be hand-delivered. If the card is returned as undeliverable to the county within the 7-day pending period, the registration application must be rejected.

Residency Requirements

Indiana law requires many candidates, but not all, seeking state and local office to have resided in their election district for a specific time period, such as one (1) year or six (6) months prior to the general election. See the current version of the *Indiana Candidate Guide*, published by the Indiana Election Division, for more specific information for each office. Candidates seeking federal office are not required to reside in their election district; rather, Article 1 of the U.S. Constitution requires a person elected to serve a U.S. Representative or U.S. Senate to be an inhabitant of Indiana when elected (that is, the November general election date).

One of the most common candidates disputes that county election boards deal with concerns whether (or for how long) a candidate has resided in the election district. Until recently, candidates and election boards had only a few, and sometimes contradictory, state laws to guide them on this issue. A long-time favorite was IC 3-7-1-9, which

stated: “The residence of an unmarried man (changed to “person” in 1987 and repealed in 1995), is where the man usually sleeps.” This language is now found in IC 3-5-5 (along with other state laws for determining residence). Under IC 3-5-2.1-90, **“residence” means the place where a person has the person’s true, fixed, permanent home and principal establishment, and to which place the person has, whenever absent, the intention of returning.** Under IC 3-5-5-2, a person’s residence may be established by...origin or birth [or] intent and conduct taken to implement the intent.

Although Indiana residency laws still include presumptions that a candidate must overcome to establish a different residence, **a county election board will have to determine the facts of each particular situation** to resolve questions regarding any candidate’s residence.

The county election board will need to determine the actual facts in each residency dispute and decide what, if anything, the candidate did to establish the candidate’s residency, if it is called into question. The same process is utilized when a county voter registration office must determine if a ***voter*** resides at the location stated in a voter registration application.

Felony Convictions

Please review IC 3-8-1-5 for state law regarding the impact of a felony conviction on the ability to run for office in Indiana. This state law does not apply to candidates for federal office. Please consult the current version of the *Indiana Candidate Guide* for more information. Note: changes in the Indiana Criminal Code (IC 35) to make “expungement” of certain past felony convictions possible may have an impact on some candidates.

Rule 4.6 of the Indiana Code of Judicial Conduct

A person is disqualified from assuming or being a candidate for an elected office if the person is a nonjudicial court employee who would violate Rule 4.6 of the Indiana Code of Judicial Conduct by being the candidate of a political party for nomination or election to an elected office or political party office. (IC 3-8-1-5)

Department of Homeland Security Employees Prohibited from Being Candidates

A person who is a full-time employee of the Indiana Department of Homeland Security is prohibited from participating in political activities under IC 10-14-3-26 and is not qualified be a candidate for statewide, state legislative, judicial, or local office. This prohibition does not apply to party offices such as precinct committeeman and state convention delegate. (IC 3-8-1-5)

Hatch Act or Little Hatch Act

The Hatch Act is a federal law that prohibits certain federal government employees from running for partisan elected office and engaging in certain partisan political activity. The “Little Hatch Act” prohibits certain state and local government employees from engaging in certain partisan political activity.

Before becoming a candidate for partisan elected office, a person who is a federal government employee, or a state or local government employee who works in connection with programs funded (in whole or in part) by federal funds, loans, or grants or whose salary entirely funded by the federal dollars should determine if the Hatch Act or Little Hatch Act prohibit them from doing so. However, in recent years, these federal laws have been amended to restrict their application to local government employees whose salary is *entirely* paid for with federal funds and no longer apply to employees whose salaries may be only partially paid by federal funds.

If a person is prohibited under the Hatch Act or Little Hatch Act from being a candidate for partisan election office,

then they are disqualified from becoming a candidate or assuming elected office. (IC 3-8-1-5)

Questions on whether the Hatch Act or Little Hatch Act applies to or disqualifies a candidate should be directed to the U.S. Office of Special Counsel at 202-804-7002, 1-800-854-2824, or HatchAct@osc.gov

Prohibition on Government Employment for Some Officeholders

A government employee of the same unit of **local** government cannot hold an elected office. (IC 3-5-9) This does not prevent the individual from being a candidate; rather, should the government employee be elected to serve in an office of the same unit of government, the individual automatically resigns from government employment when taking elected office. Alternatively, if an elected official becomes an employee of the same unit of local government, then the individual is considered to have resigned as an elected official. (IC 3-5-9-5)

> **Example 1**: Sally works for the county's highway department, runs for county council, and is elected by the voters to serve on the council. Since she is a county employee, Sally resigns from her position on the county highway department when she assumes her elected position on the council.
>
> **Example 2**: Joe works for the township trustee, runs for county council, and is elected to serve on the council. Township government is not the same unit of government as the county council. Joe may continue to work for the township trustee after he assumes his elected position on the council.
>
> **Example 3**: William was elected as County Auditor and is in the middle of his first term of office. He accepted an offer to work for the County Treasurer. When he started work for the County Treasurer as an employee, he effectively resigned as County Auditor and created an elected office vacancy.

While this law does not add qualifications to run for office, it does limit the employment options of locally elected officials. If an employee of a local unit of government takes office within the same unit, the employee's employment is terminated. Conversely, if an elected official accepts employment within the same unit, the individual has effectively resigned from their elected office. A full-time paid firefighter may not assume or hold a position at any level of government that receives fire protection services from the department in which the firefighter serves. Some exemptions may apply. (IC 3-5-9-4; IC 3-5-9-7)

Further, an individual who is employed as a teacher or as a noncertificated employee (as defined in IC 20-29-2-11) of the school corporation may not be a member of the governing body of the school corporation. (IC 20-26-4-11)

Holding More Than One Lucrative "Office"

The Indiana State Constitution (Article 2, Section 9) provides that **no person is eligible to hold more than one lucrative office at the same time.** This restriction applies to **any office, whether appointed or elected, but does not apply to a person who is merely an "employee" and not an "officer."**

The Attorney General's office has opined that elected or appointed **offices** are "created by law instead of contract." Duties of someone holding an office, ***as opposed to employment***, include performance of some sovereign power for the public's benefit.

The Supreme Court has defined **"lucrative office" as any office to which there is attached compensation, regardless of whether the compensation is paid directly to the individual.** The definition of "lucrative office" does not depend upon the ***amount*** of compensation affixed to it or whether the office holder ***accepts*** any compensation. (Refer to Attorney General Opinion #91-14.)

Not all persons who work for a government are considered officeholders. Instead, they may be considered employees. For example, a county commissioner is an officeholder. The receptionist at the county highway garage office is an employee. Sometimes, whether an individual is an officeholder, or an employee is not as clear cut.

State statutes and Attorney General Opinions can shed light on this question in some cases. Indiana Code 5-4-1-1(c) and IC 5-6-4-3 provide that the position of an appointed deputy of an officer of a political subdivision or of a judicial circuit (a deputy county auditor, a deputy mayor, or a deputy circuit court clerk, for example) is not considered to be a "lucrative office." Likewise, a county attorney is not considered a lucrative officeholder. (IC 36-2-2-30 and 36-2-3-10) In addition, a precinct election officer is not considered a lucrative officeholder (IC 3-6-6-37(c)). The General Assembly has also provided that a notary public is **not** a "lucrative office". (IC 33-42-2-7)

***A person who assumes a second lucrative office is considered to have resigned from the first office automatically when the person begins serving in the second office. ***

As of the date of publication of this manual, the Indiana Attorney General posted the "Dual Office Holding Guide" online: https://www.in.gov/attorneygeneral/files/DOH-Guide_2024.pdf The resources found on this site may be helpful to candidates and local election administrators.

"Sore Loser" Law

A person who is defeated at a primary election, state convention or town convention **is not** eligible to become a candidate **for the same office** in the next general or municipal election. **This *"sore loser"* provision does not apply to a person who is selected to fill a ballot or office vacancy by the political party that the person affiliated with by voting in the most recent primary election held by that party (or who did not vote in that primary but is certified as a member of the party by the county chair of the party in which the person resides)**.

The "sore loser law" also applies to a defeated candidate who wants to be a write-in candidate for the same office. (IC 3-8-1-5.5; IC 3-13-1-19)

Statement of Economic Interests

Candidates for statewide office, state legislative office, judicial office, prosecuting attorney, and local office are required to complete and file a statement of economic interests with the appropriate agency before filing a declaration of candidacy. A file-stamped copy of the statement of economic interests or a receipt or photocopy of the receipt must be attached to the declaration at the time of filing. The Indiana Election Division and the county clerk may not accept a declaration of candidacy without attached proof the statement of economic interests has been filed. (IC 3-8-1-33; 3-8-2-11)

The chart below identifies where a candidate may obtain the appropriate statement of economic interests form for the office sought by the candidate. The Indiana Election Division does not prescribe the form for statewide, state legislative, and judicial candidates; rather, the identified offices in the right-hand column create and make available

the required forms.

For statewide candidates, the Office of Inspector General requires submission of these statements through the office's website and provides an email receipt. An email from the inspector general for candidates seeking nomination for statewide office at a Democratic, Libertarian, or Republican Party state convention, is sufficient documentation that the required economic interest statement has been filed by the candidate. (IC 3-8-7-8) A copy of the receipt or file-stamped statement of economic interests must be attached to a declaration of candidacy at the time of filing.

For judges and prosecuting attorneys, the Commission on Judicial Qualifications requires its statement of economic interests to be filed online through the Indiana Courts Portal and provides an email receipt. An email from the judicial qualifications commission for Libertarian Party candidates seeking nomination for judicial office at a state convention is sufficient documentation that the required economic interest statement has been filed by the candidate. (IC 3-8-7-8) A copy of the receipt or file-stamped statement of economic interests must be attached to a declaration of candidacy at the time of filing.

For Indiana House and Senate candidates, the Indiana General Assembly posts the blank version of its economic interests form online at www.iga.in.gov, though those forms must be printed and filed with the Clerk of the House or Secretary of the Senate, who then provides a receipt to the individual showing the form has been filed. A copy of the receipt or file-stamped statement of economic interests must be attached to a declaration of candidacy at the time of filing.

The CAN-12 Statement of Economic Interests form is used by candidates seeking local office or serving on a school board and is available through the county election board or on the Election Division's website. State law requires the candidate to complete a CAN-12 with information from the preceding year (for example, 2025 information on a CAN-12 filed to run for an office on the 2026 ballot). (IC 3-8-9-8)

Type of Candidate	**Where to File Statement of Economic Interests**
Statewide	Office of Inspector General of Indiana
Indiana House of Representatives	Principal Clerk of the House
Indiana State Senate	Secretary of the Senate
Judicial Officers, including Prosecuting Attorney	Indiana Commission on Judicial Qualifications
Local (county, city, town, township, school board)	County Clerk

Please note candidates for federal office (U.S. House, U.S. Senate) have separate rules for filing a statement of economic interests with the Principal Clerk of the U.S. House or the Secretary of the U.S. Senate. The Federal Election Commission (FEC) is the best resource for questions by these candidates.

Filing a statement of economic interests applies to a candidate seeking to fill a ballot vacancy and may apply to a candidate seeking a pro tempore appointment to fill an elected office vacancy. Please consult the "Elected Office Vacancies" section for more details.

A statement of economic interest form must be filed for the elected official to receive a salary, whether the candidate was elected to serve a term in office or selected to fill an elected office vacancy for the remainder of the term. (IC 3-8-9-10)

Candidate Names and Nicknames

An individual filing as a primary election, convention, minor or independent, or write-in candidate must list the individual's name on the candidate filing **in the same form as the individual wants the name to appear on the ballot and the candidate's name is permitted to appear on the ballot under IC 3-5-7.** (IC 3-8-2-2.5; IC 3-8-2-7; IC 3-8-5-10.5; IC 3-8-6-5; IC 3-8-7-10; IC 3-10-2-15)

A candidate is only permitted to use certain "designations" for the form in which the candidate's legal name appears on the ballot. To implement this requirement, a candidate's "designation" is defined as referring to the name, nickname, initial, abbreviation, or number used to identify the individual. However, a designation may not be a title or degree, or imply a title or degree. A candidate's "name" refers to any of the following: (1) the candidate's given name; (2) the candidate's surname; and (3) the candidate's middle name. A nickname must be a name by which the candidate is commonly known and may not exceed twenty (20) characters. (IC 3-5-7)

A candidate's nickname is to be placed on the ballot within parenthesis regardless of whether the candidate's nickname was placed in parenthesis, quotation marks, or some other method of indicating the candidate's nickname, on the candidate's declaration or other candidate filing. (IC 3-5-7-5)

Forms used to place a candidate on the ballot will now specify how the candidate's ballot name should appear on the ballot using specific name designations permitted under IC 3-5-7-5. This applies to:

- a primary election candidate using the CAN-2 form;
- a candidate nominated at a Democratic, Republican, or Libertarian state party convention using the CAN-23 certificate of nomination form;
- a candidate nominated at a Libertarian party county, city, or town convention using the CAN-22 certificate of nomination form;
- a school board candidate using the CAN-34 petition of nomination form;
- an independent or minor party candidate using the CAN-19 or CAN-21 petition of nomination form;
- a minor party replacement candidate using the CAN-40 form;
- a small town convention candidate using the CAN-16 form;
- a write-in candidate for elected office using the CAN-3 form;
- a write-in candidate for school board using the CAN-26 form; and
- the CAN-18 small town convention certificate of nomination form.

The law also requires that candidates filling a ballot vacancy for the November election specify the candidate's first name, middle name, and surname on the candidate selection form filed by the political party filling the ballot vacancy. This will assist county election administrators in meeting the ballot layout requirements under state law.

More information about the candidate's name requirements can be found in the current version of the *Candidate Guide*.

Major Party Candidates

A political party obtaining the highest or second-highest number of votes cast for its candidate for Indiana secretary of state at the last election held for the secretary of state's office is considered a "major party." (IC 3-5-2.1-62) Thus, the Democratic Party and Republican Party are considered "major parties of the state" based on the results of the

2022 election for Indiana Secretary of State.

The two major political parties conduct a primary election to nominate most of their candidates for November's general election and elect individuals to political party office (for example, precinct committeeman and state convention delegate). For this reason, Indiana voters are permitted to only vote in one party's primary election and are asked their ballot preference: Democratic or Republican.

Further, candidates seeking to run as a Democratic or Republican Party candidate in the primary election (or for "small" town office where no primary is conducted in an odd-numbered year and a town party convention may be held to choose the party's nominee IC 3-8-5-10.5) must have either 1) selected the ballot of the political party they claim affiliation with in the last two (2) Indiana primary elections the candidate voted in; or 2) be certified as a member of that party by the county chair of the county where the candidate resides.

NOTE: If a primary election candidate cast a nonpartisan ballot at an election held at **either** of the two (2) most recent Indiana primary elections in which the candidate voted, a certification by the county chairman is required to be attached to the primary election candidate's declaration of candidacy in order to comply with the political affiliation requirement. (IC 3-8-2-7)

This voting history requirement does not apply to candidates nominated at a Democratic, Republican, or Libertarian state convention, candidates nominated at a Libertarian Party county, city, or large town convention, or to candidates filling ballot vacancies. However, the law changed on July 1, 2025, and now applies to candidates seeking to fill an elected office vacancy (see the "Ballot (Candidate) and Elected Office Vacancies" chapter later in this *Manual* for more information.)

If using the option to file a chair's certification, a written certified statement from the chair is to be attached to the declaration of candidacy. There is no state prescribed form for the county chair's certification of a candidate, though the Election Division has a sample document that may be requested from the office.

Most Democratic and Republican party candidates seeking their party's nomination in the May primary election are required to file a declaration of candidacy and statement of economic interests for their name to appear on the ballot. In 2028, Democratic and Republican candidates for U.S. President, U.S. Senate must also collect at least 500 signatures of registered voters in each of Indiana's nine (9) Congressional districts, for a minimum total of 4,500 signatures to gain access to the primary election ballot. (Please consult the current versions of the *Indiana Candidate Guide* and the *Indiana Election Calendar* for specific details, including filing deadlines.)

In the May 2026 primary election, the Democratic Party will elect precinct committeemen and state convention delegates, while the Republican Party will elect only state convention delegates. (Elections for Republican precinct committeemen will be held in 2028.) Candidates seeking to run for these political party offices must file a CAN-37 declaration of candidacy for each party office sought. In other words, a person would file one CAN-37 to run for Democratic Party precinct committeeman and one CAN-37 to run for the Democratic Party state convention delegate in the 2026 election cycle.

Democratic and Republican candidates who are certified winners of their party's primary election qualify for November's general election ballot. Additionally, some statewide offices are nominated at the party's state convention and others will be nominated to fill a ballot vacancy, and these Democratic and Republican party candidates are placed on November's ballot.

NOTE: Candidates for local office **must** attach the CAN-12 statement of economic interests to the CAN-2 (used in even-numbered years) or CAN-42 (used in the municipal election year) declaration of candidacy form. The clerk must reject a CAN-2 or CAN-42 declaration of candidacy filing where the statement of economic interests is missing. (IC 3-8-1-33) The CAN-12 requirement does not apply to party offices (for example, precinct committeemen and state convention delegate). Candidates for federal, statewide, state legislative, and judicial office, including candidates for prosecuting attorney, use statement of economic interest forms specific to their office. See "Statement of Economic Interests" section of this *Manual* for details.

Please consult the current version of the *Indiana Candidate Guide* and the *Indiana Election Calendar* for specific details, including filing deadlines.

Candidates for Presidential Electors and Alternate Presidential Electors

The Democratic, Libertarian, and Republican parties must certify their list of candidates for presidential electors, alternate presidential electors, and their candidates for President and Vice President of the United States by noon, September 1 in the year the office of President is on the ballot (2028, 2032, etc.). (IC 3-10-4-5)

Libertarian Candidates

A person is considered a minor party candidate if the person is affiliated with an organized party that did not obtain the highest or second-highest number of votes cast for Indiana secretary of state at the last election held for the secretary of state's office. (IC 3-5-2.1-62)

If a minor party received at least two percent (2%), but less than ten percent (10%) of the vote cast for Indiana's Secretary of State at the last election held for that office, the party may nominate candidates for the general election by conducting a state, county or municipal convention. (IC 3-8-4-10; IC 3-8-5-17; IC 3-10-2-15; IC 3-10-6-12) The **Libertarian Party** falls into this category of "minor party of the state" based on the results of 2022 Secretary of State election.

Except for U.S. President and small town offices where no primary was conducted, the Libertarian Party nominates their candidates for federal, state, and judicial office at a state convention. (IC 3-8-4-10) Libertarian Party candidates are **not** required to file declarations of candidacy with the Election Division or county election board, depending on which agency accepts the filing. Instead, the Libertarian Party state chair and secretary must certify the Party's nominees for federal, statewide, state legislative, or judicial office, including prosecuting attorney, to the Election Division not later than **noon (Indianapolis time), July 15 in the year the election is held. For local offices, the deadline to certify the Party's nominees is noon (local prevailing time), July 15 in the year the election is held.**

The Libertarian Party may fill ballot vacancies where no candidate was nominated at their state convention. Please see the "Candidate Vacancies" section of this *Manual* for more information. Please consult the current version of the *Indiana Candidate Guide* and the *Indiana Election Calendar* for specific details, including filing deadlines.

"Small" Town Conventions for Democratic, Libertarian & Republican Candidates

"Small" towns, which are those towns with a population of less than 3,500, can move their elections to even-numbered years, which many have chosen to do for cost savings and to leverage the experience of county election administrators to conduct their local elections.

Beginning January 1, 2025, Democratic and Republican candidates for "small town" offices must be nominated at the May primary election should the "small town" exercise its right to move some or all of their elections to an even-numbered year. Democratic and Republican candidates for these local offices will file their declaration of candidacy and statement of economic interests when the filing period opens for the primary election. The Democratic and Republican parties can also fill ballot vacancies if no candidate filed to run in the primary election for a "small town" office.

The Libertarian Party will continue to nominate their candidates at a town convention in an even-numbered year. A convention is only needed if an office is contested and if it is necessary to hold a town convention. In this scenario, the Libertarian Party candidates for "small town" offices will file the CAN-16 declaration of candidacy and the CAN-12 statement of economic interests with the county clerk not later than noon, August 1. (IC 3-8-5-10.5)

In odd-numbered years, a "small" town is presumed to nominate Democratic, Libertarian, and Republican candidates at a town convention, if there is a contest for a nomination within that party, unless the town council adopts an ordinance to move to a primary election model in the municipal election year. In this scenario, the Democratic, Libertarian, and Republican Party candidates for "small town" offices will file the CAN-16 declaration of candidacy and the CAN-12 statement of economic interests with the county clerk not later than noon, August 1. (IC 3-8-5-10.5)

If all the offices are uncontested within the political party, then those candidates are the nominees for the November election. If there is a contest in one or more of the offices within the political party, then a town convention must be called to determination which candidate will be the party's nominee.

State law requires a town convention to be held a sufficient number of days prior to the noon, August 28 deadline to file a certification of candidate selection (CAN-18) with the circuit court clerk. If a convention recesses, it must reconvene prior to the noon, August 28 certification deadline. (IC 3-8-5-2; IC 3-8-5-2.5; IC 3-8-5-10; IC 3-8-5-12)

A copy of the CAN-18 must be filed by the circuit court clerk with the town clerk-treasurer not later than September 4 before the election (IC 3-8-5-13)

The party chairs may also wish to review IC 3-8-5-11 and consult with their state political parties to determine if any party rules for the town nominating convention have changed.

Minor Party and Independent Candidates

A person is considered a minor party candidate if the person is affiliated with an organized party that did not obtain the highest or second-highest number of votes cast for Indiana Secretary of State at the last election held for the secretary of state's office. (IC 3-5-2.1-62) As noted above, however, the Libertarian Party has separate ballot access rules because since their candidate for Secretary of State in 2022 race achieved at least 2% but less than 10% of the

votes cast, and the paragraphs below do not apply to members of the Libertarian Party running for office.

A person is considered an independent candidate if the candidate is a person who is not affiliated with **any** political party. (IC 3-5-2.1-53) Although other minor parties and independents may hold conventions to nominate candidates, these nominations are not recognized in Indiana for purposes of winning a place on the general election ballot. A minor party (other than the Libertarian Party), or independent candidate in Indiana is nominated for placement on the general election ballot by **petition of nomination.**

The petition process noted below is required if the minor party or independent candidate desires to have their name printed on the ballot. See "Write-In Candidates" below for more information about how an independent or minor party candidate can file for office but not have their name printed on the ballot.

To be nominated by this method, the candidate circulates a petition of nomination, acquiring a number of signatures that is equal to two percent **(2%) of the total vote cast in the last election for secretary of state in the election district that candidate seeks to represent.** (IC 3-8-6-3)

NOTE: The appendix of the *Indiana Candidate Guide* contains calculations from the 2022 Secretary of State's race by county to establish the number of signatures an independent or minor party candidate would need to gather in a countywide or statewide contest. However, most election districts are not county-wide. Therefore, an independent or minor party candidate exploring a run for U.S. House, state legislative, office, or judge or prosecuting attorney should consult with the Indiana Election Division to determine the minimum number of certified signatures needed to qualify for the ballot. If exploring a run for local office (other than judge or prosecuting attorney), a candidate should consult with the county election board to determine the required number of signatures.

For local election districts that are not countywide, local election officials must first identify which precincts are contained within the election district the independent or minor party candidate desires to run. Next, cross-reference the identified precincts in the election district against the 2022 general election precinct level results for the county, specifically the total number of votes cast for all candidates for Secretary of State in the precincts that are part of the election district. (Please note state law requires the 2% calculation be made against **all** votes cast for **all** SOS candidates, not just the two major party candidates or the winner, but for all major party, Libertarian, minor party/independent, and declared write-in candidates who filed to run and qualified for the November 2022 election in the office of Secretary of State.)

The total number of votes cast for all SOS candidates within the election district is then multiplied by 2% to reach the minimum number of certified signatures required for an independent or minor party to qualify for the general or municipal election ballot. Should the total number of required signatures end in a decimal (for example, 101.5), then local election administrators should always round down (for example, 101). (IC 3-8-6-3(b))

NOTE: When an independent or minor party candidate seeks to run for an office in an election district that is within one precinct AND the election district does not include the entire precinct, then the candidate is only required to collect five (5) signatures of registered voters within the election district on the candidate's petition of nomination form in order to be certified as a candidate for the office at the general or municipal election.(IC 3-8-6-3)

The Indiana Election Division prescribes two separate forms to be used by minor party or independent candidates who wish to petition for placement on the ballot in an even-numbered year. The CAN-19 form will serve as the petition for candidates for state level offices in the November general election (federal offices, statewide offices, state legislative offices, and judicial offices (including prosecuting attorney)), which file with the Indiana Election Division

after signatures are processed by county voter registration offices. The CAN-21 is used as the petition for minor party or independent candidates for all other local offices.

A CAN-19 or CAN-21 used in 2026 or 2028 (or CAN-44 petition used in 2027) may only include the name of one independent candidate, as an independent candidate or candidates are not affiliated with a bona fide political party. A CAN-19, CAN-21, or CAN-44 petition may include multiple names of minor party candidates, assuming those candidates are affiliated with the same political party and running for statewide offices or running for office in the same political subdivision (county, city, town, or township). (IC 3-8-6-4) The most recent approved version of this form must be used by these candidates. (IC 3-5-4-8)

For example, the Whig Party is a minor party in Indiana and are soliciting signatures for one candidate for city dogcatcher and two candidates for city council at-large. These three candidates can place their name at the top of the petition of nomination form since they are all 1) affiliated with the same political party (Whig) and 2) running for office in the same political subdivision (city). The petitions signatures collected for the citywide candidates would be reviewed and any certified signatures would "count" toward the totals needed for each of the three candidates listed on the petitions.

However, the Whig Party also wants to run a candidate for county clerk. The candidate for county clerk may not be on the same petition form as the candidates for town office because these offices are in different political subdivisions (county vs. town).

A candidate's name cannot be placed on the ballot if the petition does not meet the following statutory requirements under IC 3-8-6-5. The petition of nomination (forms CAN-19, CAN-21, or CAN-44) must include the following:

1) The name of the candidate (as permitted by IC 3-5-7), and address, including the mailing address if different from the residence address of the candidate.
2) The office the candidate is seeking.
3) The information required under IC 3-10-4-5 if the petition nominates candidates for presidential electors.
4) The statement that the people signing the petition are registered voters, qualified to vote for the candidate.

The CAN-19, CAN-21, or CAN-44 form may also designate a brief name, symbol, or principle that the candidate represents.

The candidate then files the petition of nomination with the county voter registration office (usually the clerk or board of voter registration), along with a CAN-12 Statement of Economic Interests. However, if the board of voter registration office is separate from the office of the circuit court clerk, then the CAN-12 form need not be filed with the board of registration, but instead must be included with the certified petitions filed with the clerk. (IC 3-8-9-5(1)(B))

The clerk or board of registration must review the petitions to ensure the petition carrier affidavit is complete. If any information on the petition carrier affidavit is missing, the county is to make an attempt to contact the petition carrier, who may correct the affidavit not later than the deadline for filing petitions with the county voter registration official, which is noon, June 30. If the affidavit is not complete by the deadline, then the signatures on the petition page with the incomplete petition carrier affidavit must be rejected and cannot be certified.

After the petition carrier affidavit review, the clerk or board of voter registration then certifies how many individuals who have signed the petition are registered voters of the election district. An individual who signs a petition of nomination **must** be a registered voter and able to vote for the candidate submitting the petition *when the petition is processed by the county voter registration office*. (See the current version of the *Indiana Voter Registration Guidebook*

for processing details.)

Additionally, state law forbids the use of the type of electronic signature used in business transactions covered by the Uniform Commercial Code (IC 26-2-8-106) to be used to sign election petitions such as petition used by Democratic and Republican candidates who file to run for President of the United States, United States Senator, and Governor in the May primary election; petition of nominations for school board candidates; independent or minor party candidates for elected office, and public questions. (IC 3-5-4-1.7) The county would reject any petitions where the voter used an electronic signature.

The petition must be filed with the appropriate county voter registration office for verification of petition signatures during the applicable filing period**.** (IC 3-8-6-10) Please consult the current version of the *Indiana Candidate Guide* or Election Calendar published by the Indiana Election Division for the specific deadlines.

After verification by the county voter registration office, a certified petition of nomination is filed with the same office in which a declaration of candidacy is filed under IC 3-8-2. The petition of nomination must be accompanied by the candidate's written consent to become a candidate (CAN-20 in 2026 or 2028, or CAN-45 in 2027), which includes the following on the form:

1) A separately initialed statement that the candidate has attached a copy, receipt, or photocopy of a statement of economic interests. (CAN-12)
2) A separately initialed statement that the candidate understands that if the candidate is elected to office, the candidate may be required to obtain and file an individual surety bond.
3) A separately initialed statement that the candidate understands that if the candidate is elected to office, the candidate may be required to successfully complete training or have attained certification required to serve in the office.
4) A separately initialed statement that the candidate is aware of the provisions regarding IC 3-9 and the reporting of contributions and expenditures and agrees to comply with IC 3-9.
5) A statement that the candidate, if subject to Indiana's campaign finance filing requirements, has filed a statement of organization (CFA-1) as required by law (or is aware of the requirement to do so not more than noon, seven (7) days after the petition filing deadline).

The deadline to file <u>certified</u> petitions of nomination along with the candidate's consent and statement of economic interests in **noon (local prevailing time), July 15** before the election, pursuant to state law. Please the *Indiana Election Calendar: Election Administrator's Edition* for more information.

A candidate may withdraw a petition of nomination not later than **noon (prevailing local time), July 15,** before the General or Municipal Election. (IC 3-8-6-13.5) Candidate petitions may also be challenged for failure of petition carriers to follow IC 3-6-12.

Independent and minor party candidates for federal, statewide, state legislative, and judicial office, including prosecuting attorney, will file with the Indiana Election Division the petitions certified by the county voter registration official, a declaration of candidacy, and a receipt showing the statement of economic interests has been timely filed with the appropriate agency. The Co-Directors of the Election Division will certify to the Secretary of State the required number of signatures to achieve ballot access and the number of certified signatures filed with the Division. The Secretary of State will then certify or deny the candidate's placement on the ballot.

Independent and minor party candidates running for local office will file certified petitions and a declaration of

candidacy with the county election board. The county clerk must make the determination whether the candidate received a sufficient number of signatures and certify or deny the candidate's filing. If the circuit court clerk certifies the candidate's filing, then the clerk must send a CAN-5 form to the candidate. (IC 3-5-4-1.3) If the circuit court clerk denies the candidate's certification, then the clerk shall notify the candidate immediately by certified mail. (IC 3-8-6-12(d)(h))

A candidate may file a CAN-1 challenge to dispute the county voter registration official failure to certify individual signers as qualified petitioners or the determination by the clerk that the petition has an insufficient number of signatures. The candidate may present their evidence at a hearing called by the county election board or Indiana Election Commission, wherever the petition of nomination is filed. (IC 3-8-1-2(f); IC 3-8-2.5-6)

If the county voter registration official certifies a petition that is lacking the required petition carrier certification, a qualified person (candidate, party chair, or voter in the election district) may file a CAN-1 challenge, which requires a hearing to be conducted by the county election board or Indiana Election Commission, wherever the petition of nomination is filed. (IC 3-6-12-10)

Please consult the *Indiana Candidate Guide* and the *Indiana Election Calendar* for specific details, including filing deadlines.

Fraudulent Petition of Nomination

If a person receives a completed petition of nomination that the person has reason to believe is false, fictitious, or fraudulent, the person must deliver it to the county election board within ten (10) days after receiving the petition along with a statement setting forth the reasons why the person believes the petition is fraudulent. The county election board shall hold a hearing and determine if an election law violation has occurred under IC 3-6-5-31. (IC 3-8-2-24)

Write-In Candidates

A person may run as a write-in candidate. A write-in candidate for any elected office may not, on the candidate's declaration to be a write-in candidate, claim affiliation with a political party in the state whose nominee for Secretary of State received at least 2% of the total votes cast in the most recent election for the office of Secretary of State, which are the Democratic, Libertarian, or Republican parties. (IC 3-8-2-2.5)

Votes for write-in candidates are only counted if the write-in candidate filed a declaration of intent to be a write-in candidate before the election not later than the deadline to do so set by state law. The declaration must be filed with the same person authorized to place names on the ballot. For candidates running for local office, the CAN-3 in 2026 or 2028 or CAN-51 in 2027 along with a CAN-12 Statement of Economic Interests, would be filed with the county election board. For those candidates running for federal, statewide, state legislative, or judicial office, including prosecuting attorney in even-numbered years, the CAN-3 and the specialized statement of economic interests is filed with the secretary of state or Indiana Election Division. These forms must be filed during the applicable filing period**.** **(**IC 3-8-2-4(b)) Please see the *Indiana Candidate Guide* or Election Calendar brochure published by the Indiana Election Division for more details.

A write-in candidate must meet the same qualifications as any other candidate and must follow Indiana campaign finance laws.

A person <u>may not</u> be a write-in candidate during a primary or for a political party office, which are precinct

committeeman or state convention delegate. (IC 3-8-2-2.5) A write-in candidate may withdraw not later than noon (prevailing local time), July 15. (IC 3-8-2-2.7(a))

The Election Division certifies the names of declared write-in candidates (and political party affiliation, if any) to the circuit court clerks for those candidates that file with the Election Division. Except in counties where optical scan ballot cards are tabulated at a central location, the circuit court clerk must provide each inspector with a list of declared write-in candidates for state and local offices so that the precinct election officials (boards) will know which persons are **officially declared** write-in candidates. (IC 3-8-7-30(b))

The write-in candidate's name is NEVER printed on the election ballot!!!

In tabulating write-in votes, the county election board may encounter numerous variations in how the name of a candidate is written in by voters. While certain legal requirements must be met, the intent of the voter must be the primary factor in determining the validity of any write-in vote. In addition to voter intent, the following guidelines must be applied when counting write-in votes (IC 3-12-1-1.7):

1) Only votes cast for declared write-in candidates may be counted and certified. **EXCEPTION: If a write-in vote is cast for a candidate who IS on the ballot FOR THE SAME OFFICE, then the write-in vote is counted. For example, if a write-in vote for GOVERNOR is cast for one of the parties' candidates for Governor already on the ballot in 2028 must be counted for the candidate the voter indicated as a write in**.

2) A write-in vote cast in the appropriate place on the ballot is not a distinguishing mark that invalidates the ballot.

3) A write-in vote may be printed in ink OR lead pencil. The use of stickers, labels, or rubber stamps, etc., is not permitted.

4) Abbreviations, misspellings, or other minor variations do not invalidate a write-in vote ***if the intent of the voter can be ascertained.***

5) **For military and overseas Federal Write-in Absentee Ballots (FWAB),** if a person writes in the name of a political party in a general or municipal election, the vote is counted for a declared write-in candidate of that party.

EXAMPLE: The declared write-in candidate list shows "John Doe, Garden Party candidate for Governor." A military or overseas voter writes in "GARDEN PARTY" under the office of Governor. The ballot is counted as a vote for John Doe, even though the voter did not write in John Doe's name on the ballot.

It is also not necessary for the voter to write-in the title of the candidate's office for the voter's write-in vote to count on an optical scan system if the voter writes-in the candidate's name and the ballot already contains the title of the office. (IC 3-11-13-18)

Please consult the current version of the *Indiana Candidate Guide* and the *Indiana Election Calendar* for specific details, including filing deadlines.

School Board Office

School board offices are on the November ballot in even-numbered general election years. The procedures for selecting school board members are usually set forth in the "school corporation organization plan" adopted by the school corporation during the school consolidation process of the 1950s and 1960s, and as subsequently amended. (IC 20-23; IC 20-23-6; IC 20-23-9)

In certain school corporations, all or some of the school board members are appointed rather than elected by the voters. (IC 20-23-4-28) All school corporations that elect school board members elect those members at the same time as the general election. Some school board members are elected "at large" for the entire school corporation, while others are elected to represent specific **districts** that are only part of the school corporation territory.

On the school board candidate petition of nomination, a candidate must indicate one of the following:

- **the candidate's political party affiliation,**
- **that they are an independent,**
- **that they elect not to disclose any affiliation with a political party, or**
- **that they do not identify as an independent candidate.**

The candidate's selection must be indicated on the ballot next to the candidate's name. If a candidate claims affiliation with a major party, the candidate must have voted in that party's primary in the two (2) most recent Indiana primary elections that the candidate voted in or have certification from the county political party chairman that is attached to the petition of nomination.

A candidate for a school board office must file a statement of economic interests (CAN-12) and petition of nomination (CAN-34). (IC 3-8-2.5-2) The county is required to reject a declaration of candidacy that does not include a statement of economic interest. (IC 3-8-9-6) The statement of economic interest (CAN-12) and petition (CAN-34) are available from the Election Division, the Division's website, and each circuit court clerk's office.

In a metropolitan school corporation, the petition must be signed by ten (10) registered voters residing **in the same board member district** as the nominee. (IC 20-23-7-8.1) In a community school corporation, the petition must be signed by ten (10) registered voters residing within the boundaries of the school corporation. (IC 20-23-4-29.1) Additional petition requirements may apply in some school corporations.

School board candidates may file the CAN-34 petition and CAN-12 during the applicable filing period (see current version of *Indiana Candidate Guide* or Election Calendar published by the Indiana Election Division for details.) The county voter registration official will determine whether the individuals who signed the petition are registered voters within the election district at the time the CAN-34 petition is processed. A candidate may file more than one CAN-34 petition to ensure the certified signature requirements are met, though any form presented after the deadline must be rejected.

For school board candidates, the county clerk of the county in which the petitions were filed will certify or deny the certification. If the clerk with whom the petition was filed certifies the request, then the CAN-5 form is to be mailed to the candidate. (IC 3-5-4-1.3) If the clerk denies certification, then the clerk shall notify the candidate immediately 1)

in person if the candidate files the petition in person; or 2) by certified mail. (IC 3-8-2.5-6)

A candidate may file a CAN-1 challenge to dispute the county voter registration official failure to certify individual signers as qualified petitioners or the determination by the clerk that the petition has an insufficient number of signatures. The candidate may present their evidence at a hearing called by the county election board. (IC 3-8-1-2(f); IC 3-8-2.5-6)

A Democratic or Republican Party school board candidate who claims party affiliation without the two primary vote history or a certification from the party chairman can be challenged and removed from the ballot by the county election board. However, a school board candidate's claimed affiliation with a minor political party, claim as an independent candidate, or selection not to disclose a party affiliation may not be challenged based on party affiliation. (IC 3-8-2.5-7(e))

If the county voter registration official certifies a petition that is lacking the required petition carrier certification, a qualified person (candidate, party chair, or voter in the election district) may file a CAN-1 challenge, which requires a hearing to be conducted by the county election board or Indiana Election Commission, wherever the petition of nomination is filed. (IC 3-6-12-10)

Straight party voting does not apply to school board offices and a voter's straight party selection cannot be counted as a vote for a school board office. A voter must make an individual voting mark for individual school board candidates, which is consistent with previous law when the office was considered non-partisan.

(IC 3-8-2.5-2.5; IC 3-8-2.5-7; IC 3-11-2-9; IC 3-11-2-10; IC 3-11-2-12.9; IC 3-11-7-4; IC 3-11-7-6; IC 3-11-7.5-10; IC 3-11-13-11; IC 3-11-13-14; IC 3-11-14-3.5; IC 3-11-14-14.5; IC 3-12-1-5; IC 3-12-1-7.1; IC 3-12-1-8; IC 3-12-1-15; IC 3-13-11-1; IC 3-13-11-8; IC 3-13-11-9; IC 3-13-11-11; IC 20-23-4-29.1; IC 20-23-4-30; IC 20-23-4-35; IC 20-23-4-44; IC 20-23-7-8.1; IC 20-23-13-12.1; IC 20-23-14-3; IC 20-23-14-5; IC 20-23-14-10; IC 20-23-15-6; IC 20-23-15-12; IC 20-23-17-3; IC 20-23-17-6; IC 20-23-17.2-3.1; IC 20-23-17.2-5; IC 20-23-17.2-10; IC 20-25-3-4; IC 20-26-4-4; IC 20-26-4-4.5; IC 20-26-4-6; IC 20-26-4-7)

Please consult the applicable editions of the *Indiana Candidate Guide* and the *Indiana Election Calendar* for specific details.

Fraudulent Petition of Nomination

If a person receives a completed petition of nomination that the person has reason to believe is false, fictitious, or fraudulent, the person must deliver it to the county election board within ten (10) days after receiving the petition along with a statement setting forth the reasons why the person believes the petition is fraudulent. The county election board shall hold a hearing and determine if an election law violation has occurred under IC 3-6-5-31. (IC 3-8-2-24)

Entry of Candidate Information into SVRS

The circuit court clerk must enter information into the statewide voter registration system (SVRS) regarding each candidate who files for an elected office or a political party office with the circuit court clerk, and to enter information regarding each local public question to be placed on a ballot after certification to a county election board. Remember, public questions are not to be entered into SVRS or printed on the ballot with quotation marks ("") at the beginning

and end of the sentences. (IC 3-5-4-1.3)

County users should take care in entering candidate information and setting up their elections and tying offices to the election within SVRS. The office and candidate names are used for several reports generated by SVRS and are used on the state's election results website found at indianavoters.com/electionresults. Further, the candidate's name in SVRS is used in each election to create the legal notice of the election that is published in the newspaper pursuant to IC 3-8-2-19 and IC 3-10-2-2 and to create the candidate filing confirmation notice as described below.

NOTE: Please be certain to follow the SVRS step-by-steps to set up each election at the beginning of the election cycle. Most office names will already be created to associate to the election type, but, if a new office needs to be created, you must follow the standard naming conventions for creating the office name to ensure uniformity across the state and within the SVRS database.

All Candidates Receive Filing Confirmation Notice

An individual who files a declaration of candidacy is to be sent a confirmation notice (CAN-5 or CAN-11) by the Election Division or the circuit court clerk to a candidate not later than the close of one (1) business day after the filing of a declaration of candidacy, a request for placement on a presidential primary ballot, a certificate of nomination by convention, a certificate of nomination by petition, a certificate of candidate selection to fill a ballot vacancy, or a declaration of intent to be a write-in candidate. In other words, all candidates, regardless of ballot access method, must receive a CAN-5 (local offices) from the county election board or CAN-11 (federal, state, judicial offices, prosecuting attorney) from the Election Division when filing to run for office.

The certificate shall be hand delivered, sent by first class mail, or by electronic mail if an email address has been provided in the document filed with the Election Division or circuit court clerk. (IC 3-5-4-1.3)

NOTE: The certification or denial of certification requirements for school board and for an independent candidate or any minor party candidate using the petition nomination process have not changed. See IC 3-8-2.5-6 and IC 3-8-6-12 for more information.

Where and When to File a Declaration of Candidacy to Run for Office

The following outline summarizes where major political party candidates (Democratic and Republican) file their declarations of candidacy. (Form CAN-2 for candidates to be nominated in a primary, or CAN-42 in a city or town primary in a municipal election year) Current law requires that all candidates affiliated with one of the two major political parties file a declaration of candidacy with the appropriate authority between **one hundred eighteen (118) days and noon (prevailing local time), eighty-eight (88) days** before the primary election. (IC 3-8-2-4; IC 3-8-2-5; IC 3-8-2-6) Different deadlines apply in certain small towns, (IC 3-8-5-10.5; IC 3-8-5-13).

OFFICE	WHERE TO FILE DECLARATION
Federal, state or legislative office (U.S. Senate or U.S. Representative), state offices, state senator, and state representative	Indiana Election Division
Judge of a circuit, superior, probate, or small claims court; prosecuting attorneys	Indiana Election Division
All other county offices	county election board
All township offices	county election board
All city offices (including city judges)	county election board
Town offices (including town judges) in towns over 3,500 population, in Marion County, or towns under 3,500 population which have an agreement with the county election board under IC 3-10-7-4	county election board
School board offices	county election board
Party offices (precinct committeemen and state convention delegates only)	county election board

NOTE: The deadline to withdraw a declaration of candidacy is noon (prevailing local time) eighty-one (81) days before the primary election. (IC 3-8-2-20) Once nominated, the deadline to withdraw as a candidate is noon (prevailing local time), July 15). (IC 3-8-7-28) The deadline for a candidate nominated by petition or for a write-in candidate to withdraw is also noon, July 15. (IC 3-8-2-2.7; 3-8-6-13.5) There are procedures for a disqualified candidate to be removed from the ballot after July 15. (IC 3-8-1-5; 3-8-7-29; IC 3-8-8) A primary candidate who dies before the primary election may be removed from the ballot, depending on whether the ballots have been printed or programmed when the death occurs. (IC 3-11-3-29.4) Please refer to the "Candidate (Ballot) Vacancies" section of this *Manual* for more information.

Nearly all candidates for elected office are responsible for the establishment of a principal candidate's committee and periodic financial disclosure reports throughout an election year. Indiana Code 3-9 pertains to the administration of the campaign finance laws, and IC 3-9-1-1 states that the campaign finance laws apply to all candidates' committees, regular party committees, political action committees and legislative caucus committees. Please refer to the "Campaign Finance Issues" section for more detail. The current version of the *Indiana Campaign Finance Manual* is another good resource, particularly for candidates or members of a campaign finance committee.

Withdrawal of Nominee

A candidate nominated at the primary (May) election may withdraw from the general or municipal election (November) ballot. The nominee must file a notice of withdrawal (the CAN-24 in 2026 and 2028; the CAN-46 in 2027), and file it with the same person with whom a declaration of candidacy is filed. The nominee's notice of withdrawal must be filed not later than noon (prevailing local time), July 15 before a general or municipal election; or forty-five (45) days before a special election. (IC 3-8-7-28)

A candidate nominated by petition may withdraw not later than noon (prevailing local time), July 15 before a general election. (IC 3-8-6-13.5) A write-in candidate may withdraw not later than noon (prevailing local time), July 15 before a general election. (IC 3-8-2-2.7)

NOTE: A person who is disqualified from being a candidate or assuming office due to felony conviction; being a member of the armed forces on active duty and prohibited from being a candidate by the United States Department of Defense; the candidate be subject to the Hatch Act or Little Hatch Act; being a nonjudicial court employee who

would violate Rule 4.6 of the Indiana Code of Judicial Conduct; or being a full-time employee of the Indiana Department of Homeland Security who is prohibited from participating in political activities under IC 10-14-3-26, or has moved from the election district the candidate sought to represent may withdraw at any time. (IC 3-8-7-28; IC 3-8-7-29).

Special procedures and restrictions apply to a candidate for legislative office or statewide office (other than a justice or judge) who attempts to withdraw after noon (prevailing local time), sixty (60) days before the general election. (IC 3-8-8)

A notice of withdrawal (CAN-24 in 2026 or 2028; CAN-46 in 2027) must be filed at any point during the election cycle IF a candidate has been disqualified by operation of law (IC 3-8-1-5) or moves from the election district. (IC 3-8-7-28) The withdrawal deadlines do not apply to a candidate who has been automatically disqualified or who has moved from the election district. (IC 3-8-7-28)

If a candidate does not file a notice of withdrawal but has been disqualified, or has moved and is no longer an active candidate, it is still possible to remove the candidate from the ballot. To do so, the county chairman of the political party with a candidate on the ballot in the election district or another candidate for the same office may file an action in a court of the county. The action must: (1) state that this provision applies to the candidate; and (2) name the affected candidate and public official responsible for placing names on the ballot as defendants.

After a complaint is filed, the court must conduct a hearing within ten (10) days. A candidate vacancy occurs if the court finds in favor of the plaintiff. (IC 3-8-7-29) The Democratic, Libertarian, and Republican parties may fill a ballot vacancy that exists more than thirty (30) days before a general, municipal, or special election (early ballot vacancy) if the party's candidate on the general, municipal, or special election ballot is removed from the ballot during a judicial proceeding.(IC 3-13-1-7)

The Democratic, Libertarian, and Republican parties may also fill a ballot vacancy that occurs during the last thirty (30) days before a general, municipal or special election (late ballot vacancy) if a candidate is disqualified or otherwise removed from the ballot as a result of a death, withdrawal, disqualification, court order, candidate challenge, or judicial proceeding. The political party with the late ballot vacancy must fill that ballot vacancy not later than 6 a.m. on Election Day. (IC 3-13-2-1)

A candidate defeated in the primary election, town convention, or state convention may not be appointed to fill an early or late ballot vacancy by a political party other than the political party in which the person sought nomination during the primary election, town convention, or state convention. (IC 3-13-1-9; IC 3-13-2-10)

For example, a candidate for nomination to an elected office on the Democratic Party primary ballot who was defeated at the primary election would not be eligible to fill a Republican, Libertarian, or other party ballot vacancy for any elected office on the ballot for the general, municipal, or special election held after the primary. Conversely, a candidate for nomination to an elected office on the Democratic Party primary ballot who was defeated at the primary election would only be eligible to fill a ballot vacancy for the Democratic Party.

Please see the "Ballot (Candidate) & Elected Office Vacancies" section of this *Manual* for details on how the ballot (candidate) vacancies may be filled. The current version of the *Indiana Election Calendar: Election Administrator's Edition* will have specific deadlines for the election cycle.

Qualifications for Assuming Office & Term of Office

In addition to qualifications found in the Indiana Election Code (Title 3) that candidates for a particular elected office must meet, there may be other qualifications a candidate must meet should a candidate be elected to an office. For instance, Title 36 of the Indiana Election Code concerns local government and provides additional instruction to candidates and office holders.

There are also requirements affecting running for, assuming, and holding office found in the Indiana Constitution including:

1) A prohibition against dual office holding (Article 2, Section 9, Indiana State Constitution).
2) Terms of office for certain statewide, state legislative, judicial and county officer holders (Article 4, Section 3; Article 5, Section 1; Article 6, Section 1 and 2; Article 7, Section 7, 15, and 16, Indiana State Constitution).
3) Term limits for certain statewide and county office holders (Article 5, Section 1; Article 6, Section 1 and 2, Indiana State Constitution).
4) An oath of office requirement (Article 15, Section 4, Indiana State Constitution).

State Constitutional office holders cannot serve more than eight years during any period of twelve years. (Article 6, Section 1, Indiana Constitution) At the local level, clerk of the circuit court, county sheriff, county treasurer, county auditor, county recorder, county coroner, and county surveyor are constitutional office holders. However, a county surveyor is not subject to the eight-year term limit. (The county assessor is not a constitutional officeholder and is not subject to term limits.)

At the state level, the constitutional office holders are governor and lieutenant governor, secretary of state, auditor of state, and treasurer of state. Time spent filling a vacancy does not count against the Constitutional time limit. (Article 2, Section 11, Indiana State Constitution)

U.S. Senator, U.S. Representative, Lieutenant Governor, Attorney General, members of the Indiana House and Senate, and other local elected offices not articulated above are not subject to any term limits. However, the U.S. Constitution does limit the U.S. president from serving more than two terms in office, with certain time spent filling a vacancy in that office not counting against the constitutional time limit.

Candidate Challenges

The placement of any individual on the primary, general, or municipal election ballot may be challenged if the individual has not complied with the requirements set forth for candidates under Indiana law. Candidate challenges concerning individuals who file as candidates for local offices, including city and town judges, come before the appropriate county election board for resolution; candidate challenges concerning individuals who file as candidates for federal, statewide, state legislative, or judicial office, including prosecuting attorney, come before the Indiana Election Commission.

Before a county election board may consider a challenge to a candidate, a registered voter of the election district that the candidate seeks to represent or a county chairman of a major political party of a county in which any part of the election district is located must file a sworn statement with the county election board. The sworn statement must question the eligibility of the candidate to seek the office and set forth the facts known to the voter concerning this question. (IC 3-8-1-2) The CAN-1 form must be used for a candidate challenge.

There is one exception to the requirement that a registered voter or a county chairman of a major political party in the election district must file a candidate challenge. A circuit court clerk must determine whether a sufficient number of valid signatures have been obtained to meet the requirements to nominate a candidate for local office by petition. If the clerk determines, based on the certification of the signatures by the county voter registration office, that the petition does not have enough valid signatures to nominate the candidate(s) on the petition, the clerk must deny the certification to the petitioners. An appeal of this denial can then be brought before the county election board by the candidate by filing the CAN-1. (IC 3-8-1-2; IC 3-8-6-12)

The county election board must determine the validity of the candidate's filing. State law specifies the various deadlines before the primary, general, or municipal election by which a challenger must file a challenge with the board, and the deadlines by which the board must make this determination. See IC 3-8-2-14 (primary candidates); IC 3-8-6-14 (independent and minor party candidates); IC 3-13-1-16.5 (candidates who fill "early ballot" vacancies); and IC 3-13-2-11 (candidates who fill "late ballot" vacancies); IC 3-8-2-14 (write-in candidates).

Similarly, the Indiana Election Commission may consider candidate challenges for federal, statewide, state legislative and judicial offices, including prosecuting attorney. The CAN-1 challenge may be filed with the Indiana Election Division by a registered voter of the election district or by a county chairman of a major political party of a county in which any part of the election district is located. Candidates qualifying for ballot access by petition may also file a CAN-1 challenge to dispute the determination made by the county voter registration official to accept or reject a petition signature or the determination made by the Indiana Secretary of State to deny certifying the nomination of the candidate because not enough valid petition signatures were submitted.

Please consult the current version of the *Indiana Election Calendar: Election Administrator's Edition* for specific deadlines.

Holdovers

Occasionally, no candidates will file to run for an elected local office. If this happens the person holding the office at the time the term of office ends will "holdover." The Constitution of the State of Indiana specifies that an officeholder remains in office until a qualified successor is elected. (Article 15, § 3)

When there are no nominees for an office where only one candidate may be elected (town clerk-treasurer, for example), the person currently serving in the position remains in the office automatically for another term. Additionally, where more than one candidate may be elected to the office (at-large, three-person town council, for example), the town council shall determine, not later than December 31 following the election, the incumbent council member or members who remain in office. (IC 3-13-9-5.6)

When not enough candidates file to run for election to positions on a school board, the members of the school board determine, not later than December 31 following the general election, which of the incumbent members will continue to serve as holdovers under the Indiana Constitution. (IC 20-23-4-30; IC 20-26-4-4)

Incumbents who do not wish to "holdover" must file their resignation with the appropriate entity, as described in IC 5-8-3.5. This will create an elected office vacancy to be filled pursuant to state law. Please see the "Elected Office Vacancies" section of this *Manual* for more information.

If an elected official "holds over" for another term in office, the official is not required to file a new oath of office. (IC 5-

4-1-1.2)

Note: For county offices established in the Indiana Constitution that also have a term limit, once the elected officeholder becomes term limited, the officeholder cannot holdover in the office beyond the term limit and the office becomes vacant. (*Gosman v. State*, 6 N.E. 349 (Ind. 1886)

Candidate Filings for Local Office in More Than One County

The circuit court clerk of the county with greatest population of the election district shall promptly certify to other county clerks in the county where the election district is located the names of candidates who have filed with the clerk of the largest county. (IC 3-8-2-6)

MOVING MUNICIPAL ELECTIONS TO EVEN-NUMBERED YEARS

The Indiana General Assembly has authorized towns and certain cities to adopt a local ordinance and shift some or all of their election districts to the even-numbered year election cycle. These cities and towns may opt to do so, as the municipality does not reimburse the county to run their elections in the even-numbered years. However, the municipality must reimburse a county when their elections are held in the odd-numbered year between the non-presidential and presidential general election.

Cities and towns must consult with their city or town attorney to review these statutes and ensure their ordinance complies with Indiana state law (IC 36-1-3-8(a)(12).

Ordinance "Small" Cities and All Towns

IC 3-10-6.5, generally, is the most inclusive statute in terms of which types of municipalities can rely upon it to make this change: cities with a population of less than 3,500 and all towns. (IC 3-10-6.5-1) During the year immediately before a municipal election year (2027, 2031, etc.), the legislative body of a municipality may adopt an ordinance providing that each elected office is elected in an even-numbered year. (IC 3-10-6.5-3)

An ordinance as described above must provide for the following:

- The term of office for each individual elected to an office of the municipality at the next municipal election year. A term of office set under this subdivision must be either one (1) year or three (3) years as specified in the ordinance for each elected office of the municipality.

- That the successors of the individuals elected during the next municipal election year shall be elected in the following applicable even-numbered year as determined by the term of office set for each office in the ordinance.

- That the term of office of the successors of the individuals elected for the initial term of office set for each office IC 3-10-6.5-4(1) is four (4) years, beginning January 1 after their respective elections.

For example, Cardinal City has a population of 2,800 and currently elects all of their city offices (mayor, clerk-treasurer, and city council of which there are 2 districts and 3 at-large members) in the odd-numbered municipal election year. The city council wants to shift their elections to even-numbered years.

In 2026 (that is, a year immediately preceding the municipal election year of 2027), the city council may adopt an ordinance that identifies which municipal offices will be elected at one of the next two general elections. Let's say the council wants the clerk-treasurer and three council members (one district, two at-large) to be elected in the next presidential year (2028) and the mayor and two council members (one district, one at-large) in the non-presidential election year (2030).

The ordinance would specify that in the 2027 municipal election, voters will elect a clerk-treasurer and three council members (one district, two at-large) to a term of one year and the mayor and two council members (one district, one at-large) to a term of three years. **The city MUST hold the 2027 municipal election!** Beginning in 2028, however, the clerk-treasurer and three members of the council will be elected to a new term of four years and in 2030, the

mayor and two members of the council will be elected to a new term of four years. This will then put all of their offices on the cadence of general election even-numbered years.

Any "small" city or town that adopts this ordinance must hold a May primary election when the elections shift to even-numbered years, if it already does not do so. (Some "small" towns hold a town convention, which will only be held for Libertarian candidates if this ordinance is passed). Additionally, an ordinance adopted under IC 3-10-6.5 may not be repealed earlier than twelve (12) years after the ordinance was adopted under IC 3-10-6.5-3 and may be repealed only in a year preceding a municipal election year.

An ordinance adopted under IC 3-10-6.5-3 (that is, to move municipal elections to even-numbered years) or IC 3-10-6.5-6 (repealing their ordinance to move municipal elections to even-numbered years) takes effect when the ordinance is filed with the circuit court clerk of the county in which the largest percentage of the population of the municipality is located. (IC 3-10-6.5-6; IC 3-10-6.5-7)

Ordinance for "Large" Towns Only

IC 3-10-6, generally, applies to municipal elections in all cities, "large" towns having a population of three thousand five hundred (3,500) or more, and towns that are located entirely or partially within Marion County. Prison inmates may not be counted in determining population size. (IC 3-10-7-1)

There are two sections of IC 3-10-6 that have different applications – one allowing for a "large" town council to move no more than 50% of their town council to an even number year election and one allowing for certain towns to move their municipal election to be held in the presidential election year.

Elections for "Large" Town Council Members During Even Numbered and Odd Numbered Year

IC 3-10-6-2.5 allows a "large town" and a town in Marion County with a population of more than 1,000 and less than 1,400, that has not adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981) or in 1982 under P.L. 13-1982, Section 3 (before its expiration on January 1, 1988 [NOTE: The only town in Indiana currently permitted to conduct an election under these 1981 and 1982 statutes is Cambridge City in Wayne County]) to adopt an ordinance during the year preceding a municipal election (that is, 2027, 2031, etc.) to prescribe the length of the term of office for the town council (town legislative body) members elected in the municipal election.

The ordinance must provide all of the following:

- That no more than 50% of the town council members will be elected for a term of 3 years beginning at noon, January 1 following the next municipal election; and
- The remainder of the town council members will be elected for a term of 4 years beginning at noon, January 1 following the municipal election.

The ordinance prescribing the terms of office for each town council member or an ordinance repealing an ordinance previously adopted under subsection (d) takes effect when the ordinance is filed with the circuit court clerk of the county in which the largest percentage of the population of the town is located.

For example, Dogwood Town has a population of 9,500 and currently elects all town council members, of which there are 2 districts and 3 at-large members, in the odd-numbered municipal election year. The town council wants to shift their council elections to even-numbered years for some of their members.

In 2026 (that is, a year immediately preceding the municipal election year of 2027), the town council may adopt an ordinance that 2 town council district seats will serve a term of three (3) years while the 3 at-large members will serve a term of four (4) years. **The town MUST hold the 2027 municipal election!** Beginning in 2030 (the non-presidential election year), however, the two town council district seats will appear on the primary and general election ballot. Those elected in 2030 will be elected to serve a four (4) year term and continue to do so until the ordinance is repealed. The 3 at-large town council members will continue to be elected during the municipal election cycle, meaning after 2027 the next election for those seats will be in 2031.

Elections for Offices in Certain Towns Held in Even-Numbered Years

IC 3-10-6-2.6 allows a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981) or in 1982 under P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988 [only Cambridge City in Wayne County] to adopt an ordinance during a year in which an election of a town office will not occur to shorten the term of office from four years to one, year so that all municipal elections will be held in a general election year.

The ordinance must provide all of the following:

- The town council (legislative body), clerk-treasurer, or judge elected at the next municipal election not conducted in a general election year serve terms of one (1) year; and
- The successors of the town legislative body members, clerk-treasurer, or judge described above shall be chosen at the first general election following the municipal election and serve terms of four (4) years.

For example, Purduetown is a town that is permitted to adopt an ordinance under IC 3-10-6-2.6 and currently elects all town offices (clerk-treasurer, town judge, and town council of which there are 2 districts and 3 at-large members) in the odd-numbered municipal election year. The town council wants to shift their elections to even-numbered years.

In 2026 (that is, a year where none of Purduetown's offices are up for election), the town council may adopt an ordinance that identifies that all municipal offices elected in 2027 will serve a term of one (1) year. **The town MUST hold the 2027 municipal election!**

The town council's ordinance sets the length of term for all of the town's office (clerk-treasurer, town council members, and judge) to one (1) year) when the election is held in 2027. Beginning in 2028 (the presidential election year), town clerk-treasurer, town council members, and judge appear on the primary and general election ballot. Those elected in 2028 will be elected to serve a four (4) year term and continue to do so for as long as the town is incorporated.

Ordinance for "Small" Towns Only

IC 3-10-7, generally, applies to municipal elections in "small" towns having a population of less than three thousand five hundred (3,500) that are not located entirely or partially within Marion County. Prison inmates may not be counted in determining population size. (IC 3-10-7-1)

There are two sections of IC 3-10-7 that have different applications – one allowing for municipal elections to only be held in even-numbered general election years and one allowing for municipal elections to be held in even-numbered and odd-numbered years.

Elections for "Small" Town Offices Held in Even-Numbered Years Only

IC 3-10-7-2.7 allows a "small" town to adopt an ordinance during the year preceding a municipal election (that is, 2027, 2031, etc.) to shorten the term of office from four years to three years so that all municipal elections will be held in the second general election after the municipal election is held (or the non-presidential general election year; 2030). The officers elected in the non-presidential general election year will serve a period of four years until such a time the ordinance is repealed.

The ordinance must provide all of the following:

- The town legislative body members, clerk-treasurer, or judge elected at the next municipal election not conducted in a general election year serve a term of three (3) years;
- The successors of the town legislative body members, clerk-treasurer, or judge shall be chosen at the second general election following the municipal election and serve a term of four (4) years; and
- the municipal elections for town offices shall be held during a general election.

A town may repeal an ordinance adopted under IC 3-10-7-2.7(b) but it cannot be repealed earlier than twelve (12) years after the ordinance was adopted, and it may be repealed only in a year preceding a municipal election held at the time described in IC 3-10-6-5. The ordinance moving elections to an even-numbered year or an ordinance repealing an ordinance previously adopted under subsection (b) takes effect when the ordinance is filed with the circuit court clerk of the county in which the largest percentage of the population of the town is located.

For example, Tulip Town has a population of 950 and currently elects all town offices (clerk-treasurer, town judge, and town council of which there are 2 districts and 3 at-large members) in the odd-numbered municipal election year. The town council wants to shift their elections to even-numbered years.

In 2026 (that is, a year immediately preceding the municipal election year of 2027), the town council may adopt an ordinance that identifies that all municipal offices elected in 2027 will serve a term of three (3) years. **The town MUST hold the 2027 municipal election!** Beginning in 2030 (the non-presidential election year), however, all municipal offices will appear on the primary and general election ballot. Those elected in 2030 will be elected to serve a four (4) year term and continue to do so until the ordinance is repealed.

Any "small" town that adopts an ordinance under IC 3-10-7-2.7 must hold a May primary election when the elections shift to even-numbered years, if it already does not do so. (Some "small" towns hold a town convention, which will only be held for Libertarian candidates if this ordinance is passed.)

Elections for "Small" Town Offices Held in Even-Numbered and Odd-Numbered Years

IC 3-10-7-2.9 allows a "small" town to adopt an ordinance during the year preceding a municipal election (that is, 2027, 2031, etc.) to shorten the term of office from four years to one, three, or four years so that some or all municipal elections will be held in a general election year.

The ordinance must provide all of the following:

- the years in which town elections shall be held. A town election may not be held in a year following a year in which an election for presidential electors is held (that is, 2029 or 2033, the "off-year" in Indiana where no

elections are regularly scheduled to be held);
- that the elections for town offices shall be held during general elections or municipal elections, or both;
- which town officers are to be elected in each of the years of the town election cycle. The ordinance must provide that at least two (2) town officers shall be elected in each year of the town election cycle. The ordinance may provide for all town officers to be elected at the same election;
- the term of office of each town officer elected in the first election cycle after adoption of the ordinance. However, a term of office may not exceed four (4) years;
- the term of office of each town officer elected after the first election cycle after adoption of the ordinance is four (4) years; and
- that the term of office of each town officer begins on January 1 after the election.

A town may repeal an ordinance adopted under IC 3-10-7-2.9(b) but it cannot be repealed earlier than twelve (12) years after the ordinance was adopted, and it may be repealed only in a year preceding a municipal election held at the time described in IC 3-10-6-5. The ordinance moving elections to an even-numbered year or an ordinance repealing an ordinance previously adopted under subsection (b) takes effect when the ordinance is filed with the circuit court clerk of the county in which the largest percentage of the population of the town is located.

For example, Hoosierville is a "small" town with a population of 1400 and currently elects all town offices (clerk-treasurer, town judge, and town council of which there are 2 districts and 3 at-large members) in the odd-numbered municipal election year. The town council wants to shift their elections to even-numbered years.

In 2026 (that is, a year immediately preceding the municipal election year of 2027), the town council may adopt an ordinance that identifies that all municipal offices elected in 2027 will serve a term of one (1), three (3) years, or four (years) but at least two town offices must be elected at an election held after the 2027 municipal election. **The town MUST hold the 2027 municipal election!**

Let's say the town council's ordinance sets the length of term for clerk-treasurer and judge to three (3) years and all town council members to a term of four (4) years when the election is held in 2027. Beginning in 2030 (the non-presidential election year), town clerk-treasurer and judge appear on the primary and general election ballot. Those elected in 2030 will be elected to serve a four (4) year term and continue to do so until the ordinance is repealed. The town council, however, will be elected at the municipal election in 2031 to serve a new term of four (4) years until such a time the ordinance is repealed.

Another option might be to set the term length for two (2) town council members to one (1) year while the remaining three (3) town council members along with the town clerk-treasurer and judge are set to a term of three (3) years when elected in 2027. Beginning in 2028 (the presidential election year), two town council offices will be on the primary and general election ballot. Those town council members elected in 2028 will be elected to serve a four (4) year term and continue to do so until the ordinance is repealed. The clerk-treasurer, judge, and remaining three (3) members of the town council, however, will be elected in 2030, the non-presidential election year, to serve a new term of four (4) years and continue to do so until such a time the ordinance is repealed.

Any "small" town that adopts an ordinance under IC 3-10-7-2.9 must hold a May primary election when the elections shift to even-numbered years, if it already does not do so. (Some "small" towns hold a town convention, which will only be held for Libertarian candidates if this ordinance is passed.)

BALLOT (CANDIDATE) AND ELECTED OFFICE VACANCIES

Ballot (Candidate) Vacancies

Please note: This section does not apply to an elected office vacancy, where a currently elected official submits a resignation, passes away, or otherwise removed from office. Please refer to the "Elected Office Vacancies" section of this *Manual* for more details. The current version of the *Indiana Candidate Guide* and the *Indiana Election Calendar: Election Administrator's Edition* are also helpful references for qualifications and deadlines.

If a major party did not field a candidate for an office in the May primary election or a candidate has withdrawn from the general, municipal, or special election ballot, there are procedures in state law that permit the party to replace the candidate. The rules governing how a ballot vacancy for a local office (that is, judge, prosecuting attorney, countywide offices, city offices, town offices, or township offices) is filled depend on the timing and the reason for the ballot vacancy:

1) **Primary ballot vacancy in a LOCAL office.** This occurs when no candidate filed to run for an elected office on the ballot in the Democratic or Republican party primary election. (Vacancies in party offices such as precinct committeeman or state convention delegate are filled through the respective state party rules, not state law.) A caucus must be held or, if authorized by the county party, a county chair or central committee may make an appointment to fill a local candidate vacancy not later than noon (prevailing local time), July 3 before a municipal, special, or general election. (IC 3-13-1-7) The meeting of the county committee officers (chair, vice chair, treasurer, and secretary) for purposes of filling a ballot vacancy is not considered a "caucus" for purposes of sending a call of caucus to county committee officers or filing a copy of the call of caucus with the circuit court clerk prior to filling the ballot vacancy. (IC 3-13-1-6; IC 3-13-1-9) NOTE: A county chair can make a direct appointment to fill a ballot vacancy if there is only one or no eligible precinct committeemen to vote in the caucus, even if the county party organization did not otherwise authorize direct appointment authority. (IC 3-13-1-13)

2) **Early ballot vacancy in a LOCAL office up to noon (prevailing local time), July 15.** A candidate nominated in the primary election or at a party's convention may withdraw for any reason up to noon (prevailing local time), July 15 before a municipal, special, or general election. (IC 3-13-1) A caucus must be held or, if authorized by the county party, a county chair or central committee may make an appointment to fill a local candidacy vacancy not later than thirty (30) days after the occurrence of the vacancy. NOTE: A county chair can make a direct appointment to fill a ballot vacancy if there is only one or no eligible precinct committeemen to vote in the caucus, even if the county party organization did not otherwise authorize direct appointment authority. (IC 3-13-1-13)

3) **Early ballot vacancy in a LOCAL office after noon (prevailing local time), July 15** (**but before the thirtieth day before a municipal, special, or general election.** A candidate may withdraw, but only for specific reasons outlined in statute, specifically IC 3-13-1-7(b). A caucus must be held not later than thirty (30) days after the occurrence of the vacancy to fill the ballot vacancy. For local offices, it is possible for the county party chairperson or central committee to make a direct appointment if authorized by the county party organization. NOTE: A county chair can make a direct appointment to fill a ballot vacancy if there is only one or no eligible precinct committeemen to vote in the caucus, even if the county party organization did not

otherwise authorize direct appointment authority. (IC 3-13-1-13)

4) **Late ballot vacancy.** For specific reasons outlined below, a late ballot vacancy occurs after the thirty-first day before a municipal, general, or special election until 6:00 a.m. local prevailing time on election day. In most cases, the county chairperson may make an appointment to fill. The county election board may or may not be required by state law to make changes to the ballot.

Early Ballot (Candidate) Vacancies

Generally, an early candidate vacancy occurs before the thirtieth day before a general, special, or municipal election. (IC 3-13-1-1) State law dictates how these early ballot vacancies are to be filled:

- U.S. Senate early candidate vacancies are filled by the state central committee (IC 3-13-1-3)
- U.S. Representative early candidate vacancies are filled by a caucus of eligible precinct committeemen or committeepersons (IC 3-13-1-4)
- Statewide early candidate vacancies are filled by the state central committee (IC 3-13-1-3)
- State Legislative early candidate vacancies are filled by a caucus of eligible precinct committeemen or committeepersons (IC 3-13-1-5)

Early ballot vacancies for local office (county, city, township, and town) and circuit court judge, superior court judge, probate court judge (St. Joseph County only), small claims court judge (Marion County only), or prosecuting attorney candidate representing only a circuit contained entirely in one county may be filled by a caucus of eligible precinct committeemen or may be filled by direct appointment by the county chair or county central committee if authorized by the county party membership. (IC 3-13-1-6) NOTE: A county chair can make a direct appointment to fill a ballot vacancy if there is only one or no eligible precinct committeemen to vote in the caucus, even if the county party organization did not otherwise authorize direct appointment authority. (IC 3-13-1-13)

Early ballot vacancies for circuit court judge and prosecuting attorney in a circuit containing more than one county (Dearborn County and Ohio County only) must be filled by a caucus of eligible precinct committeemen or committeepersons. (IC 3-13-1-6(c))

As noted above, timing is an important consideration as to how a candidate vacancy may be filled. Should no major party candidate run for an office in a primary election, then the vacancy must be filled not later than noon (prevailing local time), July 3, before a municipal or general election. If a major party candidate nominated at the primary election or a major party or Libertarian candidate nominated at convention no longer wishes to run in the November election, then noon (prevailing local time), July 15 before the election is a critical date.

A candidate nominated at the primary election or at the noted convention may withdraw for any reason up to noon (prevailing local time), July 15. The early ballot vacancy must then be filled not later than thirty days after the vacancy occurred. After noon (prevailing local time), July 15, and up to the thirty-first day before the special, municipal, or general election, a candidate nominated at the primary election or at convention may withdraw for only these reasons (IC 3-8-7-28):

1) Death of the candidate
2) Candidate moves out of the election district
3) Disqualification of a candidate under IC 3-8-1-5 (covered in a section below)
4) Court order issued under IC 3-8-7-29(d)

Additionally, the Democratic, Libertarian, and Republican parties may fill a ballot vacancy that exists more than thirty (30) days before a general, municipal, or special election (early ballot vacancy) if the party's candidate on the general, municipal, or special election ballot is removed from the ballot during a judicial proceeding. (IC 3-13-1-7)

To withdraw, a candidate must complete the general election candidate withdrawal form (CAN-24 in 2026 or 2028; CAN-46 in 2027). Candidates for local office except some judicial candidates, including prosecuting attorneys, file the document with the county clerk; federal, statewide, state legislative candidates and certain judicial candidates, including prosecuting attorneys, file with the Indiana Election Division. It is recommended that the county clerk or election division notify the county or state party chair about the candidate withdrawal.

Please note: if a candidate dies, there is no requirement for the county clerk to notify the state or county party chair of the ballot vacancy. (This is different from the written notice requirement to fill an elected office vacancy.)

Additionally, IC 3-13-1-7 permits an early candidate vacancy that exists before the thirtieth day before a general, municipal, or special election to be filled not later than 30-days after the occurrence of the vacancy if it is due to any of the following:

1) The death of a candidate.
2) The withdrawal of a candidate.
3) The disqualification of a candidate under IC 3-8-1-5.
4) A court order issued under IC 3-8-7-29(d).
5) The successful challenge of a candidate nominated by a state, county, or town convention of a political party.
6) The successful challenge of candidate under IC 3-8-8.
7) The successful challenge of a candidate under IC 3-13-1-16.5 and IC 3-13-1-20.5.
8) The successful challenge of a candidate in a judicial proceeding.

Late ballot vacancies are covered later in this *Manual*. The Libertarian Party and other minor parties can also fill candidate vacancies. (IC 3-8-6-17; IC 3-13-1-20; IC 3-13-2-12) The Libertarian Party must inform the appropriate entity about its intent to fill ballot vacancies where no candidate was nominated at its state or county convention.

For federal, state, state legislative, judicial offices, including prosecuting attorney, the written notice of intent to fill candidate vacancies must be filed with the Indiana Election Division and include the offices that the Libertarian Party intends to fill. For local offices, the Libertarian Party must file written notice with the appropriate county clerk and include the offices the party intends to fill. The state committee of the Libertarian Party may then fill their ballot vacancies not later than noon, July 3, and file the CAN-32 form with the appropriate entity not later than noon, July 3. (IC 3-13-1-20)

Caucus Procedures for an Early Ballot (Candidate) Vacancy

Different caucus procedures are used to fill an early ballot vacancy *versus* a late ballot vacancy *versus* an elected office vacancy. Please take time to review this *Manual* and Indiana law to understand those differences. Late ballot vacancies and elected office vacancies are covered later in this *Manual*.

Note: The Democratic or Republican parties may begin filling any ballot vacancy on the November general or municipal election ballot created when no candidate filed to run for an office in the primary election on or after May 8 of that year. (IC 3-13-1-7)

Notice of Caucus:

For caucuses conducted to fill an early ballot vacancy, the chair of the caucus has a responsibility to send written notice (CAN-30 in 2026 or 2028; CAN-47 used in 2027) by first-class mail to eligible precinct committeemen or committeepersons at least ten (10) days before the date of the caucus. When filling an early ballot vacancy for local offices (except for circuit, superior, probate, and small claims court judge and prosecuting attorneys), a copy of the caucus notice (CAN-30 or CAN-47) must also be filed with the clerk by noon (prevailing local time), ten (10) days before the date of the caucus. For state legislative candidates, circuit, superior, probate, and small claims court judicial candidates, and prosecuting attorney candidates, the notice is to be filed by noon (Indianapolis time), ten (10) days before the date of the caucus with the Indiana Election Division.

Candidate Filing Requirements for Caucus:

For caucuses to fill a local candidate ballot vacancy, the candidate has a responsibility to file with the chair of the caucus AND the county clerk a declaration of candidacy (CAN-31 in 2026 or 2028; CAN-48 in 2027) not later than 72-hours before the date of the caucus. The CAN-12 statement of economic interests is not required to be filed at this point in the process for local ballot vacancy caucuses.

For statewide candidates, state legislative candidates, circuit, superior, probate, and small claims court judicial candidates, and prosecuting attorney candidates, a receipt showing that a statement of economic interests was filed with the appropriate agency and the declaration of candidacy (CAN-31) must be filed with the Indiana Election Division not later than 72-hours before the caucus.

The documents (CAN-31 or CAN-48) must be timely filed with the chair of the caucus AND the county clerk or Indiana Election Division, whichever is applicable, for the individual to be a qualified candidate for the caucus to consider.

Caucus Procedures:

The chair of the caucus will determine if a precinct committeeman or committeeperson is eligible to vote in the caucus based on the standards outlined in state law. Essentially, if a precinct committeeman or committeeperson was elected and the precinct they represent is part of the election district, then the elected precinct committeeman or committeeperson is eligible to vote in the caucus. If the precinct committeeman or committeeperson was appointed, then the appointed precinct committeeman or committeeperson is eligible to vote in the caucus if the precinct they represent is in the election district and the individual was appointed at least thirty (30) days before the vacancy occurred.

Generally, a vice precinct committeeman or committeeperson is **not** eligible to vote in a caucus to fill an early ballot vacancy, late ballot vacancy, or elected office vacancy. However, a vice precinct committeeman or committeeperson may serve as the proxy for the precinct committeeman if certain conditions are met. It's important to note that the vice precinct committeeman or committeeperson serving with an elected precinct committeeman or committeeperson must have been appointed to the position at least five (5) days before the caucus. The vice precinct committeeman or committeeperson of an appointed precinct committeeman or committeeperson must have been appointed to the position at least thirty (30) days before the vacancy occurred.

State law does specify members of the caucus must establish caucus rules, and with few exceptions, caucus rules are not governed by state law. Exceptions include:

- Chair may (but is not required to) break any tie (IC 3-13-1-12(a));
- Secret ballot is required unless there is only one candidate. (IC 3-13-1-11(b)); and
- The chairman may fill the candidate vacancy if a quorum required under the rules of the meeting is not

present. (IC 3-13-1-12(b))

After the caucus to fill a ballot vacancy for local office, the chair must file the selected candidate's statement of economic interests (CAN-12) and the certificate of the selection (CAN-29 in 2026 or 2028; CAN-49 in 2027) not later than noon (prevailing local time), July 3, for early ballot vacancies because no candidate ran in the primary, or noon (prevailing local time), three (3) days (excluding Saturday and Sunday) after the caucus is held for other early ballot vacancies resulting from a candidate withdrawal after the primary election. (IC 3-13-1-15)

For caucuses to fill an early ballot vacancy for state legislative office, the certificate of selection (CAN-28) must be filed not later than noon (prevailing local time), July 3, for early ballot vacancies because no candidate ran in the primary, or noon (prevailing local time), three (3) days (excluding Saturday and Sunday) after the caucus is held for other early ballot vacancies resulting from a candidate withdrawal after the primary election. (IC 3-13-1-15)

Documents to fill early local candidate vacancies, including city and town judge, are filed with the county clerk; documents to fill state legislative candidates and circuit, superior, probate, and small claims court judge or prosecuting attorney ballot vacancies are filed with the Indiana Election Division.

NOTE: If filling a ballot vacancy for a local office and quorum is not established at a caucus or there is only one eligible precinct committeeman to vote in the caucus, then the county chair can make a direct appointment pursuant to state law. (IC 3-13-1-12(b); IC 3-13-1-13) The CAN-29 or CAN-49, whichever is used in the current election cycle noted above, is to be filed by the appropriate deadline and the chair will select the appropriate box on the form to indicate a direct appointment, even if the original intent was to conduct the caucus.

NOTE: If there is a tie-vote in a caucus to fill a ballot vacancy for local office, then the chair of the caucus may cast the tie-breaking vote. (IC 3-13-1-12(a))

Direct Appointment of Early Ballot (Candidate) Vacancies

This section only applies to early ballot vacancies for local offices; it does not apply to state legislative early ballot vacancies, even if the legislative district is entirely within one county. The county chairman or county party central committee may be authorized to appoint a person to fill a local candidate ballot vacancy (that is, countywide, city, town, or township local offices). (IC 3-13-1-6) To fill a ballot vacancy by direct appointment, the county committee (meaning a majority of the precinct committeemen or committeepersons and vice-committeemen or committeepersons of the county) must vote to give the county chair or central committee this authority.

There is no official state form for the authorization, so political parties are encouraged to speak to their legal counsel regarding the form of the document. Staff at the Indiana Election Division also have samples to use as an example. Alternatively, an individual can make a motion, and it be seconded to give the chair (or central committee) the authority to appoint candidates to fill local office vacancies. If a majority of the party organization votes to support the motion, then this information can be captured in the party's meeting minutes and used for the required documentation to attach to the certificate of candidate selection.

An authorization given to a Democratic or Republican Party county chairman or the major party county officers to make direct appointments to fill early candidate vacancies expires at the time of the next election for precinct committeemen for the party with which the county chairman or county party officers is affiliated. This 2025 change in law still permits the party organization to adopt this authorization with an earlier end date but the authorization must expire on the date of the primary election in 2026, 2030, 2034, and so on for the Democratic Party and the date of

the primary election in 2028, 2032, 2036, and so on for the Republican Party. (IC 3-13-1-6.5)

If direct appointment authority is given, then a declaration of candidacy or statement of economic interests does not need to be filed with the county clerk or party chair before the appointment is made. The chair also does not need to notify eligible precinct committeemen or committeepersons or file notice of the caucus with the county clerk. However, the appointment must be made on or before the deadline date for the type of vacancy.

After making the appointment, the chair must file with the county clerk the candidate's declaration of candidacy (CAN-31 in 2026 or 2028; CAN-48 used in 2027), statement of economic interests (CAN-12), notice of selection (CAN-29 in 2026 or 2028; CAN-49 in 2027), and a copy of the party's meeting minutes noting the direct appointment authority or resolution passed by the county party.

NOTE: A county chair can make a direct appointment to fill a local office ballot vacancy if there is only one or no eligible precinct committeemen to vote in the caucus, even if the county party organization did not otherwise authorize direct appointment authority. (IC 3-13-1-13)

Vacancies in state legislative and judicial offices, including prosecuting attorney, in a judicial circuit that contains more than one county must be filled through a caucus; state law does not authorize a county party or state party chair to fill ballot vacancies for these offices by direct appointment.

Late Ballot (Candidate) Vacancies

A late ballot vacancy (IC 3-13-2-1) occurs after the thirty-first before a general, municipal, or special election for a candidate vacancy and before 6:00 a.m., local prevailing time on election day that exists due to the:

- Death of the political party's candidate; or
- Withdrawal of a candidate who has moved from the election district; or
- Disqualification of a candidate under IC 3-8-1-5 (that is, a state or local candidate convicted of a felony); or
- Issuance of a court order under IC 3-8-7-29(d).

Additionally, the Democratic, Libertarian, and Republican parties may fill a ballot vacancy that occurs during the last thirty (30) days before a general, municipal or special election (late ballot vacancy) if a candidate is disqualified or otherwise removed from the ballot as a result of a death, withdrawal, disqualification, court order, candidate challenge, or judicial proceeding. Requires that the political party with the late ballot vacancy must fill that ballot vacancy not later than 6 a.m. on Election Day. (IC 3-13-2-1)

For local office candidate vacancies and most judicial office and prosecuting attorney vacancies, the county chair shall appoint a person to fill a late ballot vacancy. (IC 3-13-2-5) Statewide, state legislative, and federal offices follow slightly different procedures. (IC 3-13-2-2; IC 3-13-2-3; IC 3-13-2-4)

After the vacancy is filled, a declaration of candidacy (CAN-31 in 2024 or 2026; CAN-48 used in 2027), a certification of selection (CAN-35 in 2026 or 2028; CAN-50 in 2027), and statement of economic interests (CAN-12) must be immediately filed with the county clerk if person is filling a local office vacancy. If filling a federal, state, state legislative, judicial office or prosecuting attorney vacancy, the filings are made with the Indiana Election Division, though different forms may be used, and the statement of economic interests will differ depending on the office sought. Please see the current version of the *Indiana Candidate Guide* for those details. (IC 3-13-2-8)

A candidate filling a late ballot vacancy may not always have their name printed on the ballot. Please refer to the

"Ballot Information" of this *Manual*.

Sore Loser Law and Ballot Vacancies

A candidate defeated in the primary election, town convention, or state convention may not be appointed to fill an early or late ballot vacancy by a political party other than the political party in which the person sought nomination during the primary election, town convention, or state convention.

For example, a candidate for nomination to an elected office on the Democratic Party primary ballot who was defeated at the primary election would not be eligible to fill a Republican, Libertarian, or other party ballot vacancy for any elected office on the ballot for the general, municipal, or special election held after the primary. Conversely, a candidate for nomination to an elected office on the Democratic Party primary ballot who was defeated at the primary election would only be eligible to fill a ballot vacancy for the Democratic Party. (IC 3-13-1-19; IC 3-13-2-10)

Elected Office Vacancies

This section does not apply to a vacancy created when no major party candidate filed to run for office in a primary election or when a candidate withdrew their name from the ballot before a special, general, or municipal election. Please see "Early Ballot (Candidate) Vacancies" or "Late Ballot (Candidate) Vacancies" for more information.

Should an elected officeholder resign, die, or be disqualified, state law allows a vacancy in an elected office to be filled. An "elected office" is a federal office, state office, legislative office, school board office, or local office, but not a political party office (such as precinct committeeman and state convention delegate). (IC 3-5-2.1-34) State political parties are responsible for adopting rules to address vacancies in political party offices and those questions are best directed to their offices.

NOTE: elected office vacancies in federal, statewide, state legislative, and judicial offices, including prosecuting attorney, may be handled differently than elected office vacancies for local office. See IC 3-13-3 (vacancies in federal office); IC 3-13-4 (vacancies in state offices); IC 3-13-5 (vacancies in state legislative offices); and IC 3-13-6 (vacancies in county judicial and circuit offices, including prosecuting attorney and county clerk) for more detail.

Elected Officeholder Resignation

An office holder may resign from office by filing a written letter of resignation with the appropriate officer listed below. (IC 5-8-3.5-1) **In some cases, it may be necessary for a person to file a copy of the resignation with MORE THAN ONE OFFICE OR PERSON.** Political party chairmen or chairpersons should also be notified in writing by the resigning official as courtesy.

OFFICE	WHERE TO FILE RESIGNATION
Governor, Lieutenant Governor	Principal Clerk of the House of Representatives and the Principal Secretary of the Senate
State Senate	President Pro Tempore of the Senate
State Representative	Speaker of the House of Representatives
All officers commissioned by the governor (state officers, judges, prosecuting attorneys, circuit court clerk, county auditor, county coroner, county recorder, county sheriff, county surveyor, county treasurer)	Governor
All other officers of a political subdivision (This includes all county, city, town, township, school board members, other local elected officials)	Circuit Court Clerk of the county in which the largest percentage of population of the political subdivision resides

A person or an entity that receives notice of a resignation and does not have the power to fill the vacancy must, within 72 hours after receiving the resignation, give notice of the vacancy to the person or entity that has the power to fill the vacancy or call a caucus. See "Procedures to Fill an Elected Office Vacancy" below.

Unless the resignation specifies a different time or date, the resignation takes effect when filed with the first office or person required to receive the resignation. (IC 5-8-4-4; IC 5-8-4-5; IC 5-8-4-6) A person submitting a letter of resignation may not withdraw, rescind, annul, or amend the resignation without the consent of the officer or person(s) having the power to fill a vacancy for the office being resigned, such as a precinct committeeman caucus. (IC 5-8-4-1)

If a resignation has been filed with the appropriate person or office by a person elected or selected as a major party candidate, the political party can begin the process of filling the vacant office EVEN IF THE RESIGNATION HAS NOT TAKEN EFFECT YET. (IC 3-13-5-1; IC 3-13-11-3) If the party fills the vacancy before the resignation takes effect, the individual selected fills the office without a "gap" following the effective date of the resignation.

Further, the state political party chair for state legislative office vacancies, or the county chair for local office vacancies, may give notice of a caucus to fill a vacancy prior to the date a vacancy occurs if the vacancy is the result of an officeholder taking a leave of absence for military duty and the officeholder taking the leave has filed the notice required by state law. (IC 3-13-5-1; IC 3-13-11-3)

If the person or entity (circuit court clerk, for example) that receives the notice of a resignation fails to provide timely notice of the resignation to the person or entity with the power to take action to fill the vacancy (county chair, for example), then the person or entity with the power to fill the vacancy or call that caucus may fill the vacancy or call the caucus without receipt of the notice.

However, if the circuit court clerk provides notice of the resignation to the person or entity with the power to take action to fill the vacancy more than three (3) days after the circuit court clerk receives the notice of resignation, then the person or entity may fill the vacancy or call the caucus not later than thirty (30) days after receiving the notice from the circuit court clerk. This would permit a county party chair to fill a local office vacancy if the clerk received a

resignation and failed to provide notice of the vacancy to the county chair or provides the notice of the vacancy later than required under Indiana law. (IC 3-13-11-3)

Death of an Officeholder

State law (IC 5-8-6) sets forth specific procedures requiring written notice of the death of an officeholder to be given to the authority that has the power to fill the resulting vacancy. The person who certifies the death of an officeholder shall state the information that causes the person to believe the officeholder has died; and certify, under the penalties for perjury, that to the best of the person's knowledge and belief, the information stated is true. (IC 5-8-6-3)

The certification must be filed with the following:

- The governor in the case of the death of a person who holds state office or a person who is a judge of a circuit, superior, probate, or city court and the governor shall, if reasonably satisfied that the information is true, fill the vacancy as provided by law.
- The secretary of state in case of the death of a person who holds a legislative office, and the secretary of state shall, if reasonably satisfied that the information is true, give notice of the death to the state chairman of the political party that elected or selected the deceased individual within 72 hours after the secretary of state determines that he or she is reasonably satisfied that the information is true.
- The circuit court clerk of the county in which the officeholder resided in the case of the person who holds a county, city, town, township, or school corporation office. The circuit court clerk shall, if reasonably satisfied that the information is true, give the notice to either:
    - the person who must give notice of any meeting or caucus required to fill the vacancy caused by the death; or
    - the person or entity who has the power to fill the vacancy if no political party caucus is required.

The circuit court clerk must give the required notice within seventy-two (72) hours after the clerk is reasonably satisfied that the information is true. For officeholders elected or selected as major party candidates, notice is sent to the county chairman. For officeholders elected or selected as independent or minor party candidates, notice is sent to the body required to fill the vacancy. (See IC 3-13-3 through IC 3-13-10, generally) For example, in the case of an independent officeholder if the entity with the power to fill the vacancy is the county commissioners or county council, then the circuit court clerk shall forward the notice to the county auditor.

An elected office vacancy resulting from death of the office holder may not be filled until the notice is filed with the person who has the power to fill the vacancy or the person who must give notice of the caucus to fill the vacancy. The period in which to fill a vacancy by caucus does not begin until the person who must give notice of the caucus or notice of the meeting receives the notice of death.

Disqualification as a Candidate or Officeholder

An individual can be disqualified as a candidate or removed from office if the individual becomes **ineligible to become a candidate or hold an office because of failing to comply with a specific requirement under state law.** For example, IC 3-8-1-5 disqualifies a person from assuming or being a candidate for elected office (other than a federal office) if the person:

1) gave or offered a bribe, threat, or reward to procure the person's election as provided in Article 2, Section 6 of the Constitution of the State of Indiana;
2) does not comply with IC 5-8-3 because of a conviction for a violation of the federal laws listed in that statute;

3) in a jury trial, a jury publicly announces a verdict against the person for a felony; or a bench trial, the court publicly announces a verdict against the person for a felony; or a guilty plea hearing, the person pleads guilty or nolo contendere to a felony;
4) has been removed from the office the candidate seeks under Article 7, Section 11 or Article 7, Section 13 of the Constitution of the State of Indiana;
5) is a member of the United States armed forces on active duty and prohibited by the United States Department of Defense from being a candidate;
6) is subject to the Hatch Act or Little Hatch Act and would violate these federal statutes by becoming or remaining the candidate of a political party for nomination or election to an elected office or a political party office;
7) is a nonjudicial court employee who would violate Rule 4.6 of the Indiana Code of Judicial Conduct by being the candidate of a political party for nomination or election to an elected office or a political party office.
8) is a full-time employee of the department of homeland security prohibited from participating in political activities under IC 10-14-3-26.

If a person is a voter of the election district a candidate seeks to represent, or a county chair of a major political party where the election district is located, and believes that a candidate is not eligible to be on the ballot, then the voter may file a sworn statement (CAN-1), with the Indiana Election Division (for federal, statewide, state legislative, judicial candidates and candidates for prosecuting attorney) or with the county election board (for all other candidates for local and school board office). The sworn statement must set forth the facts known to the voter as to why the candidate is ineligible. The Indiana Election Commission or the county election board must then conduct a hearing to determine if the candidate is ineligible.

With regard to officeholders, IC 5-8-3-1 prohibits anyone from serving as a public officer in Indiana (not a federal office) who has been ***convicted*** of:

1) evading the Selective Service Act of the United States;
2) engaging in any conspiracy or attempt to defraud the United States government;
3) any seditious utterances in violation of any of the laws of the United States; and
4) any other crime against the laws of the United States where the sentence imposed exceeds six (6) months.

Other statutes disqualify a person from holding office if the individual has been convicted of a felony (IC 5-8-1-38), is habitually intoxicated (IC 5-8-2-1), or fails to reside in the election district that the person represents. (IC 36-2-3-5, for example). A county council can also remove a county commissioner, and city council and town council can remove a city or town council member from office in certain cases. (IC 5-8-5; IC 36-2-2-5; IC 36-4-6-6)

If an accusation under oath and in writing or a resolution adopted by the county executive and county fiscal body in accordance with IC 36-2-8.7 (for certain county officers) or IC 36-6-4.5 (for township trustee) is presented to a circuit, superior, or probate court judge alleging that a local office elected official is unable to perform the official duties of the office or if a member of the county executive (board of county commissioners) fails, refuses, or is unable to participate in four (4) consecutive regular county executive meetings, the court must order the accused elected official to appear in court and order a hearing. If the accused official does not appear for the hearing, the court may proceed to conduct the hearing and determine if the accusation should be sustained.

The county executive and county fiscal body resolution and hearing procedure to file an accusation in court under IC 5-8-1-35 will now cover a member of the county executive in all counties but Marion County. Currently, the procedure

only covers county auditors, county treasurers, county recorders, county surveyors, and county assessors. The county executive and county fiscal body may adopt a resolution alleging that a county officer has violated IC 5-8-1-35(a)(3), IC 5-8-1-35(a)(4), and IC 5-8-1-35(a)(5).

A county executive (except in Marion County) is not required to be in the county office for regular business hours.

The Marion County City-County Council, by a two-thirds vote, may declare a city-county council seat vacant if the member holding the seat fails to perform the duties of the member's office. (Citations affected: IC 5-8-1-35; IC 36-2-8.7-1; IC 36-2-8.7-2; IC 36-2-8.7-6; IC 36-2-8.7-7; IC 36-3-4-4)

A public officer convicted of a felony while in office is removed from office by operation of law when the conviction of the person for the felony is publicly announced by a jury or the court. (IC 5-8-1-38) In other cases, if an elected official does not meet these requirements**, then an interested person can file a lawsuit in court to have the official removed. The court must decide whether the complaints made by the interested person are true, and whether or not the official should be removed from office.**

A court may expunge records concerning minor Level 6 (formerly Class D) felony convictions, and some more serious felony convictions, under certain circumstances. If an expungement petition is granted, the civil rights of a person whose conviction has been expunged are restored, including the right to hold public office.

If an officeholder is removed by operation of law for conviction of a felony, a procedure to document that removal and to begin the vacancy filling process is established. The court hearing the case must file a certified copy of the sentencing order with the person who would be entitled to receive a notice of death as described above. The person receiving a copy of the sentencing order must give notice of the vacancy in the same manner as if the person had received a notice of death, and this notice will trigger the vacancy filling provisions. If the person's conviction is reversed, vacated or set aside, and the officer's term has not expired, the court must file a certified copy of the order reversing, vacating or setting aside the conviction with the person who would be entitled to receive a notice of death as described above. The person receiving a copy of the court's order must also give notice to the person who was selected to fill the vacancy before the court order was issued.

A court may include in a sentencing order for the conviction of certain misdemeanors described in IC 35-44.1-1 (bribery, conflict of interest and official misconduct) that the convicted person is incapable of holding a public office of trust or profit (IC 35-50-5-1.1). If the court includes such a provision in a sentencing order and it results in a vacancy in office, the court must file a certified copy of the sentencing order with the person who would be entitled to receive a notice of death as described above. The person receiving a copy of the sentencing order must give notice of the vacancy in the same manner as if the person had received a notice of death, and this notice will trigger the vacancy filling provisions.

Whenever a court enters a judgment removing an individual from public office the court must file a certified copy of its judgment with the person who would be entitled to receive a notice of death as described above. The person receiving a copy of the sentencing order must give notice of the vacancy in the same manner as if the person had received a notice of death, and this notice will trigger the vacancy filling provisions. (Citations: IC 3-13-4-3; IC 3-13-5-1; IC 3-13-5-2; IC 3-13-6-1; IC 3-13-7-2; IC 3-13-7-3; IC 3-13-8-3; IC 3-13-8-4; IC 3-13-8-5; IC 3-13-8-6; IC 3-13-8-7; IC 3-13-8-8; IC 3-13-8-9; IC 3-13-8-10; IC 3-13-9-2; IC 3-13-9-3; IC 3-13-9-4; IC 3-13-10-2; IC 3-13-10-3; IC 3-13-10-4; IC 3-13-10-5; IC 3-13-11-3; IC 3-13-11-3.5; IC 5-8-1-37; IC 5-8-5-1; IC 5-8-5-3; IC 5-8-5-4; IC 5-8-6; IC 20-3-11-3.1; IC 20-5-3-3.5; IC 20-25-3-4; IC 20-26-4-4.5; IC 34-17-3-2; IC 35-50-5-1.1)

If an incumbent local officeholder is elected to another term in office but dies or is disqualified before their new term of office begins, then after notice of the death or disqualification is given to the proper official, the vacant local office shall be filled by the applicable provisions in IC 3-13. (IC 3-12-5-18)

Candidate Qualifications to fill an Elected Office Vacancy

A candidate for a state legislative, judicial, circuit, county, city, town, or township elected office vacancy to be filled by a Democratic or Republican political party caucus (or by direct appointment by the county party chairman, if applicable) must meet the primary election candidate party affiliation requirement.

A candidate to fill an elected office vacancy meets the political affiliation requirement by either:

- in the last two Indiana primary elections the candidate voted in, having voted in the political party primary that is holding the elected office vacancy caucus; or
- attaching to their declaration of candidacy (CEB-2 for legislative office vacancies or CEB-5 for local office vacancies) a certification from the political party county chair that the candidate is affiliated with the political party.

If a primary election candidate cast a nonpartisan ballot at an election held at **either** of the two (2) most recent Indiana primary elections in which the candidate voted, a certification by the county chairman is required to be attached to the primary election candidate's declaration of candidacy in order to comply with the political affiliation requirement. (IC 3-8-2-7)

The chair of the caucus (or other entity conducting the caucus) or the individuals participating in the caucus may remove a candidate from consideration who does not meet the political party affiliation requirement or does not comply with the candidate qualification requirements for the office provided in IC 3-8-1.

NOTE: These requirements do not apply to Democratic or Republican political party caucuses (or direct appointment by the county chairman, if applicable) to fill a ballot vacancy on the November ballot should no candidate run in the primary election or if a candidate nominated in the primary election withdraws or is otherwise removed from the November ballot. (IC 3-8-1-5.7)

Procedures to Fill an Elected Office Vacancy of a Democratic or Republican Officeholder

To determine which statutes apply to filling a vacated office, the first determination to be made is whether the elected officeholder vacating the office was elected or selected as a Democrat or Republican. If a local elected office holder was elected as a member of either the Democratic or Republican Party or was selected by the Democratic or Republican Party to fill an earlier vacancy in the office, then Indiana Code 3-13-11 applies. IC 3-13-11 outlines the procedures for calling a caucus of precinct committeemen to fill a vacant elected office.

As noted below, if there is only one eligible precinct committeeman or none, to vote in the caucus or quorum is not established at the caucus, then the chair is able to make a direct appointment. Otherwise, **an elected office vacancy is always filled by a caucus of eligible precinct committeemen!**

The chair of the caucus must send a notice to all eligible people who can participate in the caucus at least ten (10) days before the caucus. There is no state-prescribed form for the notice of caucus to fill an elected office vacancy. However, the written notice must be sent via first class mail and state the name of the chair of the caucus, the purpose of the meeting, and the date, time, and location of the caucus. (IC 3-13-11-4)

An *elected* precinct committeeman is eligible to participate in the caucus regardless of when the vacancy occurred. An *appointed* precinct committeeman is eligible to participate in a caucus to fill an elected office if the appointed precinct committeeman had served as a committeeman thirty (30) days before the vacancy occurred. (IC 3-13-11-5)

Generally, a vice-committeeman is **not** eligible to vote in a caucus unless serving as proxy for their committeeperson. In order to qualify to be a proxy for an appointed precinct committeeperson, a vice committeeman must be appointed to the position at least thirty (30) days before the vacancy occurred. A vice committeeman of an elected committeeman is eligible to serve as proxy if vice committeeman was appointed at least five (5) days before the caucus. (IC 3-13-11-9)

Candidates must submit a declaration of candidacy (CEB-5) not later than 72 hours before the caucus is to be held. At the caucus, members must adopt rules of the caucus. State law does not provide much direction for these rules other than the following:

1) The chair of the caucus may break all ties;
2) A majority vote of those voting for a candidate is required to select a candidate; and
3) Voting for a candidate shall be done by secret ballot if there is more than one candidate.

After the caucus has filled the vacancy for a local office (that is, county, city, town, or township office), the chair must file with the county clerk a "certificate of appointment to fill a local elected office by precinct committeeman caucus" (CEB-4) not later than noon (prevailing local time), five (5) days after the caucus is held. While a statement of economic interests (CAN-12) does not need to be filed with the CEB-4 certificate, new office holders should be reminded the CAN-12 document must be filed not later than 60-days after assuming office.

Caucus Exception: If only one (1) precinct committeeman is eligible to participate in the caucus to fill a local office vacancy (IC 3-13-11-5(c)) or if the members attending a caucus do not constitute a quorum (IC 3-13-11-8(b)), a chairman may make a direct appointment to fill an elected office vacancy. The chair must file a "certificate of appointment to fill a local elected office by a county chairman of a major political party" (CEB-3) not later than noon (prevailing local time), five (5) days after the appointment is made for the elected office vacancy.

Note: If only one person files a CEB-5 declaration of candidacy to fill a Democratic or Republican Party elected office vacancy with the chair of the caucus by the deadline, then the caucus must still be called but no vote is required. The county chairman may make a direct appointment of that person to fill the vacancy. In this instance, the county chairman will use the CEB-3 form. (IC 3-13-11-10)

Procedures to Fill an Elected Office Vacancy of a Libertarian, Independent, or Minor Party Candidate

If the elected officeholder was **not** elected as a member of the Democratic or Republican parties, refer to the appropriate chapter in IC 3-13; specifically:

- IC 3-13-7 pertains to county office vacancies where the vacating officeholder was **not** elected as either a Democrat or Republican;
- IC 3-13-8 applies to city office vacancies where the vacating officeholder was **not** elected as either a Democrat or Republican;
- IC 3-13-9 applies to town office vacancies where the vacating officeholder was **not** elected as either a

Democrat or Republican;
- IC 3-13-10 applies to township office vacancies where the vacating officeholder was **not** elected as either a Democrat or Republican.

These chapters also apply if the vacating officer was not "selected" to fill an earlier vacancy by a party caucus by the deadline set forth in state law.

Procedures to Fill an Elected Office Vacancy of a School Board Member

In Indiana, state law defines several kinds of school corporations including metropolitan school district or community school corporation. A community school corporation is the more common configuration, though it's best to confirm as the way a vacancy is filled differs. Should an elected or appointed school board member resign or die, the resignation or notice of death should be sent to the county clerk, who will then notify the school board of the vacancy. (IC 5-8-3.5-1; IC 5-8-6)

School Board Vacancy in a Metropolitan School District: If a vacancy on a school board occurs for any reason, including an insufficient number of petitions for candidates being filed, and regardless of whether the vacating member was elected or appointed, the remaining members of the board, whether a majority of the board, shall by a majority vote fill the vacancy by:

1) Appointing a person from the board member district from which the person who vacated the board was elected; or
2) If the person was appointed, appointing a person from the board member district from which the last elected predecessor of the person was elected.

If a majority of the remaining members of the board are unable to agree or the board fails to act within thirty (30) days after a vacancy occurs, the judge of the circuit court in the county where the majority of registered voters of the metropolitan school district reside shall make the appointment. (IC 20-23-7-8.1(h))

Further, at a general election held on the earlier of:
1) More than sixty (60) days after an elected board member vacates membership on the board; or
2) Immediately before the end of the term for which the vacating member was elected;

a successor to a board member appointed under IC 20-23-7-8.1(h) shall be elected. Unless the successor takes office at the end of the term of the vacating member, the member serves only for the balance of the vacating member's term.

In an election for a successor board member to fill a vacancy for a two (2) year balance of a term, candidates for board membership need not file for or with reference to the vacancy. However, as required by IC 3-11-2, candidates for at-large seats must be distinguished on the ballot from candidates for district seats. If there is more than one (1) at-large seat on the ballot due to this vacancy, the elected candidate who receives the fewest votes at the election at which the successor is elected shall serve for a two (2) year term. (IC 20-23-7-8.1(i))

School Board Vacancy in a Community School Corporation: A vacancy on the governing body shall be filled by the governing body as soon as practicable after the vacancy occurs. A member chosen by the governing body to fill a vacancy holds office for the remainder of the term. (IC 20-23-4-35(d))

NOTE: After the November 2026 election, if a school board member who was identified on the ballot as the

candidate of a major political party resigns or otherwise vacates the office, the vacancy shall be filled by the party in a caucus. If the vacating member did not affiliate with a major political party, the remaining members of the school board shall fill the vacancy. (The option for school board members to designate a partisan affiliation on the ballot will not occur until the November 3, 2026, general election and therefore, it is not possible for the Democratic or Republican party to fill school board elected office vacancies until then.) (IC 20-23-4-30(c)(1))

Acting Officeholder During Elected Office Vacancy

State law specifies who serves as the acting officeholder until the vacancy is filled using these procedures. If a circuit, county, city, town, or township office (other than judge, local legislative or fiscal body member) has a chief deputy employee, that employee temporarily assumes the duties of the office after taking the required oath. (IC 3-13-11-12; IC 5-4-1-1)

If there is no chief deputy employee in a local government office (or that person declines or is ineligible to serve), then the office is temporarily filled by another officer designated by state law, or individual appointed to fill that office on a temporary basis. See IC 3-13-11-13 through 3-13-11-17 for details depending on the type of office vacancy involved.

Oaths of Office

The Indiana Constitution provides that every person elected or appointed to an office under the Constitution must take an oath before assuming his or her duties. A written oath of office is to be filed with the appropriate agency (IC 5-4-1-2), and certain offices must file the oath not later than thirty (30) days after assuming office. (IC 5-4-1-1.2)

Oaths for local office are to be filed with the county election board; oaths for judicial office, prosecuting attorney, and statewide office holders file with the Indiana Election Division. Members of the Indiana General Assembly are sworn-in on Organization Day (usually two weeks following each general election), and the oath is recorded in the journals of the respective Houses for that day's session. Federal officeholders take an oath of office as established by federal law.

IC 33-42-9-7 states that any of the following officials can administer an oath:

> The Secretary of State of Indiana, Clerk of the Supreme Court, Notaries Public, Official Court Reporters, Justices and Judges of an Indiana court, Judges of United States District Courts and their commissioners (in the court's jurisdiction), County Auditors, County Recorders, Mayors, City Clerks, City or Town Clerk-Treasurers, township trustees, Circuit Court Clerks and Master Commissioners, (in their respective counties, cities, towns and townships), State Senators and State Representatives (anywhere within Indiana), and the adjutant general of the Indiana National Guard, specific active duty members, reserve duty members, or civilian employees of the Indiana National Guard, for any purpose related to the service of an active or reserve duty member of the Indiana National Guard.

A member of the Indiana Election Commission, a co-director of the election division, or an employee of the election division may also administer oaths. (IC 33-42-9-7(11). A precinct election officer or absentee voter board member may administer oaths for any purposes authorized under Title 3 (the Indiana election code). (IC 33-42-9-7(10)) Prosecuting attorneys and their deputies can also administer oaths. (IC 33-39-2-1)

Except for school board members, there is no specific form for the oath set forth in state statute though the Indiana Election Division has forms available. However, the following form should be sufficient in most situations:

STATE OF INDIANA)
) SS:
COUNTY OF _____)

I do solemnly swear that I will support the Constitution of the State of Indiana and the Constitution of the United States, and will, to the best of my ability, faithfully and impartially discharge the duties of *(name of the office),* according to law.

_____
Signature of Officeholder

Subscribed and sworn to before me, on this _____day of _____, 20_____:

_____ _____
Signature of Person Administering Oath | Printed Name of Person Administering Oath

NOTES: The person administering the oath must give the person taking the oath a copy of the oath. (IC 5-4-1-2) A notary public or an official authorized to administer oaths may also be required to add documentation indicating their county of residence and when their term of office or commission expires.

The special form of the oath for school board members can be found at IC 20-26-4-2.

Elected Office Vacancy Caucus Property

Ballots, poll lists, and other documents or material generated for or used by a political party caucus or direct appointment made by the state or county party chairman to fill an elected office vacancy under IC 3-13 are the property of the political party. (IC 3-5-4-10)

PUBLIC QUESTIONS & SPECIAL ELECTIONS

The information below is not exhaustive of the types of public questions or referenda found in Indiana state law. The *Referendum, Recall, Impeachment, and Initiative in Indiana* published by the Indiana Election Division provides a more comprehensive list and statutory references for additional review.

Public Questions (Referenda)

A referendum, or public question a constitutional amendment, proposition, or other issue submitted to the electorate at an election. (IC 3-5-2.1-87) This type of election allows the voters to say "yes" or "no" to a public question on the ballot. **In Indiana, a referendum can only be put on the ballot if authorized by a state law**. As a result, a county or town election board cannot print any referendum on the ballot unless the state legislature has already passed a law to permit the referendum to be on the ballot. (IC 3-10-9-5; IC 36-1-3-8(a)(12))

Local Public Questions

Each referendum law is slightly different and should be studied carefully, but there are some general rules that apply in most cases. Many referenda must be certified to a county or town election board. If the referendum is not certified by noon (prevailing local time), seventy-four (74) days before a primary election, or by August 1 before a general or municipal election, it is too late for the referendum to appear on the ballot at the election. (IC 3-10-9-3)

Indiana law permits a few types of public questions to be held in the "off-year" election year, such as 2029. In the rare event this occurs, the language must be certified the county election board not later than noon (prevailing local time), seventy-four (74) days before the date a primary election would normally be held (that is, the first Tuesday after the first Monday in May) or, for the November election date, by noon, August 1.

The exact language to be printed on the ballot is usually set forth in the state law allowing the referendum.

Additionally, school tax levy referendum public questions under IC 20-46-1, school safety tax levy referendum public questions under IC 20-46-9, and controlled project referendum public questions under IC 6-1.1-20 may only be placed on the ballot at a general election held in an even-numbered year. Certification of one of these local public questions must occur not later than noon, August 1 before the general election. (IC 3-10-9-3)

Some state laws permit a "one-time only" referendum vote at a specific election or in a specific locality. A list of the referenda authorized by state law to be placed on the ballot at any election, if other requirements are met, is included in the *Referendum, Recall, Impeachment, and Initiative in Indiana* brochure published by the Indiana Election Division. This *Manual* will focus on the more common public questions county election administrators will encounter - capital improvement projects, tax levy, and school safety referenda.

The Indiana Department of Local Government Finance plays a critical role in managing the process by which most public questions are certified to county election administrators. Their website – www.in.gov/DLGF - includes helpful information to guide interested parties in certifying their question to the county election board. Occasionally, the Indiana General Assembly will pass legislation certifying a statewide public question, such as a Constitutional Amendment. When this occurs, the Indiana Election Division will certify the question to county election officials before ballots are printed.

The petition forms used in a remonstrance are not prescribed by the Indiana Election Division. If a petition is requested, the county voter registration official can request the form from the Indiana Department of Local Government Finance.

School Tax Levy Referendum

A school corporation may impose an operating referendum tax levy for the school corporation's fund in the amount allowed under IC 20-46-1-7 or IC 20-46-1-8 through IC 20-46-1-19 or both, if approved by a majority of the voters voting on the referendum. A resolution to extend a referendum levy must be adopted before December 31 of the final calendar year in which the school corporation's previously approved referendum levy was imposed.

To place the referendum on the ballot, a school corporation must certify the resolution to place the referendum on the ballot and the proposed language for the referendum to the Department of Local Government Finance (DLGF). The DLGF shall review the referendum language proposed and either approve or reject the language. The DLGF shall send its decision to the governing body of the school corporation not more than ten (10) days after the resolution is submitted to the DLGF. (IC 20-46-1-8)

If the language is approved by the DLGF, the governing body of the school corporation shall certify a copy of the resolution, including the language for the question and the department's approval to the county fiscal body of each county in which the school corporation is located (for informational purposes) and the circuit court clerk of each county in which the school corporation is located. (IC 3-10-9-3; IC 20-46-1-14)

The referendum shall be held in the next general election in which all the registered voters who are residents of the school corporation are entitled to vote after certification of the question. (IC 3-10-9-3; IC 20-46-1-14)

The governing body of the school corporation shall certify the referendum by noon (prevailing local time), August 1 before the general election.

A circuit court clerk who receives a referendum question certified by the governing body of a school corporation shall call a meeting of the county election board to make arrangements for the referendum. The individuals entitled to vote in the referendum are all of the registered voters residing in the school corporation. (IC 20-46-1-13)

Immediately after the votes cast in the referendum have been counted, the circuit court clerk of each county holding the referendum shall certify the results of the referendum to the DLGF. (IC 20-46-1-17)

During the period beginning with the adoption of a resolution by the governing body of a school corporation to place a referendum under this chapter on the ballot and continuing through the day on which the referendum is submitted to the voters, the school corporation may not promote a position on the referendum by doing any of the following:

1) Using facilities or equipment, including mail and messaging systems, owned by the school corporation to promote a position on the referendum, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the school corporation.

2) Making an expenditure of money from a fund controlled by the school corporation to promote a position on the referendum.

3) Using an employee to promote a position on the referendum during the employee's normal working hours or paid overtime, or otherwise compelling an employee to promote a position on the referendum at any time. However, if a person described IC 20-46-1-20(d) is advocating for or against a position on the referendum or discussing the referendum as authorized, an employee of the school corporation may assist the person in presenting information on the referendum, if requested to do so.

4) Promoting a position on the referendum by:
    a. using students to transport written materials to their residences or in any way involving students in a school organized promotion of a position;
    b. including a statement within another communication sent to the students' residences; or
    c. initiating discussion of the referendum at a meeting between a teacher and parents of a student regarding the student's performance or behavior at school. However, if the parents initiate a discussion of the referendum at the meeting, the teacher may acknowledge the issue and direct the parents to a source of factual information on the referendum.

However, an official or employee of the school corporation is not prohibited from carrying out duties with respect to a referendum that are part of the normal and regular conduct of the official's or employee's office or agency, including the furnishing of factual information regarding the referendum in response to inquiries from any person.

The staff and employees of a school corporation may not personally identify a student as the child of a parent or guardian who supports or opposes the referendum.

These advocacy prohibitions do not apply to a personal expenditure to promote a position on a local public question by an employee of a school corporation whose employment is governed by a collective bargaining contract or an employment contract; or an expenditure to promote a position on a local public question by a person or an organization that has a contract or an arrangement (whether formal or informal) with the school corporation solely for the use of the school corporation's facilities.

A person or an organization that has a contract or arrangement (whether formal or informal) with a school corporation to provide goods or services to the school corporation may not spend any money to promote a position on the petition or remonstrance. A person or an organization that violates this subsection commits a Class A infraction.

An elected or appointed school board member or a school corporation superintendent, school corporation assistant superintendent, or chief school business official of a school corporation may, at any time, personally advocate for or against a position on a referendum or discuss the referendum with any individual, group, or organization or personally advocate for or against a position on a referendum before any individual, group, or organization so long as it is not done by using public funds. Advocacy or discussion allowed under IC 20-46-1-20 is not considered a use of public funds. However, the law does not authorize or apply to advocacy or discussion by a school board member, superintendent, assistant superintendent, or school business official to or with students that occurs during the regular school day.

A student may use school equipment or facilities to report or editorialize about a local public question as part of the news coverage of the referendum by a student newspaper or broadcast. (IC 20-46-1-20)

If a school safety referendum is passed by the voters of a school corporation, then the school corporation may not adopt a resolution or otherwise place a school tax levy referendum on the ballot for the next three (3) years after the passage of the school safety referendum. (IC 20-46-1-8)

Controlled Project Petition/Remonstrance and Referendum

IC 6-1.1-20 establishes a procedure for a local political subdivision (city, town, township, school corporation, etc.) to approve a controlled project, which is any project that is financed by bonds or a lease, except for certain projects delineated in IC 6-1.1-20-1.1. For certain controlled projects, there is a procedure for voters and property owners in the political subdivision to approve (petition for) or reject (remonstrant against) the controlled project. In order to initiate the petition and remonstrance, a petition filed by the lesser of: (1) 500 persons who are either property owners with the political subdivision or registered voters residing the political subdivision; or (2) 5% of the registered voters residing with the political subdivision, on a petition form approved by the State Board of Accounts (SBOA), must be filed with the county voter registration official not later than thirty (30) days after the local political subdivision publishes notice of the preliminary determination to issue bonds/enter leases for the controlled project. (IC 6-1.1-20-3.1(b)(2)-(5))

Once a petition for initiating the petition and remonstrance process is filed with the county voter registration office, the county voter registration official must determine whether each person who signed the petition is a registered voter of the political subdivision. If the county voter registration official has determined that at least five hundred twenty-five (525) persons who signed the petition are registered voters within the political subdivision, the county voter registration office is not required to verify whether the remaining persons who signed the petition are registered voters. If the county voter registration official does not determine that at least 525 registered voters have signed the petition, then not later than fifteen (15) business days after receiving the petition, the county voter registration official must forward a copy of the petition to the county auditor so the auditor can verify to the county voter registration office whether any person who signed the petition, but is not a registered voter of the political subdivision, is a property owner of any real property located in the political subdivision. The county auditor has until not later than ten (10) days after receiving a copy of the petition to complete the verification. (IC 6-1.1-20-3.1(b)(7)-(8))

If the political subdivision is not a township, the county voter registration office must file a certificate and each petition with the body that can authorize the issuance of the bonds or the execution of a lease within 35 business days of the filing of the petition requesting the petition and remonstrance process. But, if the political subdivision is a township, the county voter registration office must file a certificate and each petition with the township trustee who must present the petition(s) to the township board within 35 business days of the filing of the petition requesting the petition and remonstrance process. (IC 6-1.1-20-3.1(b)(9))

If a sufficient petition has been filed, the political subdivision must publish notice concerning the petition and remonstrance process one time no later than thirty (30) days after the date the county voter registration office files the certificate with the political subdivision. (IC 6-1.1-20-3.1(b)(10))

Beginning thirty (30) and ending sixty (60) days after the notice concerning the petition and remonstrance process is published by the political subdivision, petitions in favor of and remonstrances against the bonds or lease may be filed with the county voter registration office by an owner of property within the political subdivision or a registered voter residing within the political subdivision on a form approved by the State Board of Accounts. The State Board of Accounts (SBOA) designs the petition forms upon request from the county voter registration office. Each signature must be dated. Petitions and remonstrances must be filed with the county voter registration office and verified by that office by the sixtieth (60th) day after the notice concerning the process was published. (IC 6-1.1-20-3.2(b)(1))

The county voter registration official must review the petition and remonstrance forms and determine whether each person who signed the petition or remonstrance is a registered voter in the political subdivision. Not later than fifteen (15) business days after receiving a petition and remonstrance forms, the county voter registration office must forward

a copy of the petition/remonstrance to the county auditor. Not later than ten (10) business days after receiving the copy of the petition/remonstrance, the county auditor must provide to the county voter registration office a statement verifying: (1) whether a person who signed the petition/remonstrance as a registered voter but who is not a registered voter is the owner of property in the political subdivision; and (2) whether a person who signed the petition/remonstrance as an owner of property does in fact own property within the political subdivision. (IC 6-1.1-20-3.2(b)(2)-(5))

Not later than thirty-five (35) days after the filing of the petitions and remonstrances containing 10,000 signatures or less, the county voter registration office must file a certificate and the petition or remonstrance with the political subdivision charged with issuing bonds or entering into leases. A county voter registration office may take an additional five (5) days to review and certify for each additional 5,000 signatures up to a maximum of sixty (60) days. (IC 6-1.1-20-3.2(b)(6))

For certain controlled projects, there is a procedure for voters and property owners in the political subdivision to petition for voters of the political subdivision to approve the controlled project by referendum. In order to initiate the referendum, a petition filed by the lesser of : (1) 500 persons who are either property owners with the political subdivision or registered voters residing the political subdivision; or (2) 5% of the registered voters residing with the political subdivision, on a petition form approved by the State Board of Accounts (SBOA), with the county voter registration official not later than thirty (30) days after the local political subdivision publishes notice of the preliminary determination to issue bonds/enter leases for the controlled project. (IC 6-1.1-20-3.5(b)(4)-(7))

Once a petition is filed with the county voter registration office, the county voter registration official must determine whether each person who signed the petition is a registered voter of the political subdivision. If the county voter registration official has determined that at least five hundred twenty-five (525) persons who signed the petition are registered voters within the political subdivision, the county voter registration office is not required to verify whether the remaining persons who signed the petition are registered voters. If the county voter registration official does not determine that at least 525 registered voters have signed the petition, then not later than fifteen (15) business days after receiving the petition, the county voter registration official must forward a copy of the petition to the county auditor so the auditor can verify to the county voter registration office whether any person who signed the petition, but is not a registered voter of the political subdivision, is a property owner of any real property located in the political subdivision. The county auditor has until not later than ten (10) days after receiving a copy of the petition to complete the verification. (IC 6-1.1-20-3.5(b)(8))

Not later than ten (10) business days after determining that at least 525 persons who signed the petition are registered voters or after receiving the statement from the county auditor, the county voter registration office must make the final determination of whether the lesser of 500 registered voters/real property owners or 5% of the registered voters have signed the petition. (IC 6-1.1-20-3.5(b)(9))

If the political subdivision is not a township, the county voter registration office must file a certificate and each petition with the body that has the authority to issue the bonds or execute the lease within 35 business days of the filing of the petition requesting the referendum process. But, if the political subdivision is a township, the county voter registration office must file a certificate and each petition with the township trustee who must present the petition(s) to the township board within thirty-five (35) business days of the filing of the petition requesting the referendum process. (IC 6-1.1-20.3.5(b)(10))

To place the referendum on the ballot, the local political subdivision must certify the proposed public question language for the referendum to the Department of Local Government Finance (DLGF). The DLGF shall review the

referendum language proposed and either approve or reject the language. The DLGF shall send its decision to the governing body of the political subdivision and the county auditor not more than ten (10) days after the resolution is submitted to the DLGF. (IC 6-1.1-20-3.6(d))

If the language is approved by the DLGF, the county auditor shall certify the approve public question language to the county election board in each county where the political subdivision is located. (IC 6-1.1-20-3.6(e))

The referendum shall be held in the next general election in which all the registered voters who are residents of the school corporation are entitled to vote after certification of the question. (IC 3-10-9-3; IC 6-1.1-20-3.3(e))

Immediately after the votes cast in the referendum have been counted, the circuit court clerk of each county holding the referendum shall certify the results of the referendum to the DLGF and the county auditor of each county where the political subdivision is located. (IC 6-1.1-20-3.6(f))

If a referendum for a controlled project or for a school tax levy referendum is defeated, another referendum may not be held earlier than 700 days after the date of the first referendum. However, a 350 day limit applies if a sufficient petition requesting that limit is submitted to the county auditor and signed by the lesser of the following: 1) Five hundred (500) persons who are either owners of property or registered voters in the political subdivision; or 2) Five percent (5%) of the registered voters residing within the political subdivision. (IC 6-1.1-20-1.1; IC 6-1.1- 20-3.1; IC 6-1.1-20-3.2; IC 6-1.1-20-3.5; IC 6-1.1-20-3.6; IC 20-46-1-11)

A political subdivision that has assessed value within the same taxing district as a political subdivision that has adopted an ordinance or resolution making a preliminary determination to issue bonds or enter into a lease to fund a controlled project is prohibited from promoting a position on the petition or remonstrance process or promoting the local public question in a manner provided in IC 6-1.1-20-10 and IC 6-1.1-20-10.1. Nothing in this law can be construed to prevent a political subdivision that has assessed value with the same taxing districts as the political subdivision that has adopted an ordinance or resolution from making a preliminary determination to issue bonds or enter into a lease to fund a controlled project from adopting a resolution or taking a position on the local public question. (IC 6-1.1-20-10(g), IC 6-1.1-20-10.1(h))

School Safety Referendum

A school corporation may adopt a resolution to place a referendum on the ballot to impose a school safety referendum tax levy, or extend a previous school referendum tax levy, to improve school safety (to pay capital expenses to improve the safety of a school building, for example). A school corporation may impose a school safety referendum tax levy, or extend an existing levy, if approved by a majority of the voters voting on the referendum. A resolution to extend a referendum levy must be adopted before December 31 of the final calendar year in which the school corporation's previously approved referendum levy was imposed.

To place the referendum on the ballot, a school corporation must certify the resolution to place the referendum on the ballot and the proposed language for the referendum to the Department of Local Government Finance (DLGF). The DLGF shall review the referendum language proposed and either approve or reject the language. The DLGF shall send its decision to the governing body of the school corporation not more than ten (10) days after the resolution is submitted to the DLGF.

If the language is approved by the DLGF, the governing body of the school corporation shall certify a copy of the resolution, including the language for the question and the department's approval to the county fiscal body of each

county in which the school corporation is located (for informational purposes) and the circuit court clerk of each county in which the school corporation is located.

The referendum shall be held in the next general election in which all the registered voters who are residents of the school corporation are entitled to vote after certification of the question. (IC 3-10-9-3; IC 20-46-9-14)

The governing body of the school corporation shall certify the referendum by noon (prevailing local time), August 1 before the general election.

A circuit court clerk who receives a referendum question certified by the governing body of a school corporation shall call a meeting of the county election board to make arrangements for the referendum. The individuals entitled to vote in the referendum are all of the registered voters residing in the school corporation.

Immediately after the votes cast in the referendum have been counted, the circuit court clerk of each county holding the referendum shall certify the results of the referendum to the DLGF.

During the period beginning with the adoption of a resolution by a school corporation to place a school safety referendum tax levy question on the ballot and continuing through the day on which the referendum is submitted to the voters, the school corporation may not promote a position on the referendum by taking certain actions. However, a school board member, school corporation superintendent, school corporation assistant superintendent, or chief school business official of a school corporation may discuss and personally advocate a position on a referendum for a school safety referendum tax levy outside a regular school day as long as public funds are not used. A student may use school equipment or facilities to report or editorialize about a local public question as part of the news coverage of the referendum by a student newspaper or broadcast.

If a school safety referendum is passed by the voters of a school corporation, then the school corporation may not adopt a resolution or otherwise place a school tax levy referendum on the ballot for the next three (3) years after the passage of the school safety referendum. (IC 20-46-1-8; IC 20-46-9)

Constitutional or Statewide Public Questions

The Indiana General Assembly may adopt a joint resolution putting forward a proposed amendment to the state constitution or a statewide public question before the electorate. According to Article 16, Section 1 of the state constitution, a proposed amendment to the state constitution must be agreed to by a majority of the members of the General Assembly (both the House and the Senate) and approved again by a majority of the members of the General Assembly after a general election occurs. If the second General Assembly approves of the proposed constitutional amendment, then the amendment is submitted to the voters for ratification at the next general election.

When a proposed state constitutional amendment or other statewide public question is submitted by the General Assembly to the voters to be ratified by popular vote, the election division is required to certified that public question to each county election board. (IC 3-10-3-1) The certification of the public question is done at the same time the election division will certify candidates for federal, statewide, state legislative, and judicial office, including judicial retention questions, to each county election board for the November general election under IC 3-8-7-16.

How a state constitutional amendment or statewide public question is to appear on the ballot can be determined by the General Assembly. If the General Assembly does not prescribe how the state constitutional amendment or statewide public question is to appear on the general election ballot then the Indiana Election Commission is required to prepare a brief statement of the public question in words sufficient to clearly designate the public question and have the statement printed in the form prescribed by IC 3-11-2-15, which is the standard form have how public questions are printed on the ballot in Indiana. (IC 3-10-3-2)

Judicial Retention Questions

There are various state constitutional sections and state laws regarding how various types of judges are elected or selected to office and reelected or retained in office.

Justices of the Indiana Supreme Court and Indiana Court of Appeals judges are appointed by the Governor from a list of three nominees prepared by the Judicial Nominating Commission. (State Constitution Article 7, Section 10) Once a Justice or appeals court judge is appointed to office the Justice or judge is required to stand for judicial retention to continue in office at the next general election following two (2) years after they appointed to office by the Governor. (State Constitution Article 7, Section 11) If a majority of the voters voting on the judicial retention question approve of retaining the Justice of judge, then the Justice or judge continues in office of another ten (10) years until they are required to stand for retention again.

If a Justice of appeals court judge wants to stand for retention at the next general election before their term is to expire, they must first file a statement with the Indiana Secretary of State, not later than noon, July 15 before the general election indicating that the Justice or judge wishes to have their judicial retention question placed on the ballot. This statement must include the Justice's or judge's name as they want it to appear on the judicial retention question and that is permitted to be printed on the ballot under IC 3-5-7. (IC 33-24-2-2; IC 33-25-2-2)

When a Justice or appeals court judge files a statement to stand for retention, the election division is required to certify to each county election board where the judicial retention question is to appear on the ballot, the judicial retention question in the form required by IC 33-24-2-5 for Indiana Supreme Court Justices, and IC 33-25-2-5 for Indiana Court of Appeals judges.

Similarly, the Indiana General Assembly requires the judges for the superior court in Lake, Marion, and St. Joseph County are also selected and retained in a similar manner as Indiana Supreme Court Justices and Indiana Court of Appeals judges. (IC 33-33-45-34; IC 33-33-49-13.3; IC 33-33-71-36)

If a judge of the Lake or St. Joseph superior court wants to stand for retention at the next general election before their term is to expire, the judge must file a statement with the Indiana Secretary of State, not later than noon, July 15 before the general election indicating that the judge wishes to have their judicial retention question placed on the ballot in their county. This statement must include the judge's name as they want it to appear on the judicial retention question and that is permitted to be printed on the ballot under IC 3-5-7. (IC 33-33-45-42; IC 33-33-71-43)

If a judge of the Marion superior court wants to stand for retention at the next general election before their term is to expire, the judge must file a statement with the Indiana Secretary of State and the Marion County circuit court clerk, not later than the deadline for a candidate to file a declaration of candidacy for the primary election under IC 3-8-2-4 in the year the judge's term is to expire, indicating that the judge wishes to have their judicial retention question placed on the ballot in their county. This statement must include the judge's name as they want it to appear on the

judicial retention question and that is permitted to be printed on the ballot under IC 3-5-7. If the judge is affiliated with a political party, the judge may indicate the name of the political party in their statement. (IC 33-33-49-13.3)

When a judge of the Lake, Marion, or St. Joseph superior court files a statement to stand for retention, the election division is required to certify to the county election board in the county where the judicial retention question is to appear on the ballot, the judicial retention question in the form required by IC 33-33-45-42 for Lake County superior court judges, IC 33-33-49-13.3 for Marion County superior court judges, and IC 33-33-71-43 for St. Joseph County superior court judges.

Campaign Finance Support of Public Question Elections

Foreign National Contributions Prohibited to Support or Oppose Public Questions

A foreign national may not make a contribution in connection with a public question authorized or required by state law. A political action committee (PAC) may not knowingly or willfully, directly or indirectly, accept a contribution or expenditure from a foreign national to influence the outcome of a public question.

The treasurer of the PAC must confirm in each of the PAC's campaign finance reports (CFA-4) that the PAC has not knowingly or willfully received, solicited, or accepted, either directly or indirectly, contributions or expenditures from a foreign national that exceed $50,000 in total within the four (4) years immediately preceding the date of the contribution.

A report filed by the treasurer of a PAC must include an affirmation by the treasurer that the person making a contribution of any amount is not a foreign national.

A foreign national may not direct, dictate, or control the decision-making process of a person's activity to influence a public question such as making a contribution or expenditure to influence a public question. A foreign national may not directly or indirectly solicit another person to make a contribution or expenditure to influence an election on a public question.

Indiana state law does not permit a foreign national to contribute to any candidate's committee, political action committee, or regular party committee. (IC 3-9-2-11; IC 3-9-2-11.5; IC 3-9-5-14; IC 3-9-5-18)

Independent Expenditures on Public Questions

A person making an independent expenditure that exceeds $5,000 regarding a public question shall file a report within forty-eight (48) hours certifying and affirming that: 1) there are no contributions from a foreign national; 2) the person has not accepted contributions that exceed $50,000 in total from a foreign national within four (4) years prior to the date of the independent expenditure and; 3) that the person will not receive contributions or have expenditures made by a foreign national during the remainder of the calendar year in which the public question will appear on the ballot. The report form will be prescribed by the Indiana Election Division.

A determination from the county election board or Indiana Election Commission that a person has accepted funds from a foreign national, in excess of $50,000 in total within four (4) years previously or during the calendar year in which the public question appears on the ballot creates a presumption that the prohibition described above has been violated. (IC 3-9-9)

PAC Contributions on Public Questions

Before accepting a contribution to influence an election on a public question, a treasurer of a political action committee (PAC) shall obtain from the person offering the contribution certification that the person is not a foreign national and has not knowingly or willfully accepted contributions that exceed $50,000 in total from one or more prohibited source within four (4) years prior to date the contribution is offered.

A PAC supporting or opposing a public question must certify, on the PAC's statement of organization (CFA-2), that no preliminary activity was funded by a prohibited source before the committee filed the CFA-2. (IC 3-9-1-4; IC 3-9-1-25)

Internal Campaign Finance Records Retention

A political action committee (PAC) that makes a contribution or expenditure and a person who makes an independent expenditure to influence an election on a public question must obtain and keep receipted bills, cancelled checks, or other proof of payment, stating the particulars for each expenditure made by or on behalf of a committee or person.

The treasurer of any PAC or a person who makes an independent expenditure shall preserve all receipts and accounts for three (3) years or one (1) year after the date of dissolution of the committee; whichever occurs first. (IC 3-9-1-24)

Recall and Impeachment

A **"recall"** refers to a special election held to decide if an elected official should be removed from office before the date that the official's term is scheduled to end**. Indiana does not allow for recall elections.** Although some other states do permit recall elections, the Indiana General Assembly has not enacted legislation to permit recall elections.

"Impeachment" is the removal of a person from office by the state legislature or a circuit court. (IC 5-8-1) All elected officials, (with the exception of justices of the Indiana Supreme Court, judges of the court of appeals and judges of the Indiana tax court), are liable to impeachment for crimes, incapacity, or negligence in office, the grounds set forth in Article 6, Section 7 and 8 of the Indiana Constitution. An official cannot be impeached for making an unpopular or an unwise decision according to popular opinion. Please review the appropriate statutes to review this process. (IC 5-8-1-3; IC 5-8-1-30)

Special Elections for U.S. House Vacancies

If a member of the U.S. House resigns or dies while serving elected office, then a special election is called by the Indiana Governor.

CAMPAIGN FINANCE ISSUES

Nearly all candidates for elected office are responsible for the establishment of a principal candidate's committee and periodic financial disclosure reports throughout an election year. Indiana Code 3-9 pertains to the administration of the campaign finance laws, and IC 3-9-1-1 states that the campaign finance laws apply to all candidates' committees, regular party committees, political action committees and legislative caucus committees.

There are a few entities that ARE NOT required to organize a campaign finance committee and file reports with either the Indiana Election Division or individual county election boards. Those exceptions are:

- Candidates for local offices for which the annual compensation is less than $5,000, and who do not receive more than $500 in contributions or spend more than $500 campaigning for the office;
- Candidates for school board offices, unless the candidate receives more than $500 in contributions or spends more than $500 campaigning for the office;
- Candidates for election for precinct committeeman or delegate to a state convention;
- Auxiliary party organizations as defined by IC 3-5-2.1-6; and
- Candidates for federal office (U.S. Senate, U.S. House of Representatives), who are subject to federal law and file with the Federal Election Commission (FEC).

For campaign finance purposes, the definition of "candidate" (IC 3-5-2.1-16) is expanded to include:

- when the individual is required to designate a campaign finance committee,
- is subject to campaign contribution and expense restrictions,
- is subject to the requirements for campaign communications using fabricated media, or
- is a current officeholder, ensuring all officeholders keep campaign finance committees open for the duration of their time in office.

This *Manual* broadly covers campaign finance issues. For more detailed analysis, please review the current version of the *Indiana Campaign Finance Manual* or the Indiana Campaign Finance Act (IC 3-9).

Committee Types

In Indiana, there are three types of campaign finance committees: candidate, regular party, and political action. A candidate's committee files the (CFA-1) statement of organization; a regular party committee files the (CFA-3) statement of organization; and a political action committee (PAC) files the (CFA-2) statement of organization to establish their campaign finance committee. The location where the forms and campaign finance reports are to be filed – either the county clerk's office or election division – are noted below for each committee type.

Candidate's Committee

Announcements that a person is running for a specific state or local office do not automatically make the individual a candidate for the purposes of the Indiana Campaign Finance Act! Rather, an individual becomes a "candidate" for that purpose either when the individual, the candidate's committee, or a person acting with the consent of the individual raises or spends money toward campaigning for the office or, in most cases, files a declaration of candidacy for their name to appear on the ballot. The salary for the elected office is also a factor in determining when a candidate's committee must be established.

In a year where the office is **not** on the ballot, a candidate running for an office paying more than $5,000 is required to file a (CFA-1) and open their campaign committee within ten (10) days of when the committee receives more than $100 in contributions or makes more than $100 in expenditures (that is, $100.01 or more).

In a year where the office is **on** the ballot, the candidate running for an office paying more than $5,000 must file a (CFA-1) by noon (prevailing local time), ten (10) days after the committee receives more than $100 in contributions or makes more than $100 in expenditures, or noon (prevailing local time), seven (7) days after the candidate filing deadline, whichever occurs first. This requirement applies even if the candidate does not intend to raise or spend more than $100 toward running for office! Should a candidate running for an office paying at least a $5,000 salary fail to open a campaign finance committee, the county election board must administratively open a candidate committee naming the candidate the chair and treasurer of the committee. A candidate's committee opened by administrative action is still subject to the campaign finance deadlines and any enforcement action taken by the county election board for delinquent or defective reports.

A candidate running for an office paying less than $5,000 or school board must open a candidate's committee when the committee receives more than $500 in contributions or makes more than $500 in expenditures (that is, $500.01 or more). These two categories of candidates are not required to open a committee after filing a declaration of candidacy; rather, the $500 threshold amount serves as the trigger to open a committee whether the office is on the ballot or not.

Note: Currently elected officeholders are required under state law to keep their campaign finance committee open until such a time they no longer hold elected office or a candidate running for an elected office. (IC 3-5-2.1-16(b)(6)) The committee may wish to amend their statement of organization to reflect a new office sought, if the officeholder is seeking another elected office, to comply with state law. When filling an elected office vacancy, the new officeholder must file a CFA-1 statement of organization not later than noon, ten days after filing their oath of office with the clerk (or in some cases, the Indiana Secretary of State).

Please do not confuse opening a campaign finance committee with filing a declaration of candidacy! Opening a candidate's committee means an individual is planning to raise or spend money toward running for an office or has already met the threshold dollar amount to open a committee. Filing a statement of organization (CFA-1) does not place a person's name on the ballot; instead, a declaration of candidacy must be filed when candidate filing opens. See the "Candidates & Office Holders" section of this *Manual* for more information.

As noted above, a candidate who raises or spends more than the threshold amount is required to open a campaign finance committee. This is true even if the office for which the person desires to be a candidate is not on the ballot during that calendar year. For example, Sally raises $150 toward running for city dogcatcher in 2025, but the office is not on the ballot until 2026. Sally must file a (CFA-1) with the county election board to open her campaign finance committee by noon (prevailing local time), ten (10) days after receiving the contribution. She will need to follow the (CFA-4) schedule and file a 2025 Annual Report in January 2026, and file her (CAN-2) declaration of candidacy so that her name is printed on the ballot should she be eligible.

Sometimes a candidate who has not decided whether to become a candidate for a specific office may "explore" a run for office and decide to raise or spend money toward the effort. When completing the (CFA-1) the candidate would mark "exploratory" and provide an explanation in the appropriate field on the form. Once the candidate files a declaration of candidacy, the (CFA-1) must be amended from "exploratory" to "principal" committee.

After a primary or general election, a defeated candidate may choose to disband a committee, unless the

individual continues to hold another elected office. However, an unsuccessful candidate who is no longer an elected officeholder may keep a candidate's committee open and is required to continue filing reports (at least on an annual basis every January). A candidate should carefully weigh the decision of keeping a committee open and continuing with reporting requirements or closing the committee, assuming the individual does not hold another elected office.

Candidates on the ballot will file the (CFA-4) report of receipts and expenditures at certain times throughout the year. The *Indiana Campaign Finance Manual* outlines those deadlines in detail and should be referenced for more information. Candidate committees must file their campaign finance documents with the appropriate office, as noted below. Deadlines are always at noon (prevailing local time), and the office must physically be in possession of the document for filing. In other words, a postmark noting a campaign finance report was mailed on or before the deadline but received after the deadline is not considered timely and must be considered delinquent. (See the "Enforcement" section later in this *Manual*.)

Candidate Committees: Where to File Campaign Finance Documents

Office Type	Where to File
Federal Office	Federal Election Commission
Statewide, state legislative	Indiana Election Division
Judicial office, including prosecuting attorney	County Election Board
Local Office (county, city, town, township) & School Board	County Election Board

Note: Candidates for judicial office, including prosecuting attorney, file a declaration of candidacy, (CAN-2, generally), with the Indiana Election Division or Secretary of State. Circuit, Superior, or Probate court judges and prosecuting attorneys file their campaign finance documents (CFA-1, CFA-4, CFA-11) with the county election board. In the one judicial circuit where more than one county is included (Dearborn and Ohio counties), a candidate for circuit court judge or prosecuting attorney files with both of the counties that make up the circuit.

Note: Candidates and committees for school board candidates, when required to file campaign finance statements and reports, must file with the county election board of each county in the school district. (IC 3-9-5-4)

Note: candidate committees for statewide office AND state legislative office must file all campaign finance reports (CFA-1, CFA-4, CFA-11) electronically at campaignfinance.in.gov. (IC 3-9-4-4) However, a signed copy of any CFA-1 statement of organization must also be filed by hand-delivery, mail, email, or fax. Local candidates do not file any reports with the Indiana Election Division or online at campaignfinance.in.gov.

These rules generally apply to all candidate committees: statewide, state legislative, judicial including prosecuting attorney, and local offices and school board. Precinct committeeman and state convention delegates are political party offices, and not subject to the Indiana Campaign Finance Act (IC 3-9). Statewide candidates follow slightly different rules and are advised to review the *Indiana Campaign Finance Manual* or contact the Indiana Election Division.

Candidates for judicial office, including prosecuting attorney, may be subject to additional rules as outlined in the Code of Judicial Conduct. Please contact the Indiana Office of Judicial Qualifications at (317) 232-4706 or visit their

website: https://www.in.gov/courts/jqc/. Campaign finance rules for federal candidates are administered by the Federal Election Commission (FEC).

Regular Party Committees

Political parties may be required to open a campaign finance committee if they raise or spend more than $200 (that is, $200.01 or more) to advocate for the support or defeat of a candidate or public question. Regular party committees use the (CFA-3) statement of organization. A county party committee that intends to support a state legislative or statewide candidate is required to open a committee with the election division. If the county party only wants to focus on local races, then the committee should file with the county election board. County party committees that want to support federal candidates should reach out to the Federal Election Commission (FEC) to understand their rules or regulations.

Political parties may have district committees, and if so, district committees would file campaign finance documents with the election division. State party committees file with the election division.

Regular party committees will file the (CFA-4) report of receipts and expenditures at certain times throughout the year. The Indiana Campaign Finance Manual outlines those deadlines in detail and should be referenced for more information. Candidate committees must file their campaign finance documents with the appropriate office, as noted above. Deadlines are always at noon (prevailing local time), and the office must physically be in possession of the document for filing. In other words, a postmark noting a campaign finance report was mailed on or before the deadline but received after the deadline is not considered timely and must be considered delinquent. (See the “Enforcement” section later in this *Manual*.)

Note: An "auxiliary party organization" means an organization located within or outside Indiana that is affiliated with a political party; proposes to influence the election of a candidate for state, legislative, local, or school board office, or the outcome of a public question; and has not had an annual expenditure of ten thousand dollars ($10,000) or more in at least one (1) of the last two (2) years; or made a contribution of more than one thousand dollars ($1,000) to another committee or to a candidate. (IC 3-5-2.1-6) Please see the current version of the *Indiana Campaign Finance Manual* for more information.

Political Action Committees

Political action committees may be required to open a campaign finance committee if they raise or spend more than $100 (that is, $100.01 or more) to advocate for the support or defeat of a candidate or public question. PACs use the (CFA-2) statement of organization, and it is filed with the county election board or election division. A PAC that intends to support a state legislative or statewide candidate or statewide public question is required to open a committee with the election division. If the PAC only wants to focus on local races, then the committee must file with the county election board. Political action committees that want to support federal candidates should reach out to the Federal Election Commission (FEC) to understand their rules or regulations.

PACs file the (CFA-4) report of receipts and expenditures at certain times throughout the year. The *Indiana Campaign Finance Manual* outlines those deadlines in detail and should be referenced for more information. Candidate committees must file their campaign finance documents with the appropriate office, as noted above. Deadlines are always at noon (prevailing local time), and the office must physically be in possession of the document for filing. In other words, a postmark noting a campaign finance report was mailed on or before the deadline but received after the deadline is not considered timely and must be considered delinquent. (See the “Enforcement” section later in this *Manual*.)

Disbanding a Campaign Finance Committee

A campaign finance committee must take certain steps to close a committee, namely, to achieve a zero cash-on-hand balance, have no outstanding debts or loans, and no longer meet the definition of a candidate under IC 3-5-2.1-16 (that is, not be a currently elected official or candidate running for another elected office). A committee may disband (close) by submitting a final report of receipts and expenditures (CFA-4) with the election division or county election board, whichever received the paperwork to open the committee. **It is imperative the "Final/Disbands" box be checked on the summary page of the report.** If the box is not marked, then the committee remains open, even if the committee filed a report with a zero cash on-hand balance. An open committee will be required to file (CFA-4) reports, as required by the type of committee that was opened, until the committee is officially disbanded.

A special "final" report isn't always warranted. Committees may mark the "Final/Disbands" box on the CFA-4 summary sheet and also mark "Annual Report," for example. By marking both boxes, the committee is communicating to election officials that it is filing its annual report, which also serves as the final report.

If there are surplus funds, the committee may transfer the funds before disbanding to one or any combination of the following:

1) one or more regular party committees;
2) one or more candidate's committees;
3) the Election Division;
4) an organization exempt from Federal income taxation under section 501 of the Internal Revenue Code; and/or
5) contributors to the committee (on a pro rata basis). (IC 3-9-1-12)

The funds may also be used to:

- defray any expense reasonably related to the candidate or committee's campaign for office;
- continuing political activity, or activity related to service in an elected office; and/or
- to make an expenditure to any political party committee or another candidate's committee. (IC 3-9-3-4)

A dissolution and transfer of funds does not relieve the committee or its members from civil or criminal liability. (IC 3-9-1-12(g)). **On occasion, a candidate's committee or political action committee will cease to exist without filing the required final report. If this occurs, the county election board can act to administratively disband the committee (rather than continue to send delinquency notices and assess fines without any hope of collecting them).**

Under IC 3-9-1-12, not later than the last Friday in January of each year, the county election board is to review the list of open committees that file campaign finance reports with that office. If the board notes that a committee has not filed reports during the previous three years and that the committee had less than $1,000 of cash on hand, according to the last report filed, the board can begin a proceeding to formally dissolve this committee unless it is a candidate's committee where the candidate is a currently elected official.

The board must send a notice by certified mail to the chairman and treasurer of the committee at their last known addresses. The notice must state that the board will conduct a hearing on a specific date to dissolve the committee. If the board conducts the hearing, and finds that the committee should be dissolved, then the board issues an order disbanding the committee. The board then arranges for the publication of a legal notice stating the name of the committee and the date that the committee was disbanded. The entire text of the order is not required to be published

in the legal notice.

Deceased or Incapacitated Committee Treasurer

A chairman of a campaign finance committee may file outgoing treasurer's report for the committee when the treasurer is deceased or otherwise cannot make the filing. (IC 3-9-5-12)

Personal Representative (Executor of Decedent) Disbanding A Candidate's Committee

The personal representative of a deceased campaign finance committee treasurer or candidate for office is permitted to disband a campaign finance committee associated with the deceased person's committee. (IC 29-1-8-12)

Campaign Finance Administration

Each county election board or board of elections and registration must compile and maintain a listing of all campaign finance statements and reports pertaining to each candidate, committee, and local public question. These statements and reports must be available to the public for inspection and copying not later than the end of the second business day following the day during which the county election officials received the filings. (IC 3-9-4-5)

The election division or county election board is required to conduct audits and field investigations from time to time with respect to reports and statements filed under the Campaign Finance Act, and with respect to an alleged failure to file a report or statement. (IC 3-6-4.2-10; IC 3-9-4-13)

County election boards are required to send notice to campaign finance committees that are delinquent (late) in filing required reports and assess the fine required by state law. A hearing is to be conducted to allow the delinquent filer to provide facts and evidence to the election board to dispute the assessment of the fines. If it is alleged a campaign finance committee has filed a defective report, then the county election board must send notice to the committee and allow a 5-day period for an amended report to be filed. Please see the "Enforcement" section later in this guide or the Indiana Campaign Finance Manual for more details.

County election boards are often asked how a Report of Receipts and Expenditures (CFA-4) is to be completed by the committee. Please refer to the *Indiana Campaign Finance Manual*, which provides information for completing the report in detail for each type of committee (candidate, regular party, PAC). Instructions for each schedule of the CFA-4 report are found on the back of each form, too.

Campaign finance reports may be delivered by hand, mail, or email. However, to receive reports via email, the appropriate office must have the capacity to do the following: receive email; electronically record the data and time that electronic mail is received by the office; and print out a hard copy of the report after the receipt of the email by the office. (IC 3-9-5-7) The Indiana Election Commission and each county election board must have adopted a policy to accept and receive campaign finance reports and statements by fax. (IC 3-9-5-7(d))

Campaign Finance Enforcement

Particular attention should be directed to IC 3-8-1-1.6 and IC 3-9-4-14, which details the specific duties the county election board must perform to enforce the campaign finance laws.

Civil & Criminal Penalties

The Election Commission or a county election board is required to impose a civil penalty for certain violations of the

Campaign Finance Act, including delinquent reports and statements of organization, unless the Commission or county election board members agree unanimously to reduce or waive the civil penalty because imposing the penalty would be "unjust under the circumstances." (IC 3-9-4-19) The Commission or county election board may impose a civil penalty upon a person for the following:

1) Failing to file a report required under the Act with the Election Division or county election board. (IC 3-9-4-16(c); IC 3-9-4-17(c))

2) Failing to file a statement of organization required under the Act. (IC 3-9-4-16(c); IC 3-9-4-17(c))

3) If a committee or a member of the committee disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee. (IC 3-9-1-20)

4) Making a contribution other than to a committee subject to the Act, or to a person authorized by law or to a committee to receive contributions on the committee's behalf. (IC 3-9-4-16(a)(4); IC 3-9-4-17(a)(4))

5) Against a corporation or labor organization, for exceeding the limits on contributions under the Act. (IC 3-9-4-16(e); IC 3-9-4-17(e))

6) Against a corporation or labor organization that fails to designate a contribution to a political action committee to go to one or more of the subcategories under IC 3-9-2-4. (IC 3-9-4-16(g); IC 3-9-4-17(f))

7) Making a contribution in the name of another person. (IC 3-9-4-16(a)(6); IC 3-9-4-17(a)(6))

8) Accepting a contribution made by one person in the name of another person. (IC 3-9-4-16(a)(7); IC 3-9-4-17(a)(7))

9) When not the treasurer of a committee subject to the Act, paying any expenses of an election or a caucus unless authorized to do so by the Act. (IC 3-9-4-16(a)(8); IC 3-9-4-17(a)(8))
10) Commingling committee funds with personal funds of an officer, a member, or an associate of the committee. (IC 3-9-4-16(a)(9); IC 3-9-4-17(a)(9))

11) Wrongfully using campaign contributions in violation of the Act. (IC 3-9-4-16(a)(10); IC 3-9-4-17(a)(10))

12) Against a state legislative candidate or committee, for engaging in fundraising activities during a prohibited period. (IC 3-9-4-16(a)(11))

13) Against a person who falsely represents in paid political advertising or campaign material that a candidate is or has been an officeholder. (IC 3-9-4-16(a)(13); IC 3-9-4-17(a)(12))

14) Against a person who serves as treasurer of a committee in violation of a requirement set forth in any of the following state laws (IC 3-9-1-13(1) – a treasurer must be a US citizen; IC 3-9-1-13(2) – a treasurer may not be the chairman of a committee, except when authorized as a candidate under IC 3-9-1-7; IC 3-9-1-18 – a treasurer who is a candidate and serves as treasurer of another committee). (IC 3-9-4-16(a)(14); IC 3-9-4-17(a)(13))

15) Against a statewide candidate or certain political action committees which fail to comply with a requirement to file a campaign finance report or statement with the Election Division electronically. (IC 3-9-4-16(a)(15))

In addition to the penalties of delinquent or defective reports, the Commission or county election board may assess civil penalties in the following instances:

1) A corporation or labor organization that exceeds the maximum contributions permitted under the Act is subject to a civil penalty of not more than three times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the Election Division or county election board. (IC 3-9-4-16(e); IC 3-9-4-17(e))

2) A corporation or labor organization that fails to designate a contribution to a political action committee to go to one or more of the subcategories under IC 3-9-2-4 is subject to a civil penalty of up to two times the amount of the undesignated contributions or $1,000, whichever is greater. All the investigative costs incurred and documented by the Election Division, or a county election board may be added to the total. (IC 3-9-4-16(g); IC 3-9-4-17(f))

3) A state legislative candidate or the candidate's committee that engages in fundraising activity during a prohibited period is subject to a civil penalty of $1,000 or two times the amount of any contribution received, whichever is greater. (IC 3-9-4-16(f))

4) A person who falsely represents in paid political advertising or campaign material that a candidate is or has been an officeholder is subject to a civil penalty of not more than $500 upon unanimous vote of the entire membership of the Election Division or a county election board. All the investigative costs incurred and documented by the Election Division, or a county election board may be added to the total. (IC 3-9-4-16(h); IC 3-9-4-17(g))

5) A person who serves as treasurer of a committee in violation of a requirement set forth in the state laws discussed above is subject to a civil penalty of not more than $500 upon unanimous vote of the entire membership of the Election Commission or a county election board. All the investigative costs incurred and documented by the Election Division, or a county election board may be added to the total. (IC 3-9-4-16(i); IC 3-9-4-17(h))

6) A statewide candidate's committee or political action committee subject to the electronic filing requirement with the Election Division is subject to a civil penalty equal to the costs incurred by the Election Division for the manual entry of data contained in the report or statement. All the investigative costs incurred and documented by the Election Division may be added to the total. (IC 3-9-4-16(j))

7) A person who violates the law governing mailings including absentee ballot applications by not including the required information regarding the sender under IC 3-11-4-5.2 is subject to a civil penalty of not more than $1,000 for each communication circulated or published (but not for each of the copies actually circulated or published). IC 3-6-4.9-10

All violations listed above other than those which specify an amount are subject to a civil penalty of not more than one thousand dollars ($1,000), plus any investigative costs incurred and documented by the Election Division or county election board. Certain officeholders who have not satisfied previous civil penalties may also be subject to additional penalties under the Act. (IC 3-9-4-18)

All civil penalties collected are deposited in the state or county campaign finance enforcement account. The funds in these accounts may be available to supplement funds otherwise appropriated to administer the Campaign Finance Act. The funds in this account are also available, with the approval of the county council, to supplement the funds appropriated for the administration of elections in the county.

Criminal penalties relating to the Campaign Finance Act can be found in IC 3-14-1 and noted in the *Indiana Campaign Finance Manual.* If the Indiana Election Commission or county election board determines that a felony or misdemeanor violation of the Campaign Finance Act may have occurred, the violation may be reported to the appropriate prosecuting attorney. The Commission or board may have the report transmitted to the grand jury of the county in which the violation was committed and present evidence concerning the violation to the grand jury. (IC 3-14-5-3) A prosecuting attorney is responsible for prosecuting criminal violations of the Act and may file criminal charges following referral by a county election board. (IC 3-14-5-4; IC 3-6-5-32) The attorney general is authorized to bring a civil action such as a permanent or temporary injunction to prevent or stop violations of the Act. (IC 3-6-4.1-22; IC 3-6-5-32)

Independent Expenditures on Public Questions

A person making an independent expenditure that exceeds $5,000 regarding a public question shall file a report within forty-eight (48) hours certifying and affirming that: 1) there are no contributions from a foreign national; 2) the person has not accepted contributions that exceed $50,000 in total from a foreign national within four (4) years prior to the date of the independent expenditure and; 3) that the person will not receive contributions or have expenditures made by a foreign national during the remainder of the calendar year in which the public question will appear on the ballot. The report form will be prescribed by the Indiana Election Division.

A determination from the county election board or Indiana Election Commission that a person has accepted funds from a foreign national, in excess of $50,000 in total within four (4) years previously or during the calendar year in which the public question appears on the ballot creates a presumption that the prohibition described above has been violated. (IC 3-9-9)

Delinquent & Defective Campaign Finance Filings

State law establishes the frequency by which certain candidates, regular party committees, and political action committees with an active statement of organization on file are to file a report of receipts and expenditures (CFA-4). A committee is considered active until the committee meets specific criteria to file a "final/disbands" report or is disbanded administratively. See "Disbanding a Campaign Finance Committee" section above or refer to the *Indiana Campaign Finance Manual* for details.

The deadline for campaign finance filings is noon (prevailing local time) on the specified date, and reports must be filed with the county election board or election division by the noon deadline to be considered on time. A report received after the noon deadline is considered late and must be assessed the $50 per calendar day fine. While a report may be sent by mail, postmarks have no bearing on the determination if a report is considered timely. An envelope containing a report that is postmarked on or before the deadline is not considered on time if the county election board or election division receives it after the deadline.

The county election board and election division must notify delinquent filers of their duty to file a campaign finance report. A delinquency notice for a report must be given not later than thirty (30) days after the date the report was required to be filed. (IC 3-9-4-14) Should a county election board fail to send a notice of delinquency then the delinquent filer remains liable for a civil penalty in the full amount permitted by the Campaign Finance Act. (Please

note, a county election board is not required by law to provide proactive notice of an impending campaign finance filing deadline, though a county election board may adopt such a policy to do so.)

In addition to providing notice to the delinquent filers, the county election board must also post a listing of delinquent filers in a public place or near the entrance to the county election board's office(s). The county election board MUST then assess civil penalties against *delinquent* filers in the amount of fifty dollars ($50) for each day that the statement or report is late, with the afternoon of the final date for filing the statement or report being calculated as the first day of the penalty. (IC 3-9-4-17(c)) Penalties accrue each calendar day with day one starting after 12:00 P.M. (noon) on deadline day; no exception is to be given for weekends or holidays. The civil penalty cannot exceed $1,000, plus other costs incurred by the county election board, such as certified mailing costs.

For a committee or organization that files a defective report, the county election board must send a notice stating that the statement or report is defective and allow the committee or organization five (5) days to correct any deficiencies. The civil penalty is $10 for each day that the report is not corrected after the expiration of the 5-day period, not to exceed a total of $100. (IC 3-9-4-19)

County election boards are allowed some discretion under Indiana law to waive or reduce the civil penalties established in Indiana law if the board finds by unanimous vote that imposition of the required penalty would be unjust under the circumstances. The suspension or waiving of all or any of the civil penalties will be made based upon evidence provided at a public meeting for which all interested parties have received adequate notification. Unless the board waives or reduces a required penalty, the board must assess the penalty prescribed by Indiana law as noted above.

Disclaimers

An individual, organization or a committee who expends money or solicits a contribution to finance a communication that expressly advocates the election or defeat of a clearly identified candidate must include a "disclaimer" in the communication. (IC 3-9-3-2.5)

However, the Indiana disclaimer law does not apply to:

1) Communications concerning election to a federal office (these are governed by federal law and regulations).
2) Communication relating to the outcome of a public question (IC 3-9-3-2.5(a)(2)
3) Political messages on radio, television, or the Internet. (In general, state law does not regulate these media. For information about disclaimers required for state and local candidates for radio, television, or cable contact the Federal Communications Commission (FCC) at (202) 418-1440 or visit www.fcc.gov.)
4) Items where a disclaimer cannot be conveniently printed or would be impractical such as bumper stickers, pins, buttons, pens, wearing apparel, water towers, skywriting, etc.
5) Committee checks and receipts only used for administrative purposes.
6) Certain communications *(direct mailings of 100 or less, similar pieces of mail, or communications by the PAC of a corporation or labor union requesting contributions from stockholders or labor union members).*
7) Disclaimer requirements do not apply to candidates for precinct committeeman or state convention delegate.

Some examples of political materials and literature that DO require disclaimers are newspaper advertisements, billboards, signs, posters, **yard signs**, *(whether homemade or commercially printed),* portable billboards, brochures, leaflets, circulars, letterhead, and direct mail pieces sent to more than 100 persons. Type size and color contrast requirements are established as minimum standards for disclaimers. A 12-point type font size satisfies the size requirement for these types of disclaimers.

The color contrast requirement is met if the disclaimer is printed in black text on a white background or the degree of color contrast between the background and the text of the disclaimer is not less than the color contrast between the background and the largest text used in the communication.

Notwithstanding the above type size and contrast requirements, a disclaimer satisfies the requirements of law if the minimum type size of the disclaimer is 7-point type font size and the color of the disclaimer contrasts with the background color.

There is no specific location for the disclaimer to be printed, as long as it is legible. In mailings, the disclaimer should appear in a prominent location, but is not required to be placed on **each** page of a document. A disclaimer is not required to appear on the front or cover page of a communication if the disclaimer appears within the communication.

Note: A candidate does not falsely claim to be an incumbent for the elected office they are running for if the candidate's paid political advertising and campaign materials only contains the candidate's name and the office they seek without the words: "elect", vote", or for". (IC 3-9-3-5)

More information about disclaimers and enforcement matters can be found in the current version of the *Campaign Finance Manual*.

Campaign Finance Hearings

Pursuant to IC 3-9-4-17(l), proceedings of the county election board to enforce the campaign finance laws are governed by the Administrative Orders and Procedures Act (AOPA). (IC 4-21.5) The county election board should provide at least five (5) days' notice to a committee of any hearing before the board. (IC 4-21.5-3-20) The notice should include a description of the time, place, and nature of the hearing.

The appendix of this *Manual* includes a toolkit for county election board members. The kit includes samples of the following: delinquency notice, public notice, notice of hearing, administration of oath, "Finding of Fact" order, and an appointment of proxy. These forms are not prescribed by the election division, and county election boards may modify the text to best suit their needs.

After the hearing, the county election board should issue an order reflecting the action taken by the board, including written findings that support the order. A final order by the ultimate authority must include the procedures and time limits for seeking judicial review of the order under IC 4-21.5-5. This applies to county election boards, who must follow AOPA for campaign finance enforcement hearings only, and to the Indiana Election Commission. (IC 1-1-5.5-24; IC 4-21.5-3-27)

For judicial review of administrative proceedings conducted according to the AOPA (IC 4-21.5), a court is not bound by a finding of fact made by the ultimate authority during an administrative proceeding conducted under AOPA if the finding of fact is not supported by the record before the court. A court shall decide all questions of law, including any interpretation of a federal or state constitutional provision, state statute, or agency rules, without deference to any previous interpretation made by the agency that is a party to the judicial review. (IC 4-21.5-5-11)

Not later than thirty (30) days after receipt of a petition for judicial review of an agency action under AOPA served under IC 4-21.5-5-8 or within further time allowed by the court or by other law, the agency that is a party to the judicial review must transmit to the court the original or a certified copy of the agency record for judicial review of the agency action. (IC 4-21.5-5-13)

Aa court shall grant relief to a petitioner for judicial review of an agency action if the court determines that the petitioner has been prejudiced by an agency action that is unsupported by a preponderance of the evidence instead of beyond a reasonable doubt. (IC 4-21.5-5-14)

Electronic Filing of Local Campaign Finance Reports with County Election Board

A county election board or board of elections and registration may establish an optional system for electronic filing of campaign finance reports required to be filed by a candidate or campaign finance committee with the county election board under Indiana campaign finance law. If the county election board or board of elections and registration provide for the electronic filing of campaign finance reports, then the board may not require a candidate or campaign finance committee to file reports using the system established by the board.

This statute is not a substitute for campaignfinance.in.gov, the state's campaign finance website where only statewide and state legislative committees and certain regular party and political action committees who file with the Indiana Election Division submit their information. (IC 3-9-4-4.5)

School Board Campaign Finance Filings with County Election Board

Candidates and committees for school board candidates, when required to file campaign finance statements and reports, must file with the county election board of each county in the school district. (IC 3-9-5-4)

Campaign Contributions Through Third Party Payment Platforms

A committee who receives a contribution made through a third-party electronic payment platform (for example, contributions made by credit cards) must report the total amount received before fees or charges from the payment platform are applied in the contribution sections of the committee's campaign finance report (Schedule A of the CFA-4 Report of Receipts and Expenditures or CFA-11 Supplemental Large Contribution Report). Any fees or charges from the payment platform must be reported as an expenditure by the committee on Schedule B of their CFA-4 Report of Receipts and Expenditures. (IC 3-5-2.1-27(d); IC 3-9-5-14)

Digitally Altered Media

A communication in any format that advocates for the election or defeat of a candidate or to solicit contributions containing digitally altered audio or visual recordings must include a disclaimer that states, "Elements of this media have been digitally altered or artificially generated." A candidate depicted in fabricated media without a disclaimer may bring civil action against the person who paid for, sponsored, or disseminates the communication and is entitled to recover damages, injunctive relief, court costs, and reasonable attorney fees.

A new chapter in the state campaign finance law, IC 3-9-8, is enacted to regulate the use of digitally altered media in certain political communications concerning candidates for federal, state, local, and school board offices. **The county election board does not have the authority to enforce these new provisions**; instead, a lawsuit may be filed as noted below.

Definition of Campaign Communication

The definition of "campaign communication" as used in IC 3-9-8 means a communication that advocates for the election or defeat of a clearly identified candidate, or has the purpose of which is to injure a candidate in an election or influencing the outcome of an election, or that solicits a contribution, and is presented regardless of the format of

the communication or the medium through which the communication is disseminated. A candidate is considered to be "clearly identified" if the communication includes the name of the candidate, a video, photo, or drawing of the candidate, or contains fabricated media depicting the candidate, or the identity of the candidate is apparent by unambiguous reference.

Definition of Candidate

The definition of "candidate" as used in IC 3-9-8 includes an individual who holds an elected office, including a federal, state, federal legislative office, state legislative, local, or school board elected office.

Definition of Fabricated Media

The definition of "fabricated media" as used in IC 3-9-8 means any of the following:

- Media that includes an audio or visual recording of an individual's speech, appearance, or conduct that has been altered without the individual's consent such that:
    - the media conveys a materially inaccurate depiction of the individual's speech, appearance, or conduct as recorded in the unaltered recording; and
    - a reasonable person would be unable to recognize that the recording has been altered.
- Media in which an artificially generated audio or visual imitation of an individual that:
    - has been created without the individual's consent; and
    - is sufficiently lifelike that a reasonable person would be unable to distinguish the speech or appearance of the imitation from the speech or appearance of the individual;
    - is used to convey a fictional depiction of the individual's speech, appearance, or conduct.
- Media depicting the speech, appearance, or conduct of an artificially generated person, the appearance or speech of which is not a recognizable imitation of an identifiable individual.

Definition of Media

The definition of "media" was used in IC 3-9-8 means recorded audio, a recorded image, or a recorded video.

Permitted Use of Fabricated Media in Campaign Communications

Campaign communications that include fabricated media depicting a candidate must include a disclaimer from the person who paid for the campaign communication that is separate from the disclaimer required under IC 3-9-3-2.5(d). The disclaimer must meet the following requirements:

- The disclaimer must state: "Elements of this media have been digitally altered or artificially generated."
- If the campaign communication is a printed communication, the disclaimer must be printed in a manner that complies with IC 3-9-3-2.5(e).
- If the campaign communication is an audio communication, the disclaimer must be read:
    - in each language used in the campaign communication;
    - at a speed and pitch at which the disclaimer is reasonably understandable; and
    - at a volume that is not lower than the loudest audio included in the campaign communication;
    - at the beginning of the campaign communication, at the end of the campaign communication, and, if the campaign communication is more than two (2) minutes in length, at intervals of two (2) minutes for the duration of the campaign communication.
- If the campaign communication is a video communication, the disclaimer must be:
    - printed in a manner that complies with IC 3-9-3-2.5(e); and
    - displayed continuously for the duration of the campaign communication.

Civil Action for Campaign Communications Using Fabricated Media Without Disclaimer

A candidate depicted in fabricated media that is included in a campaign communication that does not include a disclaimer required by IC 3-9-8-5 may bring a civil action against the person that paid for the campaign communication, the person that sponsored the campaign communication, and a person that disseminates the campaign communication, (if the campaign communication included the disclaimer when provided to the person and the person knowingly, intentionally, or recklessly altered or removed the disclaimer before disseminating the campaign communication).

The plaintiff in the civil action has the burden of proving by clear and convincing evidence that the plaintiff was depicted in fabricated media in the campaign communication that is the subject of the action.

A plaintiff who prevails in the civil action is entitled to recover the plaintiff's actual damages, injunctive relief, and the amount of any court costs and reasonable attorney's fees incurred by the plaintiff in connection with the action. A court shall expedite the hearing of a civil the civil action that is brought by the plaintiff.

VOTER REGISTRATION

This *Manual* broadly covers voter registration issues. For more detailed analysis, please review the *Indiana Voter Registration Guidebook* or Indiana's voter registration statutes found in IC 3-7, generally.

Registering To Vote

In Indiana, a person cannot vote on Election Day unless the person is registered to vote. To register to vote in Indiana a person must be: (1) at least eighteen (18) years of age on or before the date of the general, municipal, or special election; (2) a United States citizen; and (3) a resident of the precinct continuously for at least thirty (30) days prior to the election. (IC 3-7-13-1)

A person is only required to register once, so long as they remain a resident of the precinct and are not convicted and subsequently imprisoned for a crime in accordance with federal or state law. While voter registration is closed immediately before and after an election, the following registration dates are observed in Indiana: (IC 3-7-13-8)

1) Registration is open beginning December 1 (or the first Monday in December if December 1 falls on a Saturday or Sunday) after a municipal or general election.
2) Registration in the county voter registration office ends on the twenty-ninth (29) day before the primary election.
3) Registration reopens two weeks after the primary election in a general or municipal election year.
4) Registration in the county voter registration office ends on the twenty-ninth (29th) day before the general, municipal, or special election. However, if the 29th day falls on the Columbus Day state holiday, the voter registration deadline is extended to the following day.

If a county voter registration office receives a registration application during the "closed" registration period (assuming form was not mailed with a postmark date on or before the registration deadline or received by mail with an illegible or missing postmark by the first Monday after the deadline), the application will be retained and may be entered into SVRS. However, if entered into SVRS, the application will be identified as "incomplete" in the statewide voter registration system until the application is processed after voter registration reopens, and the applicant's name will not appear on the poll list until the next election.

Voter registration before a municipal primary, municipal election, or a special election ceases twenty-nine (29) days before the election and resumes fourteen (14) days after the election **only for those precincts where the municipal primary, municipal election, or special election is conducted.** (IC 3-7-13-10) Voters in precincts not participating in a municipal election may continue to complete registration activities without interruption.

NOTE: **There are special exceptions in the law for military and overseas voters using the Federal Post Card Application (FPCA).** A county voter registration office shall process a registration application received from an absent uniformed services (military) voter or overseas voter during the regular registration period AND until the *eighth* day before the election. (IC 3-7-36-10) Some military voters and their family members may also register until noon (prevailing local time), on Election Day. (IC 3-7-36-14) See the *Indiana Voter Registration Guidebook* or *Military & Overseas Voters' Guide* for additional information.

When registering to vote in Indiana, a person does not declare any party affiliation, unlike in some other states. Registering to vote is a non-partisan function of government. Instead, in a primary election a poll worker

records the partisan ballot selected by the voter (that is, Democratic or Republican or in limited cases where a public question is on the ballot, a public question only ballot), and this information becomes part of the person's voting history.

Age Requirement

A 17-year-old who will be 18 on or before the date of November's general or municipal election may register and vote for candidates nominated in the preceding primary election.

Should a special election for a local public question be held on the same date as the May primary election, then a special ballot must be created for the 17-year-old "underage" voter. While a 17-year old voter is eligible by state law to vote in the primary to nominate their preferred party candidates for the general election and elect party officials such as precinct committeeman or state convention delegate (IC 3-7-13-3), the voter is not eligible to vote in a special election held before they turn 18 because they do not meet the age requirement. Therefore, the county's election board must print and distribute ballots or program a touch-screen electronic voting system to remove a public question from a 17-year old voter's primary election ballot.

Residency Requirements

Residence means the place 1) where a person has the person's true, fixed, and permanent home and principal establishment; and 2) to which the person has, whenever absent, the intention of returning. (IC 3-5-2.1-90) In addition, the election code contains standards used to determine the residency of a voter, candidate or a person holding office. (IC 3-5-5) While this definition and these standards are helpful, there are some recurring issues raised with regard to providing information about a registration applicant's residence for those who are homeless, mobile, in college, committed to a mental institution, or overseas.

Homeless and Mobile Voters

People who have a non-traditional residence, like those who are homeless, or those who live in a motor home, must still provide a location sufficient to allow local election officials to place the person in a precinct. If the person stays in more than one place, the voter registration official should ask the person to designate the location where the person usually sleeps in the county.

If the place has no street address, then have the person indicate the location by drawing a map of the location on an attached paper or writing a description of the location of the person's residence on the state's voter registration form (VRG-7 or VRG-11) or federal mail-in registration form in the appropriate box. A person with a non-traditional residence must also provide a mailing address within the county where the person resides.

A post office box will not suffice as the residence address for purposes of establishing the precinct in which the voter must vote but may be used as the voter's mailing address. (IC 3-7-37)

With the advent of online voter registration, it is not possible to use the diagram for a non-traditional residence with online applications. Online applicants with a non-traditional residence are directed to supply the intersections closest to their residence on the line marked "residence address" on the online application. Counties will then use this information to place the voter in the correct precinct.

An online applicant with a non-traditional residence must include a mailing address within the county where the applicant resides (such as a post office box or the address of a friend or shelter that will accept mail on the applicant's behalf). The county shall process the application and mail the acknowledgement card or notice of disposition (if the

application is rejected) to the mailing address given.

Residence of College Student

College students may only register at one of two places:

1) The address where they live while attending school
2) The address where they live while not attending school

NOTE: the intent of where students plan to return after attending college, or during summer and winter breaks, is not to be factored into the decision to approve their registration. They may register at school if they so choose. It is a violation of election law to challenge a voter solely on the basis that: 1) the voter is enrolled in an educational institution or; 2) the voter's address on the registration record is at an address which is housing provided for students by an educational institution. (IC 3-5-5-7; IC 3-5-4.5-2)

Certain fail-safe measures may apply to voters who no longer reside at the address on their voter registration record, depending on when and where the person moved. The fail-safe measures are explained in detail in the *Indiana Voter Registration Guidebook* and the *Indiana Election Day Handbook*. An individual meeting the requirements under the fail-safe statutes is entitled to vote on a regular ballot on Election Day.

Residence of Person Committed to an Institution

An individual adjudged mentally ill and committed to an institution for individuals with a mental illness may state either of the following, but not both, as the individual's residence for purposes of voting:

1) The address of the institution where the individual has been committed.
2) The address where the individual lives when the individual is not committed to an institution. (IC 3-5-5-17)

Overseas Voters

Although an overseas voter may not have a physical residence in a precinct, that voter is still entitled to vote in a precinct in Indiana. An overseas voter includes:

1) an absent uniformed services voter who, by reason of active duty or service in a branch of the military, is absent from the United States on the date of the election or a member of the Indiana National Guard deployed outside Indiana;
2) a U.S. citizen who temporarily resides outside of the U.S. but intends to return to the U.S., and
3) a U.S. citizen who is residing in another country and their return to the U.S. is uncertain, and, but for such residence, would be qualified to vote in the last place in which the person resided before leaving the United States. (IC 3-5-2.1-75)

The Federal Post Card Application (FPCA), also known as Standard Form 76, is used by overseas voters to apply to register to vote. When completing the Federal Post Card Application (FPCA), the applicant must provide "the complete street address of your voting residence where you are registering to vote and requesting an absentee ballot" as this determines the precinct where the person votes. For overseas citizens this is usually the U.S. address where they last lived in Indiana. An overseas voter does NOT need to have any current physical ties to this address; however, applicants cannot use a post office box as an Indiana residence address.

If a person is an overseas voter who indicates their "return is uncertain" and resides in another country and, but for such residence, would be qualified to vote in the last place in which the person resided in Indiana before leaving the

U.S., then this overseas voter is a U.S. citizen who is still entitled to vote by virtue of his or her U.S. citizenship. In Indiana, this type of overseas voter is entitled to a **federal only ballot.** This individual is considered for election purposes to be a registered voter of the Indiana precinct where the county voter registration office is located, and the county voter registration official should register this individual at the office's address. (IC 3-11-4-8; IC 3-5-2.1-46)

Finally, a military service member's spouse (as defined in federal law) may elect to use the same residence as the service member regardless of the date on which the marriage occurred and notwithstanding the residency requirements for registering to vote. (IC 3-7-16-15)

NOTE: The FPCA provides a box that allows an overseas voter to declare they are an individual who is a U.S. citizen who has **never** lived in the United States. This is the fifth box under item #1 on the FPCA. **Individuals marking this box are ineligible to register and vote in Indiana.**

Proof of Citizenship Notice for Certain Voter Registration Applicants

If a voter registration applicant at the BMV has a temporary credential, the BMV must transmit that information to the Election Division. A "temporary credential" is a driver's license or state ID card that is issued to a qualified individual who is not a US citizen at the time of their credential transaction with the BMV. It is NOT the slip of paper given to individuals to serve as an interim driver's license, for example, while awaiting the plastic version of their license in the mail.

The county voter registration office must send a proof of citizenship notice (VRG-26) to each voter registration applicant who included their Indiana driver's license number or state identification card number on their voter registration application that is also flagged a temporary credential by the BMV. The individual must provide proof of citizenship within thirty (30) days of receiving notice. If the individual does not provide proof of citizenship within that 30-day period, the voter registration application is rejected.

A "proof of citizenship" document means any of the following:

1) The voter's birth certificate (or legible photocopy).
2) The voter's U.S. passport or a legible photocopy of the pages of the passport that identify the voter and show the passport number.
3) The voter's U.S. naturalization document (or legible photocopy).
4) The voter's certificate of naturalization number, subject to verification by the U.S. Citizenship and Immigration Services.
5) Consular Report of Birth Abroad (CBRA)
6) Any other proof of citizenship document or method under the federal Immigration and Control Act of 1986 (8 U.S.C. 1101 et. seq.).

An individual who is unable to provide proof of citizenship may request a hearing before the county election board and appeal the cancellation of their registration record. This appeal and request for a hearing can be made by mail or in-person. After receiving the appeal, the county election board must conduct a hearing after mailing the VRG-27 Public Hearing Notice; Proof of Citizenship to the individual, make a finding concerning the individual's citizenship status, and send a copy of its decision to the county voter registration office. The county voter registration office must change the voter registration record to reflect the county election board's decision, if necessary.

Any proof of citizenship provided to a county voter registration office to meet this requirement is confidential and not available for public inspection or copying. (IC 3-7-14-9; IC 3-7-26.3-37; IC 3-7-38.2-7.3)

Voter Fail Safes

Fail safe provisions of federal and state law permit a person to vote in specific circumstances even if the person's name does not appear on the poll list or the person's name or address is different than the name or address that appears on the poll list. These specific circumstances are described in detail in the current version of the *Indiana Voter Registration Guidebook* and the *Election Day Handbook.* Common fail safe examples include:

1) **Mistake by County.** A voter whose name does not appear on the poll list because of an error made by the county may nonetheless vote after the county "issues" a certificate of error. (IC 3-7-48-1; IC 3-7-48-2; IC 3-7-48-3; IC 3-7-48-4)

2) **Cancelled Voter**. A voter in "cancelled" status must be allowed to vote in the precinct if the voter is willing to sign a written statement on the poll book or make an oral affirmation in the presence of the inspector or one of the judges that the voter continues to reside at the address in the precinct that was formerly shown on the county's voter registration record. (IC 3-7-48-6) The VRG 4/12 includes this fail safe for the voter to complete or for poll workers to distill the voter's oral affirmation, as well as for a voter to use this fail-safe when applying for an absentee ballot, including during early in-person absentee voting.

3) **Receipt Showing Timely Registration at BMV or Full Service Agency.** If the person is not on the poll list but produces a receipt of registration from an agency (like the BMV, FSSA, law enforcement agency, or DWD office) they have a right to vote a regular ballot (unless otherwise challenged) if: 1) The date on the receipt indicates the voter applied to register before registration closed (29 days before the election); **AND** 2) the county registration office either has no record of the registration application or shows that the application was received and approved. (IC 3-7-48-7)

4) **Moves within the Voter's Precinct or a Name Change.** If a voter moved within the precinct in which they are currently registered or changed their name but failed to update their current voter registration, they still must be allowed to vote. The voter should sign the poll book with the new address located within the same precinct or new name (for example, a new married name). The voter's registration record must be updated to include the new address or new name after the election. (IC 3-7-39-7; IC 3-7-41-2; IC 3-10-1-31.1(e)) This fail-safe also applies to absentee voters where the voter can indicate a name change to update a registration or, if the residence address on the application is different from the residence address on the voter's registration but the voter's new address is in the same precinct, then the county may use the absentee application to update the voter's registration within the precinct. (IC 3-11-4-5.1; IC 3-11-4-18)

5) **Moves Occurring Within the Same County & Congressional District More than 30-days Before Election**. If a voter moved *outside their precinct* at any time before the final 30-days of an election and failed to update their registration, only a move within the same county and congressional district would allow the individual to vote one last time in their old precinct, if otherwise qualified. However, a voter who moved from within a city or town to outside of the city or town may not return to the precinct where the voter formerly resided to vote in a municipal election. The next municipal election year is 2027. (IC 3-10-12-3.4(c)) Likewise, a voter who moved from a location outside of a city or town to a location within a city or town before a municipal election may not vote in the precinct of the person's former residence. (IC 3-10-12-3.4(d)) This fail-

safe also applies to absentee voters if the voter files the VRG 4/12 form before the application deadline or completes it during early voting.

6) **Moves Occurring Less than 30-days Before Election Within Indiana.** If the voter moved outside of the precinct shown on their registration record to any other precinct in Indiana less than 30-days before the election, the voter must produce, or sign before the inspector or a judge, an *Affidavit of Request for Transfer of Registration* (VRG-4/12 form) and then the voter may proceed to vote a regular ballot in the precinct of their former residence, unless otherwise challenged. (IC 3-10-11-6) This fail-safe also applies to absentee voters, though the voter would need to submit the VRG 4/12 before the absentee application deadline or complete it during early voting.

7) **Moves Occurring Less than 30-days Before the Election Outside Indiana.** In 2028, a voter who moves from Indiana to another state on or after 29-days before the November general election, then the registered voter is permitted to return to their old Indiana precinct and vote a presidential only ballot, if otherwise qualified. This applies to voting by absentee ballot or on Election Day. However, the voter must complete the VRG-15 at the early voting location or Election Day voting location or submit it with their absentee application or before the absentee application deadline. Counties will provide a presidential only ballot that will only include the candidates for U.S. President and U.S. Vice President.

However, in a municipal election year (for example, 2027), a person who moves from outside a municipality to a location inside a municipality or from within a municipality to outside the municipality may not vote in the precinct of the person's former residence in an election held entirely within the municipality. (IC 3-10-11-4)

Further, there is a similar requirement for voters who move out of an election district where certain public questions related to school corporations have been certified to the county election board. In most circumstances, a voter in this situation would be permitted to vote on all offices on the ballot but would not be permitted to vote on the public question(s). The county election board must create a special ballot for voters in the following situations:

1) **Eligibility to Vote in School Corporation Controlled Project Referendum.** Provides that if a voter of a school corporation changes their residence from inside the boundaries of the school corporation to a new residence outside of the boundaries of the school corporation in the final thirty (30) days before a controlled project referendum, the voter is not eligible to return to their former precinct of residence in the school corporation to vote on the public question. (IC 6-1.1-20-1.9; IC 6-1.1-20-3.9)

2) **Eligibility to Vote in School Tax Levy Referendum**. Provides that if a voter of a school corporation changes their residence from inside the boundaries of the school corporation to a new residence outside of the boundaries of the school corporation in the final thirty (30) days before the school tax levy referendum, the voter is not eligible to return to their former precinct of residence in the school corporation to vote on the public question. (IC 20-46-1-16)

3) **Eligibility to Vote in School Safety Tax Levy Referendum**. Provides that if a voter of a school corporation changes their residence from inside the boundaries of the school corporation to a new residence outside of the boundaries of the school corporation in the final thirty (30) days before the school safety tax levy referendum, the voter is not eligible to return to their former precinct of residence in the school corporation to vote on the public question. (IC 20-46-9-16)

Disfranchisement Due to Imprisonment

In Indiana, a registered voter who has been **convicted** of a crime **AND is currently imprisoned following conviction** is ineligible to vote and removed from the registration rolls. An individual may not register to vote while imprisoned after being convicted of a crime. However, once an individual has been released from prison, even if on probation, parole, or home detention or enrolled in a community corrections program, they may register to vote and subsequently vote in elections. This law varies from state-to-state, which is why there is often confusion on its application. See the current version of the *Indiana Voter Registration Guidebook* for more information.

Voter Identification Number

Each individual applying to register to vote is ***required*** to provide a "voter identification number." This number must be the Indiana driver's license number or Indiana ID card number or Indiana learner's permit number (or, as indicated on the state voter registration form, an Indiana ID Card number) issued by the Bureau of Motor Vehicles (BMV). If an individual does not have a BMV-issued credential (that is, a driver's license, state ID card, learner's permit), the individual must provide the last four digits of the individual's social security number as a voter identification number. **If the individual does not have a BMV license number or a social security number, the individual will be assigned a voter identification number by the statewide voter registration system.**

During an election, a precinct election clerk must explain the voter identification number to each voter and request that each voter provide (or update) the voter's identification number on the poll book. However, the clerk must also explain that a voter is ***not required*** to provide a voter identification number at the polls ***in order to vote***. If a voter does provide a new or updated voter identification number, then the county voter registration office updates the voter's registration to include that information. (IC 3-5-2.1-105; IC 3-7; IC 3-7-13-13; IC 3-10; IC 3-11)

Address Confidentiality Program

Indiana law establishes an address confidentiality program for persons who are victims of domestic abuse, stalking, or sexual assault. A person who applies to the Indiana Attorney General and qualifies under this program may designate an address provided by the Attorney General as his or her address for service of process and receipt of mail. **This confidentiality program does not apply automatically to every person who is granted a protective order by a court.** Information about the program may be obtained by emailing confidential@atg.in.gov.

The Attorney General's office will issue a notice to the individual regarding their enrollment in this program. The voter would bring this form to the county voter registration official to have their registration record flagged as confidential. The voter must be registered to vote at their current residence address, and their mailing address must be the PO Box provided on the Attorney General's notice. The confidential flag remains on the voter's record for a period of four full years, ending on June 30 in the final year.

For example, a voter's registration record is marked confidential on August 9, 2023. The flag would fall off on June 30, 2028. The period of August 9, 2023, through June 30, 2024, is not a full year and would not be part of the four year covered period. The first full year starts on July 1, 2024, and then ends on June 30, 2028, or a covered period of four years. Alternatively, the covered period for a voter who had the AG flag added to their registration record on May 1, 2023, would end on Juny 30, 2027. In this case, the period from May 1 to June 30, 2023, is not part of the covered period, which would start July 1, 2023, and end June 30, 2027.

Like an absent uniformed services voter, a participant in this program is entitled to an absentee ballot in any election that is conducted during the year in which the applicant applied for an absentee ballot (ABS-Attorney General). In other words, the voter only needs to submit the ABS-Attorney General form one time in a calendar year (January 1 to December 31). The absentee ballot application allows the program participant to provide the mailing address designated by the Attorney General as the mailing address for receipt of the absentee ballot. To receive an absentee ballot by mail in the primary election, the voter will need to submit the ABS-Attorney General form not later than 11:59PM, 12-days before Primary Election Day and indicate their political party choice (Democratic or Republican) or request a Public Question Only ballot to receive a ballot.

The ABS-Attorney General Form and the name, address, telephone number, and any other identifying information relating to a program participant, as contained in a voting registration record, is confidential for purposes of Indiana's public records law. The county voter registration office may not be disclosed for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record except (1) to a law enforcement agency, upon request and (2) as directed by a court order. (IC 3-11-4-6; IC 5-26.5; IC 5-14-3-4(a)(1))

Voters with Print Disabilities

A "voter with print disabilities" refers to an individual who is unable to independently mark a paper ballot or ballot card due to blindness, low vision, or a physical disability that impairs manual dexterity. (IC 3-5-2.1-106) **This does not include an individual who simply does not have a printer.** These voters may use a combined voter registration and absentee application form (ABS-VPD) in which the voter attests under the penalties of perjury that the definition fits their circumstance.

The form allows a voter with print disabilities to register to vote (or update an existing registration in Indiana) and apply for an absentee ballot to be sent by mail, fax, or email. Additionally, the form serves as a request for an absentee ballot for one calendar year, ending December 31 of the year the form was filed. A voter with print disabilities must file the form with state or county voter registration officials not later than 11:59 PM, twenty-nine (29) days before the election for a new voter registration request to be considered. If mailed, the form can be postmarked on or before this deadline. Should the postmark be missing or illegible, then the voter registration request can be processed to include the applicant of the voting rolls for the next election up to the first Monday after the voter registration deadline (or twenty-two (22) days before the election).

Additionally, if the voter is already registered (or includes an address change to a residence address in the same precinct where the voter is registered), the ABS-VPD form must be received not later than 11:59 PM, 12-days before Election Day to receive an absentee ballot by mail, email, or fax. The absentee ballot must be returned not later than 6PM Election Day to be counted, if the voter is otherwise eligible.

NOTE: Only military and overseas voters and voters with print disabilities have special dispensation to use combined forms to register to vote and request an absentee ballot; receive and return an absentee ballot by fax or email; and have the absentee request be in effect for one calendar year. More details about absentee provisions related to the combined forms can be found in the "Absentee Voting" section of this *Manual.*

How to Register To Vote in Indiana

In Indiana, a person meeting the requirements may register to vote by submitting a mail-in (paper) state or federal voter registration form, by securing a driver's license or state ID card at the Bureau of Motor Vehicles, interacting with another full-service agency where the individual may be receiving certain services, or using the online voter registration system.

The voter registration deadline in Indiana is twenty-nine (29) days before a primary, municipal, general, or special election, except for certain military and overseas voters who may meet special eligibility requirements. Please read the sections below and consult the *Indiana Voter Registration Guidebook* for more details.

Registering to Vote with Mail-In (Paper) Form

In Indiana, individuals may register to vote using the mail-in (paper) state or federal voter registration form. Both forms are available for download through the Election Division's website (https://www.in.gov/sos/elections/) and are to be made available at local county clerk's offices and other government offices as required by the National Voter Registration Act of 1993 (NVRA).

An individual using a paper state registration form must use the current version of the application; the Election Division will have the most recent version of the form on its website. An individual may also call the Election Division's office to confirm if the version number of the application is current. In addition, county election officials have access to a master list of state election forms through the county portal. Federal registration forms are managed by the Election Assistance Commission (www.eac.gov).

A paper registration form should be executed in ink or indelible pencil. (IC 3-7-32-2) An original signed form may be mailed or hand-delivered to the county voter registration official or the Election Division. Faxed or emailed registration forms may not be accepted as a "wet" signature is required. (IC 3-7-32-4; IC 3-5-4-1.7)

It is imperative the required fields be completed on the form; those marked optional are not necessary to provide but including a phone number is helpful to election administrators. While overlooking some required fields will result in an incomplete registration, failing to mark "Will you by 18 before Election Day?" and "Are you a U.S. citizen?" results in a rejected application. Incomplete registration forms will be rejected before Election Day if the voter does not cure the defect on the registration. However, voter registration officials must make at least one effort to contact a voter with an incomplete registration so that the missing information can be provided. The *Indiana Voter Registration Guidebook* discusses incomplete registration processes in more detail, and election administrators can access training manuals and standard operating procedures through statewide voter registration system training portal.

Paper voter registration forms that are mailed and have a legible postmark date on or before the voter registration deadline must be processed by county voter registration officials. (IC 3-7-33-4(b)) This is true even if the registration form is received the day before the election! Paper voter registration forms that are mailed and have a missing or an illegible postmark date may be processed if received not later than seven (7) days after the voter registration deadline. (IC 3-7-33-4(c))

On occasion, the Indiana Election Division receives voter registration forms. Forms are forwarded to the proper county voter registration official and should be processed, even if received after the registration deadline, unless documentation is attached to note the form was not timely received. County voter registration officials who need to

forward applications to other counties are encouraged to attach the envelope in which the form was mailed so the voter's proper county registration official can decide if a "late-arriving" form should be processed.

Finally, first-time voters in Indiana who use a paper voter registration form who do not provide proof of residency (for example, a copy of a driver's license or utility bill with the residence address) will be asked by poll workers or other election officials for proof of residency at the time the individual votes, whether on Election Day at a polling site or when applying to vote by absentee ballot. County voter registration officials should take care to select the correct application delivery method when entering a voter registration into SVRS to ensure the "Proof of Residency" flag is only applied to those first time voters in Indiana with a registration form received a paper form rather than online or through the BMV hopper, for example..

Special Procedures for Paper Forms When Conducting Voter Registration Drives or Similar Efforts

Often groups and organizations hold voter registration drives, or political campaigns will go door-to-door to register voters. Indiana does not have special "registrar" requirements, so an individual or group does not need special permission to conduct voter registration drives.

Indiana voter registration forms (VRG-7, VRG-11) contain 1) a certified statement of acceptance to be completed by a person who accepts custody of the completed application before filing with a county voter registration office or Indiana Election Division and 2) a receipt to be detached and given to the applicant. The receipt and certified statement of acceptance do not apply to the federal mail-in voter registration form or the Federal Post Card Application (FPCA).

An individual who initially accepts a completed federal or state registration application from another person must submit the registration application to the county voter registration office or Indiana Election Division by noon (prevailing local time), ten (10) days after receipt or by the statewide voter registration deadline, whichever occurs first.

If an individual fails to submit the voter's application by this deadline, it does not make the applicant ineligible to register to vote, provided that all other registration requirements are met. Instead, the information on the individual accepting the completed application will be provided to the county election board for consideration of possible appropriate action under IC 3-6-5-31.

A person with a disability who is unable to sign the registration form may ask another person to complete and sign the form on their behalf. Should this assistance be provided, the person assisting the voter must provide their name and address on the form underneath the voter's signature block.

Additionally, an individual may not print or prefill any part of a voter registration form that will be mailed to another individual. The registration application is "incomplete" if the county voter registration office determines that this requirement has been violated. This does not affect an individual assisting an applicant in completing a voter registration application when the applicant is physically unable to do so. (IC 3-7-32-7.5; IC 3-7-34-1.5)

Lastly, a person who knowingly does any of the following commits a Level 6 felony:

1) Conspires with an individual for the purpose of encouraging the individual to submit a false application for registration.
2) Conspires with an individual for the purpose of encouraging the individual to vote illegally.

3) Pays or offers to pay an individual any property for doing any of the following:
    a. Applying for an absentee ballot
    b. Casting an absentee ballot
    c. Registering to vote
    d. Voting
4) Accepts the payment of any property for doing any of the following:
    a. Applying for an absentee ballot
    b. Casting an absentee ballot
    c. Registering to vote
    d. Voting
5) Pays or offers to pay an individual any property based on the number of signatures obtained to place a candidate or public question on a ballot. This subdivision does not prohibit payment for gathering signatures not based, either directly or indirectly, on the number of signatures obtained to place a candidate or public question on a ballot.
6) Pays or offers to pay an individual any property based on the number of absentee ballot applications or voter registration applications obtained by the individual. This subdivision does not prohibit payment for gathering absentee ballot applications or voter registration applications not based, either directly or indirectly, on the number of applications obtained.

Registering to Vote at the BMV

The National Voter Registration Act of 1993 (NVRA), also known as the "motor-voter bill," requires BMV officials to offer an applicant attempting to secure an Indiana driver's license or state ID card the opportunity to register to vote. If a person registers to vote at the BMV, the information is captured at the time of the credential transaction and then forwarded electronically to the proper county voter registration official.

A county voter registration office shall process a voter registration application transmitted in electronic format from a license branch to the statewide voter registration system and is not required to receive the paper copy of the application from the license branch before approving or denying the application and mailing a notice of approval or denial to the applicant (IC 9-24-2.5-6). Refer to the current edition of the *Voter Registration Guidebook*, published by Indiana Election Division, for detailed information regarding this process.

BMV staff is required by state law to ask all customers if they would like to register to vote. Except for credential transactions, a customer who desires to register will be handed a paper registration form to complete and submit to their county voter registration official. **BMV officials do not accept paper voter registration forms**; customers will be directed to the county voter registration office to submit their application.

Registering to Vote at other Full Service Agencies

The NVRA requires Indiana to designate state offices that provide public assistance and services to persons with disabilities as full service voter registration agencies. If a person applies for services at any of these state agencies, the application is also considered a voter registration application, unless the person declines to register to vote or is ineligible to register. If a person registers to vote at a full service agency, then the application is forwarded to the proper county voter registration official for processing and approval. Additionally, these same provisions apply to law enforcement agencies where a handgun license may be obtained under Indiana state law.

NOTE: The VRG-6 form used by full service or law enforcement agencies is only available through the Indiana Election Division. If county registration officials are asked for this form, please direct the individual to send an email

to elections@iec.in.gov.

Registering to Vote Online

An individual who is eligible to vote and possesses a current and valid Indiana driver's license or Indiana identification card may submit a voter registration application to a county voter registration office by following procedures for online voter registration. The requirement for an Indiana driver's license or state ID number only applies to the online registration system. If a person does not have an Indiana driver's license or state ID card, the person must register using a paper "mail-in" registration form (VRG-7, VRG-11, Federal Voter Registration Application) or through the BMV or other full service agency during an approved transaction and provide the last four of their Social Security number or mark "none" so that a voter ID number is created for the individual.

The secretary of state, with the consent of the election division co-directors, established a secure internet website at www.IndianaVoters.com that permits an individual to submit a new voter registration application, or an application for a change of name, change of address, or change of other information in the voter's existing voter registration record, along with information to establish that the individual is eligible to register online.

When an individual submits an application by using the website, the BMV must compare the information submitted by the applicant with the information in the BMV's database of individuals who have a current and valid Indiana driver's license or identification card.

If the BMV confirms that the applicant does possess the license or identification card, the completed application and digital signature of the applicant shall be submitted by the BMV to the county voter registration office where the applicant resides, according to the information in the statewide voter registration system.

If the BMV is unable to confirm the number entered by the applicant, the applicant will receive a warning message stating "Please review and correct all errors. There was an error validating the driver's license or state ID number you entered." An applicant will NOT be permitted to continue unless the BMV is able to confirm the number entered belongs to the applicant.

If an individual requires assistance using the online voter registration system, the person providing the assistance should mark the "check if providing assistance to the voter" box and provide their contact information as requested.

An online voter registration application must be "signed" with an electronic signature in the manner prescribed by IC 3-7-26.7. After "signing" the online voter registration form, the applicant will see a confirmation screen that includes the time the application was submitted and a submission identification number. If the applicant provides an email address, confirmation that the form was submitted will be emailed to the provided address.

An eligible individual must submit a complete application online not later than midnight, local prevailing time, 29-days before an election to be registered to vote in that election. Successfully submitting an online registration application does not mean an individual is yet registered to vote. The county voter registration office must process an online registration application in the same manner as any other voter registration application, including the seven (7)-day pending period, unless state law specifies otherwise.

Voter Registration Deadlines

Except as provided in IC 3-7-36 for absent uniformed services voters and overseas voters, a person desiring to register or transfer a registration may do so at the office of the circuit court clerk or board of registration through the close of business on the twenty-ninth day before the election is schedule to occur. (IC 3-7-13-11) However, there are a few exceptions:

1) the online voter registration system permits a voter to register not later than midnight, twenty-nine (29) days before the election;
2) mailed registration forms with a legible postmark dated on or before the statewide deadline are to be processed by county voter registration officials immediately and the voter permitted to vote in the election (IC 3-7-33-4(b)); and
3) mailed registration forms with a missing or illegible postmark and received not later than the Monday after the statewide registration deadline is to be processed. (IC 3-7-33-4(c))

Sometimes a county voter registration official receives a registration form for a voter residing in another Indiana county. State law requires the form to be sent on an expedited basis, and it permits emailing or faxing an optical scanned image of the voter registration form to the proper county, though the original paper form must be subsequently forwarded. The county voter registration office of the county in which the voter resides shall process the registration form and register the voter if the registration was timely received by the other county voter registration office. The county registration office shall also process registrations accepted or received by mail under IC 3-7-33-4 and forwarded to the office by the BMV or a voter registration agency during the registration period defined in IC 3-7-13-10. (IC 3-7-34-9)

Counties with registration forms timely received but processed in the period up to the election should consult IC 3-7-34-13, which describes the process to create a certificate of error if a paper poll book has been printed or electronic poll book has been uploaded with the names of registered voters before the registration was processed. Generating a certificate of error may be necessary depending on the timing of entry into the statewide voter registration, the ending of the seven-day pending period, and the printing or uploading of data to the poll book.

After a general or municipal (November) election, voter registration officials may begin processing registration forms on December 1 (or the first Monday in December if December 1 falls on a Saturday or Sunday). After a primary (May) election, voter registration resumes fourteen (14) days after the primary Election Day and continues until the twenty-ninth (29th) day before the general or municipal election. If the 29th day before a general or municipal election falls on the Columbus Day state holiday, the deadline for voter registration is extended to the following day. In the precincts where a special election is to be conducted, voter registration ceases on the twenty-ninth day before the election and resumes the fourteenth day after the special election occurs. (IC 3-7-13-10) Special exceptions are made for certain absent uniformed services voters and overseas voters pursuant to IC 3-7-36.

For more information about processing voter registration forms, please consult the *Indiana Voter Registration Guidebook.*

County Voter Registration Officials

In most counties, the circuit court clerk is the chief voter registration official. However, state law does permit the establishment of a separate board of registration at the county level. Lake, Porter, and Tippecanoe counties have specific statutes requiring the use of a blended board of elections and voter registration (IC 3-6-5.2; IC 3-6-5.4; IC 3-

6-5.6); Marion County is required to have a separate board of registration, as it is the only county in Indiana with a consolidated city. (IC 3-7-12-2.5)

Except in Lake, Marion, Porter, and Tippecanoe counties, the county executive may adopt an order by the unanimous vote of the entire membership of the county executive to establish a board of registration or rescind a previously adopted order establishing a board of registration. (IC 3-7-12-4) An adopted order takes effect immediately, unless the order is adopted during the final sixty (60) days before an election, and then the order becomes effective on the day following the election. (IC 3-7-12-5)

A board of voter registration is made up of two persons, who are appointed by the chairmen of the two major political parties and serve at their pleasure. The members must be registered voters of the county and serve a term of two (2) years beginning January 1 of each odd-numbered year and until the person's successor is appointed and qualifies. (IC 3-7-12-8; IC 3-7-12-9; IC 3-7-12-10)

Additional information on county administration of voter registration can be found in IC 3-7-12, generally.

Statewide Voter Registration System

The Secretary of State and the Co-Directors of the Election Division maintain a statewide voter registration system (SVRS) to implement the requirements of the Help America Vote Act of 2002 (HAVA) and Indiana law. In Indiana, voter registration is conducted pursuant to the National Voter Registration Act (NVRA). All voter registration applications (whether on federal or state forms and applications) must be processed at the county level and approved or rejected by the county voter registration office. County officials use the SVRS to maintain local voter records, though paper records and correspondence are to be retained pursuant to a records retention schedule.

The SVRS manages several data sets to aid county voter registration officials in maintaining and updating voter information. The Indiana Department of Health and the Indiana Department of Correction make information concerning deceased voters and incarcerated individuals available to the Election Division electronically, and this information is shared with counties via SVRS hoppers. (IC 3-7-45-8; IC 3-7-46-4.1)

Further, the system allows county officials to track a voter's registration status – active, inactive, or cancelled. A registration record remains in active status if the person responds to periodic mailings from state or county voter registration officials. If a voter does not respond to a voter list maintenance mailing, the voter's record is placed in inactive status. "Inactive" does not mean the individual cannot vote; instead, it's an indication to county registration officials that the person's registration record may be placed in cancelled status if the person does not vote at their registration address in any election over a two-year general election cycle ,perform a registration activity during that time, or respond to a voter list maintenance notice sent to the voter if the voter has not cast a vote in either of the two most recent general elections (2022 and 2024, for example). A cancelled voter may be able to vote at their registration address if certain fail-safe provisions apply. Please consult the *Indiana Voter Registration Guidebook* or *Indiana Election Day Handbook* for those details.

In addition to voter record management, the SVRS permits counties to run operational reports, record and manage absentee ballots, manage candidate filings, file required reports to the state, and access training materials and guides.

VOTING SYSTEMS & ePOLLBOOKS

Voting Systems

Indiana law permits three types of voting systems: optical scan ballot card, direct record electronic voting system, and hand-counted paper ballots. The distinction in voting equipment is important because it determines the method by which a voter casts their ballot.

Some counties use a ballot card upon which the voter marks their selections with a pen, pencil, or other marking device. These ballot cards are "read" by an optical scan ballot card reader and tabulated. This is called an **"optical scan" voting system**.

Other Indiana counties vote upon a **direct record electronic voting system (DRE)** (or "touch screen or button computerized voting system"), in which voters cast their ballot selections electronically. State law often refers to a "ballot label" when referencing the DRE system. (IC 3-5-2.1-11) Generally, a ballot label is simply each individual screen that makes up the electronic ballot. Indiana law authorizes the use of a voter verified paper audit trail (VVPAT) with a DRE voting system under IC 3-11-14-2. **All DRE systems are required to be equipped with VVPAT systems under Indiana state law.** (IC 3-11-14-2; IC 3-11-15-13.3)

In some counties, newer systems appear to **combine features** of a touchscreen and optical scan ballot card system. These hybrid models permit a poll worker to retrieve the specific ballot style for the voter and allow voter to mark their ballot using a touchscreen-type ballot marking device. Some hybrid models require blank ballot card stock to be inserted into the ballot marking device and the voter's selections are printed on the card; other hybrid systems communicate with an external printer to print the voter's marked ballot.

In either case, the marked ballot card is handled and reviewed by the voter who then inserts the ballot into the optical scan reader for tabulation. Hybrid voting systems are considered an optical scan voting system (IC 3-5-2.1-72) and must follow this system's procedures under Indiana law, generally. However, the ballot marking device component, which does not tabulate or otherwise scan completed ballots, must meet the requirements found in IC 3-11-13-7.5.

On rare occasions, a county may decide to use a hand-counted, **traditional paper ballot**. This should not be confused with the ballot card noted above. While both are printed on card or paper stock, a paper ballot is counted by hand while a ballot card is tabulated by an optical scan ballot reader.

Voting System Certification Process and Standards

A voting system (a direct record electronic voting system [DRE] or an optical scan ballot card system) may not be marketed, sold, leased, installed, or permitted to be used in an Indiana election without first being certified by the Indiana Election Commission. Voting system vendors who violate this requirement are subject to potentially serious sanctions, such as civil penalties or revocation of the right of the vendor to do business in Indiana for a specific period. (IC 3-11-17; IC 3-11-7-19(f); IC 3-11-7.5-28(f))

However, a vendor may display or demonstrate a voting system that has not been approved by the commission for use in Indiana, if the vendor complies with the following requirements:

1) The display or demonstration occurs at a conference of election officials sponsored by a state agency, an association of circuit court clerks, or an association of voter registration officers.

2) The vendor files a notice with the election division at least seven (7) days before the scheduled starting date of a conference sponsored by a state agency, or an association of clerks or voter registration officers that identifies the vendor and voting system and supplies other information regarding the vendor, voting system, and the intended display or demonstration of the voting system.

3) Displays in all communications, including written communications, about the voting system that the system is not approval for use in the state of Indiana. (IC 3-11-15-49)

In addition, the vendor is to file a notice with the election division at least seven (7) days before the scheduled starting date of a conference referred to above with the name of the vendor and each vendor representative scheduled to display or demonstrate the voting system; the address and telephone number of the vendor; the model name and number of the voting system, including the hardware, firmware, and software version number for the voting system; the name and manufacturer of the voting system; and the date and location of the display or demonstration of the voting system. The vendor must also display with the voting system that has not yet been certified a notice that it the system is "Not Approved for Use in Indiana" in at least 16-point font. (IC 3-11-15-49)

Further, a direct record electronic voting system (DRE) vendor may demonstrate an electronic voting system with a voter verifiable paper trail (VVPAT) even if that voting system with the VVPAT has not yet been approved for marketing, sale, and use in Indiana provided that the demonstration is made to a county that is currently using an electronic voting system provided by the vendor that does not include a VVPAT. This is an exception to the general rule that it is illegal under state law for a voting vendor to market a voting system requirement until after the voting system is certified by the Indiana election commission. (IC 3-11-15-49)

All currently certified voting system models, including specific hardware, firmware, and software versions, are certified for marketing by vendors in Indiana for a term expiring October 1, 2029. For a list of currently certified voting systems, see https://www.in.gov/sos/elections/2652.htm, or contact the Election Division.

To be approved by the Indiana Election Commission, a voting system must meet: (1) the 2002 Voting System Standards adopted by the Federal Election Commission; (2) the 2005 Voluntary Voting System Guidelines adopted by the U.S. Election Assistance Commission; or (3) the 2021 Voluntary Voting System Guidelines as adopted by the U.S. Election Assistance Commission. (IC 3-11-15-13.3) EAC certification is not required; however, the voting system must be reviewed by a Voting System Testing Laboratory (VSTL) to ensure compliance with one of the three voluntary voting system guidelines noted above.

For new voting system applications or modifications made to an IEC certified system, a vendor submits the IEC-11 form along with the $5,000 application fee to the Indiana Election Division and the application is considered for approval by the Indiana Election Commission. (IC 3-11-15-4) The application for approval of a voting system must state that the vendor has complied with the Indiana law requiring annual background checks on voting system vendor employees or contractors and will continue to comply with the requirement during the four (4) year term of the system's certification. (IC 3-11-15-7)

On occasion, a vendor may seek approval from the Commission to make "de minimis" changes to a certified voting system, which follows a similar process but uses a different form (IEC-1) and no application fee is required.

The Voting System Technical Oversight Program (VSTOP), administered by Ball State University, reviews the application and supporting documentation, submits the system to a field test, and provides the Indiana Election Commission with technical assistance in evaluating voting system certification applications and related issues. Additionally, VSTOP may conduct random audits of voting systems and electronic poll books in odd-numbered years. (IC 3-11-16-4)

State law is very specific as to the requirements for conducting elections on a direct record electronic (DRE) voting system and an optical scan ballot card voting system. Counties may contact VSTOP to confirm the type of voting system indicated on the application for certification filed by the vendor.

Additional Features of Optical Scan Systems

Overvote Features

An optical scan voting system must be capable of alerting a voter that the voter has cast more votes than allowed for candidates or has or cast both a "yes" and a "no" vote on a public question or judicial retention question. This capability informs the voter that they have made an error and describes to the voter how they may correct the error. However, the voting system does not have to inform the voter how the voter may correct the error if the information is provided **in writing conspicuously on or near the components of the voting system where the voter votes**.

A voter may ask that their overvoted ballot card be spoiled, and poll workers must issue the voter a new ballot. The spoiled ballot card is then kept sealed with other spoiled ballots. (IC 3-11-13-35) Sometimes a voter wants the voting system to accept an overvoted ballot, or the ballot card belongs to an absentee voter. In this case, the voting system must be designed to accept the ballot and tabulate all marks on the ballot except in the contest(s) where the voter has overvoted. In other words, the voter's selections on the ballot will be counted except in the races where the voter has voted for more candidates than is permitted.

NOTE: State law does not permit an "overvote" to occur on a direct record electronic (DRE) voting system (IC 3-11-15-13.7), and an "overvote" alert feature on a voting system does not apply to hand counted paper ballots. (IC 3-11-15-13.7)

An optical scan and DRE voting system must permit a voter to "undervote," though there is no state law requiring a voting system to alert a voter that they skipped over a race or did not cast enough votes in a "vote for more than one" race. If a voter undervotes, then the voting system is designed to tabulate all selections except for those where a voter did not mark a selection (where there is nothing to be tabulated). In at-large races where more than one candidate may be selected in a contest, a voter may vote for up to the maximum number of selections allowed in the race and those selections will be tabulated.

> **Example 1 (Vote for One Contest):** Vicki Voter and Brian Ballot are candidates for dog catcher, which is a "vote for one" race. John Smith is friends with both and decides to mark his ballot card for both candidates. The optical scan reader alerts John that he has overvoted in the dogcatcher race. John wants the machine to accept his ballot card, so the machine will count all races on his ballot except for dogcatcher, where no votes will be counted.
>
> **Example 2 (Vote for Three Contest):** Sally Sloan reaches the "at-large" dogcatcher race on the ballot where she can pick no more than three candidates. There are five candidates running for dogcatcher, but Sally only wants to vote for two and makes her selection. Though she has "undervoted" in the dogcatcher

race, the voting system is designed to count all votes on her ballot, including the two votes cast in the dogcatcher race.

Ballot Marking Device

An optical scan system may have, but it is not required, an electronic-type interface for purposes of marking a voter's paper ballot card. As noted above, newer ballot marking devices employ the use of an electronic interface for a voter to call up their precinct's ballot, insert a paper ballot card and mark their selections using the system. Much like a DRE voting system, a BMD is designed to prevent a voter from "overvoting" in all contests on the ballot. Once completed, the voter's choices are printed on the paper ballot card that a voter inserts into the optical scan tabulator. The BMD unit does NOT store election results; the optical scan tabulator reads and stores the voter's choices on secured media within the unit.

Older versions of a ballot marking device asked a voter to insert a pre-printed ballot card and a marker or other type of writing stylus would connect a line or darken an oval for the voter. The ballot card was then inserted into the optical scan tabulator for tabulation.

State law (IC 3-11-13-7.5) requires that the interface of the marking device used with an optical scan voting system must include the following:

1) The ballot information required by IC 3-11-14-3.5.
2) The instructions are included at the discretion of the county election board, as required by IC 3-11-2-8.
3) The information and instructions on the ballot in the arrangement required by IC 3-11-2-10.

It must also comply with the same disability access standards as an electronic voting system under IC 3-11-15-13.6. Further, a ballot card used with a marking device must have either preprinted or printed by the marking device the following:

1) When the marking device is used for absentee voting under IC 3-11-10-26, the circuit court clerk's signature and seal are required by IC 3-11-10-27.
2) When the marking device is used by a voter to cast a provisional ballot, the circuit court clerk's signature and seal are required by IC 3-11.7-1-7.
3) A line or box for each poll clerk's initial as required by IC 3-11-13-9.
4) When the marking device is used during a primary election, the name of the political party in whose primary the voter is participating, or the word "nonpartisan" if the voter is voting a ballot that contains only a public question certified by the county election board under IC 3-10-9.

If the voting system produces a ballot card, the ballot card must contain a summary ballot scan of the voter's ballot that includes the following:

1) The name or designation of each office on the voter's ballot.
2) The name of the candidate and the candidate's political party as selected by the voter.
3) If the voter selects a straight party ticket, the name of the political party ticket the voter selected.
4) A description of the text of any public question or judicial retention question on the voter's ballot that the county election board determines reasonably conveys the content of the public question or judicial retention question and the response the voter selected for each question.

The ballot card may contain additional information described in IC 3-11-13-7.5(b), and a ballot card used with the marking device may be a different dimension or size than other ballot cards approved by the county election board for use in an election; and that are not designed to be marked by the marking device.

Ballot marking devices typically have accessibility features, such as an audio-enabled ballot or the ability to use a sip-puff device for voters with disabilities. For this reason, counties using an optical scan voting system across all voting methods (absentee and Election Day) will have one or more BMDs available for voters to comply with the accessibility requirements of the Help America Vote Act (HAVA). Alternatively, some counties will use an optical scan voting system for most absentee and Election Day voting but may use a DRE system to comply with accessibility standards. Please see "Voting Systems for Voters with Disabilities" section for more information.

Electronic Adjudication of Scanned Ballot Images

A voting system certified for use in Indiana may include features that permit the use of electronic adjudication of ballots to review voter intent so long as:

1) the adjudication is conducted in compliance with Indiana law; and
2) the software is part of the electronic management system (EMS) certified by the Indiana Election Commission as part of the voting system.

According to the Election Assistance Commission's Voluntary Voting System Guidelines (VVSG) 2.0, adjudication means the process of resolving flagged cast ballots to reflect voter intent. Common reasons for flagging include:

- write-ins,
- overvotes,
- marginal machine-readable mark,
- having no contest selections marked on the entire ballot, or
- the ballot being unreadable by a scanner.

State law does not require any voting system in Indiana to include electronic adjudication (IC 3-11-15-13.8), although some elements such as alerting the voter to overvotes are required separately.

Absentee Ballot Retraction Features on Optical Scan Voting Systems

Optical scan voting systems ***may*** include a retraction feature that allows an absentee ballot to be retracted from a voting system if the absentee ballot is rejected for counting after being scanned. Unlike DRE voting systems, an optical scan voting system is not required to include an absentee ballot retraction feature. If it does, then the retraction feature must assign a unique identifier to each absentee ballot.

The retraction number assigned to an absentee ballot may not include the name, residence or mailing address, telephone number, social security number, date of birth date the voter registered, or the voter's Indiana driver's license or state ID number assigned by the BMV. The unique identifier is confidential under the public records law. The county election board must implement a procedure to keep the retraction unique identification number secured from unauthorized access.

If a ballot retraction feature is certified for use in Indiana on an optical scan voting system, then, during the pre-election public test of the optical scan voting machines, the county election board must test the retraction of an absentee ballot card to ascertain whether the voting system will correctly retract an absentee ballot cast by a voter later found to be disqualified or which must otherwise be rejected under state law, and that the absentee ballot cast by the disqualified voter will not be counted. The test must determine if the voting system will reject and void the absentee ballot before tabulation. The test must confirm the rejected or voided ballot was not included. The county election board must use at least one ballot to test the retraction components during the public test

NOTE: This change in state law does **NOT** permit a voter to cast their absentee ballot card on a tabulator prior to Election Day. Voters must place their absentee ballot card into a ballot security envelope (ABS-7) and sign and date the affidavit found on it, whether it is at home when voting by mail or before an absentee voter board during early voting or travel board.

If a county election board decides to begin their central count of absentee ballots up to three (3) days before Election Day as permitted under IC 3-11.5-4-11.5, then the absentee ballot cards can be scanned and not tabulated by precinct as required by state law, since the absentee counters must perform their necessary bi-partisan review and the county election board is permitted to challenge absentee voters if they are not qualified to vote in their precinct. (IC 3-11-13-22; IC 3-11-13-24; IC 3-11-13-24.5; IC 3-11-14.5-5; IC 3-11-14.5-8; IC 3-11-15-26; IC 3-11.5-1-5; IC 3-11.5-8-1)

Additional Features of DRE Systems

Ballot Review

Federal and state law requires that each voter who uses a direct record electronic voting system (DRE) to cast their ballot must be:

1) Allowed to verify who they voted for in a private and independent manner.
2) Be given the opportunity to change their ballot or correct any error made.
3) Notified before the ballot is cast regarding the effects of casting overvotes for an office and be given the opportunity to correct the error.

While each DRE voting system is different, these requirements are usually satisfied by providing a review page of the selections the voter made on the ballot before they cast the ballot, or by giving the voter notice at the end of their ballot that they can go back and make changes, and then requiring the voter to go to a final separate page on their ballot screen and hit a separate button to cast their ballot. (52 U.S.C. § 21081; IC 3-11-14-23(d))

Voter Verifiable Paper Audit Trail (VVPAT)

Optical scan voting systems have a "built-in" voter verifiable paper audit trail in that the voter marks their selections on a paper ballot card who may then review it before inserting the ballot card into the tabulator. The ballot card is then stored in a sealed ballot box. A traditional hand-counted paper ballot has similar features, though the paper ballot is not fed into a tabulator and is instead counted by election officials after the polls close.

While a voter can review their selections on a DRE before casting the ballot as required by federal and state law, an electronic image of the ballot is stored on the system and there is no paper record that can be verified by the voter unless a voter verifiable paper audit trail (VVPAT), which prints a summary of the voter's choices, is included in the system. Indiana law now authorizes the use of DRE voting systems that contain a VVPAT.

State law (IC 3-11-14-2) specifies that the voter verifiable paper audit trail (VVPAT) of a DRE voting system must contain all the following:

1) The name or code of the election as provided by the voting system;
2) The date of the election;
3) The date the voter verifiable paper audit trail was printed;
4) A security code and record number specific to each paper receipt, assigned by the voting system;
5) The name or designation of the voter's precinct;
6) The name or designation of each office on the voter's ballot;
7) The name of the candidate and the designation of the candidate's political party selected by the voter;
8) If the voter selects a straight party ticket, the name of the political party ticket the voter selected; and
9) The following information:
    a. A description of the text of any public question or judicial retention question on the voter's ballot that:
        i. contains not more than thirty (30) characters; and

ii. the county election board determines reasonably conveys the content of the public question or judicial retention question.

b. The response the voter selected for each question.

A county may not use a direct record electronic (DRE) voting system during early absentee voting or on Election Day unless the voting system unit contains a voter verifiable audit paper trail (VVPAT) that is certified for use in Indiana by the Indiana Election Commission. A county may not purchase, lease, or otherwise obtain an electronic voting system without a VVPAT after December 31, 2019. (IC 3-11-14-2; IC 3-11-15-13.3)

Absentee Ballot Retraction Features on DRE Voting Systems

Direct Record Electronic (DRE) voting systems ***must*** include a retraction feature that allows an absentee ballot to be retracted from a voting system if the absentee ballot is rejected for counting after being submitted. The retraction feature must assign a unique identifier to each absentee ballot.

The retraction number assigned to an absentee ballot may not include the name, residence or mailing address, telephone number, social security number, date of birth, date the voter registered, or the voter's Indiana driver's license or state ID number assigned by the BMV. The unique identifier is confidential under the public records law. The county election board must implement a procedure to keep the retraction unique identification number secured from unauthorized access.

During the pre-election public test of the DRE voting machines, the county election board must test the retraction of an absentee ballot to ascertain whether the voting system will correctly retract an absentee ballot cast by a voter later found to be disqualified or which must otherwise be rejected under state law, and that the absentee ballot cast by the disqualified voter will not be counted. The test must determine if the voting system will reject and void the absentee ballot before tabulation. The test must confirm the rejected or voided ballot was not included. The county election board must use at least one ballot to test the retraction components during the public test. (IC 3-11-13-22; IC 3-11-13-24; IC 3-11-13-24.5; IC 3-11-14.5-5; IC 3-11-14.5-8; IC 3-11-15-26; IC 3-11.5-1-5; IC 3-11.5-8-1)

Straight Ticket Voting Instructions

For the November municipal or general election, straight ticket voting instructions must include the following statement depending on the type of voting system:

For traditional hand counted paper ballots and optical scan ballot cards:

For traditional hand counted paper ballots, the straight ticket voting instructions shall be printed on the ballot to the right of the device on the ballot. (IC 3-11-2-10(b); (c))

For optical scan ballot cards, the straight ticket voting instructions shall be placed on the ballot. (IC 3-11-13-11(l))

For electronic voting systems:

> "If you do not wish to vote a straight party ticket, press "NEXT" (or replace "NEXT" with the term used by that voting system to permit a voter to skip a ballot screen) to continue voting."

For electronic voting systems, the straight ticket voting instruction must be printed on the ballot label. (IC 3-11-14-3.5(m))

Using Multiple Ballot Types in an Election

Along with optical scan ballot card voting systems or direct recording electronic (DRE) voting systems, which permit voters with disabilities to cast their ballots independently and privately, traditional hand counted paper ballots may continue to be used in Indiana elections.

Most counties employ the use of at least two ballot types in an election. For example, a county uses a touch-button DRE voting system for use on Election Day and during in-person absentee voting in the clerk's office. However, the county also uses ballot cards for absentee-by-mail voting since a touch-screen machine can't be mailed to a voter. The county also uses hand-count paper ballots as their 1) emergency ballot should the DRE fail on Election Day and 2) for provisional ballots, since those may not be cast on a DRE machine.

Another example would be a county that uses hand-marked optical scan ballot cards for Election Day and for all absentee voting. However, the county also makes available a DRE touch-button machine that permits a voter with disabilities to cast their ballot independently, or the optical scan voting system may have a ballot marking device component that allows the voter to make their selections using an electronic system that then prints their choices on a ballot card to be read and tabulated by the separate optical scan device.

Voting Systems for Voters with Disabilities

Each polling place or vote center as well as the clerk's office and satellite offices (if applicable) used for in-person early voting must be provided with at least one voting system that permits voters with disabilities (including blind voters, visually impaired voters, and voters with mobility impairments) to cast a ballot privately and independently. A county election board may unanimously agree to adopt a resolution to authorize the use of an electronic voting system or ballot marking device used with an optical scan voting system to be used by absentee traveling boards. (IC 3-11-10-26.2)

Note: if hand-counted paper ballots are used in an election, the county election board (or town election board, in limited cases in the municipal election year) MUST provide an accessible voting system as noted above to allow an individual with disabilities to vote privately and independently.

Voting Systems & Internet Connectivity

State law explicitly states that a computer or electronic device used to create the layout of a ballot for an election; to program a voting system, electronic voting system, or ballot card voting system; or that has an election management software certified for use as part of a voting system may not be connected to the Internet or any network that connects to another computer or electronic device. However, this prohibition does not apply to electronic poll books. (IC 3-11-15-61)

County Election Board Responsible for Care and Custody of Voting Systems

The county election board is responsible for the care and custody of all optical scan ballot card and electronic voting systems while not in use (IC 3-11-7-20; IC 3-11-7.5-24).

Voting System Battery Information in Certification Application

A vendor applying to receive certification for a voting system for use in Indiana must include in the application information concerning batteries used in the voting system, including the following:

1) A list of all batteries to be used in the voting system and any peripherals.
2) The expected life span of each battery.

3) A log documenting when each battery was installed or subsequently replaced.
4) A schedule for replacement of each battery not later than thirty (30) days before the end of the expected life span of each battery.
5) Plans to test batteries before each election.
6) Plans for the emergency replacement of batteries that fail on election day or during the thirty (30) days before election day. (IC 3-11-15-7)

Use of USB Drives with Anti-Malware to Transfer Results from the Voting System's EMS to Upload into SVRS

A county election board that uploads unofficial precinct level results from the election management software of a ballot card voting system or electronic voting system to the statewide voter registration system (SVRS) before the county certifies the official results of the election under IC 3-12-5 shall use a universal series bus (USB) drive that contains anti-malware protection features approved by the voting system technical oversight program (VSTOP) or another data storage transfer method approved by VSTOP. (IC 3-12-3-12.7; IC 3-12-4-6.5)

Vendor Restriction on Selling Voting Systems

A vendor of a voting system certified for use in Indiana may not sell, lease, or transfer possession of a voting system to a person except to the following:

1) an Indiana county;
2) the voting system technical oversight program (VSTOP) established by IC 3-11-16-2;
3) a state or local government in the United States for the purpose of conducting elections in that jurisdiction; ;
4) a political party in Indiana entitled to nominate candidates for the general election at a state or town convention conducted pursuant to state law for the limited purpose of conducting the nomination of the candidates; or
5) by transferring possession to a state or county historical society in Indiana. (IC 3-11-15-60)

Using Legacy or "Grandfathered" Voting Systems

A county may continue to use an optical scan ballot card system or an electronic voting system whose state certification expired on or before October 1, 2025, if the voting system: (1) was approved by the Indiana Election Commission before October 1, 2025; (2) was purchased by the county before October 1, 2025; and (3) otherwise complies with the federal Help America Vote Act of 2002 (HAVA) and state law. However, county may not purchase, lease or otherwise obtain a direct record electronic (DRE) voting system without a voter verifiable paper audit trail (VVPAT) after December 31, 2019.

A vendor may not market, sell, lease, or install a legacy or "grandfathered" voting system in Indiana; however, the vendor and the county may continue to maintain and use a legacy voting system until such a time the voting system no longer comports with state law, or the county purchases a new voting system. It is not possible for a vendor to submit a modification or "de minimis" change to update a legacy or "grandfathered" voting system before the IEC.

Public Test of Voting Equipment

Indiana law requires county election boards to conduct a public test of its voting systems (automatic tabulators of optical scan ballot cards, ballot marking devices used with optical scan systems, and DRE voting systems) before each election, specifically before in-person early voting begins in the Clerk's Office. The test must be open to representatives of political parties, candidates, the media, and the public.

Public tests must be held not later than twenty-nine (29) days before the election. (IC 3-11-13-22; IC 3-11-14.5-1) All counties must publish notice in a newspaper (as defined in IC 5-3-1-4) at least forty-eight (48) hours before conducting the public test. (Note: IC 5-3-1-1.6 may permit the publication of this notice in an electronic edition or the political subdivision's website, if certain criteria are met.) In addition, notice must be posted in an area where notices are generally posted outside the clerk's office (IC 5-14-1.5-4), and the media invited if a written request was filed with the county not later than December 31 of the preceding year (IC 5-14-1.5-5). Public tests must be conducted like a public meeting held by the county election board.

The two (2) appointed members of the county election board shall observe the public test and certify the test as meeting the requirements of state law. (IC 3-11-13-23; IC 3-11-14.5-3) If an error is detected during the public test, the cause of the error shall be determined and corrected, and an errorless count shall be made before the automatic tabulating machines are approved. (IC 3-11-13-25; IC 3-11-14.5-6)

If a voting system does not perform as expected during a public test, the county election board must attempt to correct the error and conduct a new public test as soon as possible. (IC 3-11-13-22; IC 3-11-14.5-6)

An additional public test may be required if the county election board determines that a ballot:

1) must be reprinted or corrected as provided by IC 3-11-2-16 because of the omission of a candidate, political party, or public question from the ballot; or
2) is an absentee ballot that a voter is entitled to recast under IC 3-11.5-4-2 because the absentee ballot includes a candidate for election to office who ceased to be a candidate and has been succeeded by a candidate selected under IC 3-13-1 (early ballot vacancy) or IC 3-13-2 (late ballot vacancy); and
3) ballots used in the original public test conducted were not reprinted or corrected to remove the omission of a candidate, political party, or public question, or indicate the name of the successor candidate. (IC 3-11-13-22; IC 3-11-14.5-1)

If a county election board must conduct a second or any additional public tests on the automatic tabulators or DRE systems scheduled to be used in an election then public notice of the meeting to conduct the additional test required under IC 5-14-1.5-4 must be given, but the county election board **does not** need to publish notice of the additional test in the newspaper under IC 5-3-1-4. (IC 3-11-13-22; IC 3-11-14.5-2)

If the additional public test confirms the error has been corrected, then the optical scan or DRE system may be used. However, if an automatic tabulator for optical scan ballot cards is not publicly tested or does not go through a public test showing no errors, then the tabulator cannot be used to tabulate ballots on Election Day, and the ballot cards must be counted by hand. (IC 3-12-3-8)

Not later than seven (7) days after the public test (IC 3-11-13-22(e); IC 3-11-14.5-9), the county election board will certify to the election division that the public test has been performed according to state law. The IEC-9 form is used to certify the test of direct record electronic voting systems; the IEC-10 is used to certify the test of optical scan voting systems. The completed form may be emailed, faxed, hand delivered, or mailed to IED.

Most Indiana counties will file both the IEC-9 and the IEC-10, as the county will use an optical scan voting system for absentee voting and a DRE voting system for Election Day voting. A copy of the certification (IEC-9 and IEC-10) along with the materials used in the public test (for example, pre-audited ballot cards) are retained with the election materials and retained for at least 22-months following the election. Immediately following the public test, the voting systems shall be sealed and prepared for delivery to the polling location. (IC 3-11-13-26; IC 3-11-14.5-7)

Detailed information in the sections below will help guide a county's public test on the specific type of voting system(s) used by the county. In addition, a public test "toolkit" with a sample timeline is available in the appendix of this *Manual.*

Public Test of Direct Record Electronic (DRE) Voting Systems

NOTE: This section only applies to MicroVote counties for the DRE component of the voting system, as MicroVote is the only DRE system certified by the Indiana Election Commission as of the publication date.

State law requires the public test to include:

1) The visual inspection of the voting system and ballot labels.
2) The manual entry of a pre-audited group of ballots marked to record a predetermined number of valid votes for straight-party tickets, each candidate (including write-in candidates), and on each public question on the ballot in the precinct.
3) At least one (1) ballot for each office that has an overvote to test the ability of the electronic voting system to reject the overvotes.

Further, the public test must include the entry of a pre-audited group of at least one (1) ballot from three (3) different precincts in which an election will be conducted to:

1) test the functionality of the system components used by a voter with disabilities to cast a ballot independently and privately; and
2) record a predetermined number of valid votes for each candidate and on each public question. (IC 3-11-14.5-5)

Additionally, for a voting system that has an approved ballot retraction feature, at least one absentee ballot must be rejected under IC 3-11.5-4-13 that the voting system must void in accordance with IC 3-11.5-4-6 before the absentee ballot is tabulated.

Not later than seventy-four (74) days before each election, the Voting System Oversight Program (VSTOP) shall provide each county that uses electronic voting systems with a randomly sorted list of voting machines used in that county for the election as noted in the county's voting system inventory maintained under IC 3-11-16-4. This list is then used to conduct the public test of voting systems.

Starting at the top of the list, the county election board shall select machines in the list in the order listed so that:

1) if a machine to be selected in the list is not scheduled to be used in the upcoming election, the selection process will move to the next machine in the order listed;
2) each selected machine is scheduled to be used in the upcoming election; and
3) the number of machines selected is not less than five percent (5%) of the machines in the county scheduled by the county election board to be used in the upcoming election. (IC 3-11-14.5-1)

The county election board must test the machines on the randomly sorted list of voting machines to determine if the machines are correctly counting votes for all candidates including write-ins, for all public questions, and for straight-party votes. If the voting system unit has multiple precincts or ballot styles configured on it, then the county election board is to test each ballot style on the unit in accordance with this section.

If an individual attending the public test requests that additional voting machines be tested, the county election board shall test additional machines from the randomly sorted list.

If VSTOP does not provide the list not later than sixty (60) days before the election, the county election board must implement an alternative procedure for randomly testing at least 5% of the machines used in the county. If an individual attending the public test requests that additional electronic voting systems be tested, then the county election board shall select and test additional machines from the list in the manner described in IC 3-11-14.5-1(a).

Immediately following the completion of the public test, the county election board shall enter the vote totals from the voting systems tested into the component of the voting system used by the county election board to tabulate election results under IC 3-12-3.5. The board shall determine whether this component of the voting system properly tabulates the votes cast in each of the precincts tested. (IC 3-11-14.5-8)

Counties using the MicroVote DRE voting system must file the IEC-9 (Certification: Test of Direct Record Electronic Voting Systems) not later than seven (7) days after conducting the public test. This form may be filed with the Election Division by email or fax. (IC 3-11-13-22; IC 3-11-14.5-11)

Public Test of Optical Scan (Ballot Card) Automatic Tabulators

Note: This section applies to all Indiana counties. As of the publication date, the Indiana Election Commission has certified ES&S, Hart, and Unisyn optical scan ballot card voting systems and the optical scan component of the MicroVote voting system. Counties using a ballot marking device (BMD) with their optical scan system must include the BMD components in their public test to confirm accessibility features.

State law requires that the public test for optical scan voting systems:

1) be conducted by processing a pre-audited group of ballot cards marked so as to record a predetermined number of valid votes for each candidate and on each public question;
2) include for each office one (1) or more ballot cards that have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating machines to reject the votes; and
3) include at least one (1) ballot from three (3) different precincts where an election will be conducted.

Additionally, for ballot card systems that use a ballot marking device, the public test must include at least ten (10) ballots cast by using the headphone or a sip/puff device, so as to record a predetermined number of valid votes for each candidate and on each public question. It must also include at least one (1) ballot for each office and public question that has votes in excess of the number allowed by law in order to test the ability of the voting system to reject the overvotes. (IC 3-11-13-24)

Not later than seventy-four (74) days before the election, the Voting System Oversight Program (VSTOP) shall provide each county election board with a randomly sorted list of unique identification numbers for the inventory of machines in the county maintained under IC 3-11-16-4. For purposes of the public test, the county election board shall start at the top of the list and select machines in the list in the order listed so that:

1) if a machine to be selected in the list is not scheduled to be used in the upcoming election, the selection process will move to the next machine in the order listed;
2) each selected machine is scheduled to be used in the upcoming election; and
3) the number of machines selected is not less than five percent (5%) of the machines in the county scheduled by the county election board to be used in the upcoming election. (IC 3-11-13-22)

The county election board must test the machines on the randomly sorted list to determine if the machines are correctly counting votes for all candidates, including write-ins, for all public questions, and for straight-party votes. If the voting system unit has multiple precincts or ballot styles configured on it, then the county election board is to test

each ballot style on the unit in accordance with this section. Additionally, for a voting system that has an approved ballot retraction feature, if the optical scan voting system includes a retraction feature for absentee ballots that has been certified for use by the Indiana Election Commission, then this feature must be tested to ensure its compliance with IC 3-11.5-4-6. (IC 3-11-13-22(c)(2))

If an individual attending the public test requests that additional automatic tabulating machines be tested, then the county election board shall select and test additional machines from the list in the manner described in IC 3-11-13-22(b).

If VSTOP does not provide these lists not later than sixty (60) days before the election, the county election must implement an alternative procedure for randomly testing at least 5% of the machines used in the county. If an individual attending the public test requests that additional automatic tabulating machines be tested, then the county election board shall test more machines from the randomly sorted list.

Each voting system unit shall be tested to ascertain that the system will correctly count the votes cast for straight party tickets, for all candidates (including write-in candidates) and on all public questions. (IC 3-11-13-22(c))

Immediately following the completion of the public test, the county election board shall enter the vote totals from the voting systems tabulators tested into the component of the voting system used by the county election board to tabulate election results under IC 3-12-4. The board shall determine whether this component of the voting system properly tabulates and determines the votes cast in each of the precincts, and the total for each candidate and public question on the ballots that were tested. (IC 3-11-13-24.5)

Counties using ES&S, Hart, and Unisyn opScan systems and those counties using the MicroVote opScan component must file the IEC-10 (Certification of Test of Optical Scan Ballot Card Automatic Tabulating Machines) not later than seven (7) days after conducting the public test. This form may now be filed with the Election Division by email or fax. (IC 3-11-13-22; IC 3-11-14.5-11)

ePollbooks

All Indiana counties (except Crawford County as of November 25, 2025) use electronic poll books (ePollbooks) for early voting (in-person absentee) and Election Day voting, replacing the use of computers to access the statewide voter registration for early voting and paper poll lists used on Election Day. ePollbooks contain and record the same information a paper poll list traditionally maintained, such as all active and inactive voters eligible to vote in a particular election and the ability for the voter to confirm they continue to reside at their registration address. The equipment is also designed to electronically capture the voter's signature before voting.

Electronic poll book is defined in state law as a combination of mechanical, electromechanical, and electronic equipment (including the software, firmware, documentation, and backend infrastructure and services (including cloud platform services) required to program, control, and support the equipment that is used to access and maintain the electronic poll list. (IC 3-5-2.1-40)

Note: Paper poll lists or computers with access to the statewide voter registration system may continue to be used under Indiana state law. For example, in some "small" town elections, a town election board may opt to use a paper poll list for cost savings or other efficiencies, or a paper poll list is identified as a back-up solution in a county's emergency planning. However, ePollbooks streamline election procedures for voters and election administrators and are used almost exclusively in each election.

ePollbook Certification

Like voting systems, ePollbooks must meet certain standards and protocols, which are reviewed by the Voting System Technical Oversight Program (VSTOP), before the ePollbook may be certified by the Secretary of State's office and used in Indiana. VSTOP's recommendation to the Secretary of State for certification of an electronic poll book is required to specify:

1) whether the electronic poll book would operate in compliance with Indiana Code;
2) whether VSTOP has reviewed tests of the poll book by an approved voting system testing laboratory (VSTL);
3) whether VSTOP has conducted a field test;
4) whether the poll book complies with the additional requirements set forth in the Indiana Electronic Poll Book Test Protocol approved by the Secretary of State;
5) whether VSTOP has documentation of satisfactory escrow of the poll book's software, firmware, source codes and executable images;
6) any recommendations regarding the acquisition or use of the electronic poll book; and
7) whether VSTOP recommends that the secretary of state approve the electronic poll book under this section, including any recommended restrictions that should be placed on the secretary of state's approval.

ePollbooks must also be able to report to SVRS which voters cast provisional ballots. This functionality cannot be disabled. (IC 3-11-8-10.3)

Certification of the ePollbook system by the Secretary of State expires December 31 of the year following certification and may be revoked by the Indiana Secretary of State before then for good cause, such as failing the acceptance test noted below. (IC 3-11-18.1-12)

CEB to Authorize Use of ePollbooks

All vote center counties must use an ePollbook on Election Day pursuant to its vote center plan established under IC 3-11-18.1-4. As a result, the county is also required to use an ePollbook for early in person absentee early voting at the clerk's office and at vote centers used as satellite early voting locations. (IC 3-7-29-6)

A county election board in a non-vote center county may adopt an order to provide an electronic poll book for use in the following ways:

1) At polling places, an office of the circuit court clerk (under IC 3-11-10-26), and at satellite offices established under IC 3-11-10-26.3.; OR
2) Only at an office of the circuit court clerk (under IC 3-11-10-26) and satellite offices established under IC 3-11-10-26.3.

In other words, a county who authorizes the use of an ePollbook for use on Election Day must also use an ePollbook for early in person voting at the clerk's office and any satellite location. However, a county election board may only authorize the use of ePollbooks during early in person voting at the clerk's office and any satellite location but continue to use a certified paper poll list on Election Day.

In counties using an ePollbook for early in person voting, the ePollbook replaces the ABS-In Person application, and the voter affixes their signature on the ePollbook's signature pad. (IC 3-11-10-26(d); IC 3-11-10-26.2) County election boards may also permit an absentee voter board visiting a voter voting absentee by travel board to use an electronic poll book to obtain the voter's signature; however, the person must first complete an ABS-Traveling Board application. (IC 3-11-10-25) See "Absentee Voting" section of this *Manual* for more details.

An order to adopt an ePollbook must require the use of an electronic signature to sign an electronic poll book at an election rather than requiring voters to sign certified poll lists at each location that the ePollbook is used. The county voter registration office shall download the information required to be available on an ePollbook before the electronic poll list is delivered and installed as required by IC 3-11-3-11(b). (IC 3-7-29-6)

Acceptance Testing

Acceptance testing at the county level is an integral part of the overall process of preparing a county to use ePollbooks. After certification, each county which has contracted for an ePollbook system will conduct an acceptance test at the time of delivery. This acceptance test will focus primarily on the ability of the ePollbook to communicate with the county server in downloading and uploading appropriate data. The county is required to perform ePollbook acceptance testing before every election.

Additional information about an ePollbook and its requirements can be found in IC 3-5-2.1-40, IC 3-11-18.1-12, IC 3-11-8-10.3, and IC 3-11-8-10.4. NOTE: An electronic poll book may not display whether a voter's registration record is in active or inactive status.

Marketing An Uncertified ePollbook

A person may not market, sell, lease, or provide an electronic poll book for use in an election in Indiana until the Secretary of State has approved the application for certification. However, a vendor who has an electronic poll book not yet certified for use in Indiana by the Secretary of State may display or demonstrate an electronic poll book that has not been certified at a conference of election officials sponsored by a state agency or an association of circuit court clerks or voter registration officers.

Before the display or demonstration, the vendor must file notice with the Election Division at least seven (7) days before the scheduled starting date of the conference setting forth the following:

1) The name of the person and each representative scheduled to display or demonstrate the electronic poll book.
2) The address and telephone number of the person.
3) The model name of the electronic poll book.
4) The name and manufacturer of the electronic poll book.
5) The date and location of the display or demonstration of the electronic poll book.

At the conference, the vendor must display the electronic poll book with a notice. The notice must be posted on the surface of the electronic poll book in at least 16-point type size and state that the electronic poll book is "Not Approved for Use in Indiana." Any communication concerning the electronic poll book made available at the conference must also include a statement that the electronic poll book is "Not Approved for Use in Indiana" in a type size that is at least as large as the largest type size used in the communication. (IC 3-11-18.1-12)

County Election Board Responsible for Care and Custody of Electronic Poll Books

The county election board is responsible for the care and custody of all electronic poll books while not in use. (IC 3-11-8-10.3)

Software Restrictions on Electronic Poll Books

A county election board is responsible for ensuring electronic poll books are used only for their intended purpose. Software that is not needed for the essential purpose of running the electronic poll book may not be installed on an electronic poll book. (IC 3-11-3-10.3)

ePollbook Server

Information generated by the voter or the poll clerk as part of the process of casting a ballot, including the time and date stamp indicating when the voter signed the electronic poll book and the signature of the voter, is required to be kept on private server ***approved*** by the county election board. Former law required this information to be kept on a private server ***maintained*** by the county election board. The amended state law permits the information to be kept on a private server maintained by the county's vendor rather than on a server maintained by the county.

VSTOP performs the following activities concerning electronic poll books: performing random audits; assisting counties with contracts to procure electronic poll books and election equipment monitoring systems; and performing other duties related to the approval or use of electronic poll books as provided in state law or a contract with the state. (IC 3-11-16-4) Detailed information about acceptance testing and other ePollbook requirements can be found on the Indiana Election Division webpage, https://www.in.gov/sos/elections/4059.htm.

ePollbook Electronic Record Retention

In counties using an electronic poll book, after each election, the county shall save all data recorded on the electronic poll book and any information stored on the dedicated, private server. The circuit court clerk shall preserve the disc or medium used to record the data for twenty-two (22) months, as required by federal law, after which time the data may be erased or destroyed, subject to the order of the county's public records commission, unless an order requiring the continued preservation of the data is issued by a judge overseeing an local recount, the state recount commission, or by a federal judge when hearing a matter under 52 USC §10301. (IC 3-10-1-31.1; IC 3-10-7-33)

Deadline to Deliver ePollbooks to County before Election

Unless a county receives prior written authorization from the Voting System Technical Oversight Program (VSTOP), any electronic poll book must have been delivered to a county election board not less than sixty (60) days before the election at which the electronic poll book is to be used. (IC 3-11-18.1-12)

Electronic Poll Book Battery Information

An electronic poll book must include documentation concerning information on the batteries used in the electronic poll book, including the following:

1) A list of all batteries to be used in the electronic poll book and any peripherals.
2) The expected life span of each battery.
3) A log documenting when each battery was installed or subsequently replaced.
4) A schedule for replacement of each battery not later than thirty (30) days before the end of the expected life span of each battery.
5) Plans to test batteries before each election.
6) Plans for the emergency replacement of batteries that fail on election day or during the thirty (30) days before election day. (IC 3-11-8-10.3)
7)

Delivery of Voting Equipment to the Polls

Electronic Poll Books

Before delivering electronic poll books to the inspector or the inspector's authorized representative on the second or third day **before election day**, the county election board shall do the following:

1) affix tamper-proof numbered seals to each electronic poll book, or to a container which contains a single electronic poll book;
2) record the number of the seal affixed to each electronic poll book or container; and
3) provide a list to the inspector of each electronic poll book and the number of the seal affixed to each electronic poll book or container. (IC 3-11-3-10)

If a county uses tamper-proof numbered seals to secure electronic poll books, then before the polls are opened, the inspector and judge of the opposite party shall determine that each seal is intact, shows no evidence of tampering, and bears the same number indicated in the list provided to the inspector by the county election board. If each electronic poll book seal complies with these requirements, then the inspector and judge certify compliance on a form prescribed by the Election Division (PRE-1) If any electronic poll book seal is not intact, shows signs of tampering, or does not match the number on the list provided to the inspector, the inspector or judge must immediately notify the county election board. (IC 3-11-8-7.5)

A county election board may adopt a resolution, by unanimous vote of the entire membership of the board, to use an alternative security protocol to deliver electronic poll books to polling places. The resolution must set forth the following:

1) the method to be used to ensure that the electronic poll books are not accessed, modified, or tampered with after the electronic poll book is transferred to the inspector or inspector's authorized representative for delivery to the polls; and
2) the method for a precinct election board or vote center officers to determine and document on behalf of the county election board that each electronic poll book was successfully secured against improper access, modification, or tampering before delivery to the polling place or vote center.

The resolution must be filed with the Election Division before electronic poll books are delivered to a polling location or vote center. (IC 3-11-3-10)

After the polls close on Election Day, the inspector and judge of the opposite political party shall immediately deliver all electronic poll books from a precinct polling location or vote center to the county election board with the other election material under IC 3-12-3-2(b). The county election board shall secure the electronic poll books in accordance with the requirements of IC 3-11-15-46. (IC 3-12-3-2.2; IC 3-12-3.5-4.5)

Voting Systems

Voting systems may be delivered to precincts or vote centers at any time **before Election Day** by any of the following:

- the county election board;
- a bipartisan team of individuals consisting of at least two (2) individuals who are not members of the same political party as designated by the county election board; or
- a commercial delivery entity contracted by the county election board.

A county election board may not designate, or permit, a person to serve on a bipartisan team or a commercial delivery entity to use an individual to deliver, or have access to a voting system, if the individual is imprisoned (such as a county jail inmate), subject to lawful detention, on probation, on parole, subject to home detention, or placed in a community corrections program.

Two members of any bipartisan team, or an authorized representative of a commercial delivery entity, delivering a voting system must sign a certificate that contains the following:

1) a statement that the voting system remained in the custody and control of the bi-partisan team or company during the period between leaving the custody of the county election board and delivery to the polling location;
2) a statement that no other individual other than a team member or an individual acting on behalf of the commercial delivery entity had access to any voting system;
3) documentation of an individual who received the voting system when it was delivered to the polling location or vote center; and
4) the written name and signature of the individual receiving the voting system at the polls.

The two members of any bipartisan team, or an authorized representative of a commercial delivery entity, must file the completed certificate with the county election board immediately upon delivery. (IC 3-11-3-10)

State law (IC 3-12-3-2.2; IC 3-12-3.5-4.5) requires that **after the polls close on Election Day**:
1) the county election board;
2) teams consisting of at least two (2) individuals who are designated by the county election board, are affiliated with a political party entitled to nominate an individual to serve as an appointed member of the county election board, and have at least two (2) individuals on the team who are not members of the same political party; or
3) a commercial delivery entity operating under a contract with the county election board;

shall return all voting systems from the polls for the precinct or from the vote centers to a storage facility to be secured under IC 3-11-15-46.

The county election board may not designate any individual to serve on a team or permit a commercial delivery entity to allow any individual to access or return a voting system if the individual is imprisoned, subject to lawful detention, on probation, on parole, subject to home detention, or placed in a community corrections program.

If a county election board uses the teams comprised of two individuals who are not members of the same political party or a commercial delivery entity to return a voting system from the Election Day polling location, the board shall require that the two (2) members of each team who are not members of the same political party or the commercial delivery entity execute a certificate and file it with the county election board immediately upon any return of a voting system. The certificate must be signed by the two (2) members of each team or by an individual authorized to act on behalf of the commercial delivery entity.

The certificate must include the following:
1) That the voting systems remained in the custody and control of each individual during the period beginning when the voting systems were received at the polls and ending when the voting systems were returned to the location designated for securing voting systems under IC 3-11-15-46. (IC 3-12-3-2.2((f)(1))
2) That no individual other than a team member or an individual acting on behalf of the commercial delivery entity had access to any voting system.
3) That an individual documented receipt of the voting system at the location when the system was returned.
4) The written name and signature of the individual and date that the voting system was delivered to the custody of that individual.

“Hashtag” Validation

A voting system approved by the Indiana Election Commission for use in Indiana elections must contain a validation method to ensure that the software is tested, and that no uncertified software is present on the voting system. For example, the current version of the approved software for Vendor A’s DRE voting system is 1.1. Therefore, the county uses a validation method that requires a review the screen of each DRE unit to ensure it displays the current version of the software as 1.1. This would serve as the county election board’s confirmation that the individual voting system unit has the approved version of the software installed.

The voting system vendor shall provide the instructions for use of the validation method to the voting system technical oversight program (VSTOP) to permit VSTOP to perform this validation before the voting system is certified by the Indiana Election Commission and at any time that the voting system remains certified for use in Indiana. (IC 3-11-15-13.9)

Voting Equipment Inventory

Each county election board shall regularly provide information to VSTOP to update the inventory of voting systems and electronic poll books. Not later than January 31 of each year, the county election board shall certify to the Secretary of State using the IEC-22 form that the information set forth in the inventory regarding the voting systems and electronic poll books of the county is accurate, to the best of the knowledge and belief of the county election board.

The inventory system maintained by VSTOP shall include unique serial numbers to identify each voting system unit and electronic poll book and indicate the location where each voting system unit or electronic poll book is ordinarily stored. (IC 3-11-16-4; IC 3-11-16-5)

County Voting Equipment Access Policies

The county election board is responsible for establishing access protocols for voting systems and electronic poll books, including specifying when variations from access policies are permitted. (IC 3-11-15-46)

The county election board may adopt a resolution by unanimous vote of the board’s entire membership to establish a security protocol to secure the county’s voting systems and electronic poll books. The security protocol must include an audit trail to detect unauthorized access to the voting systems and electronic poll books. VSTOP and the Election Division shall be available to advise the county election board in the development of a security protocol.

A county’s voting system security resolution is effective when filed with the election division. If a county chooses to adopt a resolution setting forth an alternative method for securing voting systems other than the default security procedures set forth in state law, the county voting security resolution is confidential and may not be disclosed in response to a request for public records. (IC 5-14-3-4)

If the county election board adopts a security protocol by unanimous vote of the board’s entire membership, then the following specific requirements for voting system access do not apply to the county. If the county election board does not adopt a security protocol by unanimous resolution of the board’s entire membership, then upon completion of the canvass of votes cast in an election, the county election board shall place a uniquely numbered seal on each voting system and electronic poll book used in the election to secure the voting system and electronic poll book and permit

post-election auditing. The form of the seal and information contained on the seal shall be prescribed by the Election Division and must make it impossible to access the sealed part of the voting system or electronic poll book unit without detection.

A seal placed on a voting system or electronic poll book must remain in place except when the county election board finds unsealing to be necessary and orders unsealing for one of the following reasons:

1) To conduct maintenance on the voting system or electronic poll book.
2) To prepare the voting system or electronic poll book for use in the next election to be conducted by the county in which the voting system or electronic poll book will be made available.
3) To install certified voting system hardware, firmware, or software on a voting system or certified upgrades on an electronic poll book.
4) To conduct a public test of the voting system or electronic poll book as required by state law.
5) To conduct an audit as authorized or required by state law.
6) For the county election board to correct an error under IC 3-12-5-14.
7) When ordered during a recount or contest proceeding under IC 3-12.

The county election board shall reseal the voting system or electronic poll book immediately after the completion of the maintenance, installation, audit, correction, recount proceeding, or contest proceeding described above.

When the county election board orders the unsealing of the voting system or electronic poll book to prepare for the use of the equipment in an election, including to conduct a public test, the voting system or electronic poll book may remain unsealed until the canvassing of the vote is completed after the election.

The county election board shall document when each voting system or electronic poll book is sealed or unsealed by identifying the following:

1) the serial number of each voting system or electronic poll book that is sealed or unsealed;
2) the date on which the sealing or unsealing occurred; and
3) the individual who performed the sealing or unsealing.

Reporting of Improper Access to Voting Equipment & ePollbooks

A county election board shall file a report with the secretary of state and the election division not later than forty-eight (48) hours after receiving notice from a federal, state, or local government agency that a voting system or electronic poll book has been improperly obtained or altered in a manner that violates Indiana law; or the data concerning the county maintained in the statewide voter registration system has been accessed or altered by a person in violation of Indiana law. (IC 3-11-17-7(a))

A vendor of a voting system or electronic poll book shall file a report with the secretary of state and the election division not later than forty-eight (48) hours after discovering that an anomaly or problem has occurred in a voting system or electronic poll book due to technical or human error. However, if the anomaly or problem is discovered not later than twenty-eight (28) days before election day through 11:59 p.m. Election Day, the vendor must file a report not later than two (2) hours after discovering the anomaly or problem. (IC 3-11-17-7; IC 3-11-18.1-14)

The Secretary and the Indiana Election Division is permitted to designate a person or entity to aggregate, analyze, make recommendations, and subsequently report anomalies as requested by the secretary and the co-directors of the election division. The anomaly report made by a voting system vendor must now include the following:

1) The nature of the anomaly or problem.
2) The county, precinct, vote center, satellite office, or in-person absentee voting location affected.
3) The vendor's preliminary plan to resolve the anomaly or problem by preventing any impediment to voters casting ballots, or to the accuracy and integrity of the election process.
4) The date and time an anomaly was first experienced or discovered.
5) The name and contact information for the individual discovering or experiencing the anomaly.
6) The date and time the vendor first became aware of the anomaly.
7) The name and contact information of the vendor representative submitting the report.
8) Whether the anomaly involved a voting system, an electronic poll book, or a peripheral component of either a voting system or electronic poll book.
9) The system type, make, model, hardware, firmware, and software version involved, as applicable.
10) A detailed description of the anomaly and its effect on election administration.
11) Any findings related to how and where the current or previously reported anomaly originated.
12) Details of any responsive actions, such as investigation, analysis, determinations, and corrective action implemented or recommended, taken to address the anomaly and its effects.

A vendor is also required to report any anomaly occurring outside of Indiana involving the same type or model of electronic poll book or voting system certified for use in Indiana not later than fourteen (14) days after discovery of the anomaly. A voting system vendor shall report an anomaly involving a voting system to the Indiana Election Commission and the United States Election Assistance Commission and file a copy with the Secretary of State and the Indiana Election Division documenting receipt of the report. (IC 3-11-17-7)

A vendor must take reasonable measures to ensure a reported anomaly does not reoccur and retain documentation of any investigation, analysis, determinations, and corrective actions implemented or recommended for at least two (2) years after the anomaly is reported. Not later than noon (ET), fourteen (14) days after reporting the anomaly, a vendor shall file a corrective plan with the Secretary of State and the Indiana Election Division.

An anomaly caused solely by operator error is not required to be reported unless a deficiency in user instructions or training is a contributing factor. The burden of showing an anomaly was the result of operator error and not a deficiency of user instructions or training rests with the system vendor. (IC 3-11-17-7)

An anomaly report submitted by the vendor is confidential at the discretion of the Secretary of State and the Indiana Election Division. (IC 3-11-17-9)

County Disposal of Voting Systems and Electronic Poll Books

Whenever a county wishes to dispose of a voting system unit or an electronic poll book unit, the county election board must first file a plan with the Election Division on the IEC-6 form. The plan must state the following:

1) The serial number of each unit to be disposed of by the county.
2) The method to be used for disposal of the equipment, including sale, transfer, or destruction of the equipment and the details about how the equipment will be disposed of. NOTE: an ePollbook can be disposed of by deleting the electronic poll book software on the unit and repurposing the unit as an electronic device to display an electronic form of a sample ballot.
3) That the disposal will occur in compliance with federal and state laws requiring the retention of election materials until the expiration of the period specified by those laws.
4) The details regarding the person that will dispose of the equipment.

If the election division approves the proposed plan, the election division shall notify the county election board, which may then dispose of the equipment; and the voting system technical oversight program (VSTOP) (established by IC 3-11-16-2). **Counties may NOT move forward with voting system or ePollbook disposal until the IEC-6 form is approved by IED and a copy returned to the county**.

A county may not dispose of a voting system unit or an electronic poll book unit by selling, transferring, or otherwise surrendering ownership to a person to which a voting system vendor is prohibited to sell, lease, or transfer possession of a voting system under IC 3-11-15-60, except to the vendor from whom the county acquired the voting system unit or electronic poll book. (IC 3-11-15-59) A disposal plan filed with the election division is confidential. (IC 3-11-15-59(d))

Voting Equipment Purchase County Cumulative Fund

The legislative body of a county may establish a cumulative fund under IC 6-1.1-41 to provide funds for the purchase of ballot card voting systems, electronic voting systems, or electronic poll books for use in an election conducted by the county election board.

The fund name must be called the "voting system purchase fund." In addition to complying with the budget, tax rate, and tax levy requirements applicable to other tax levies, the county can only 1) establish a cumulative fund and impose a property tax for the cumulative fund; or 2) increase the tax rate for a cumulative fund after the proposal is adopted and approved in compliance with this chapter. (IC 3-11-6-1; IC 3-11-6-13; IC 6-1.1-41-2)

A county that decides to establish a voting system purchase fund must give notice of the proposal to affected taxpayers and hold a public hearing on the proposal before presenting the proposal to the department of local government finance for approval. Notice of the proposal and of the public hearing shall be given by publication in accordance with IC 5-3-1 and the county imposing a property tax levy to create revenue for the fund shall post a notice of the proposal and the public hearing in three (3) public places in the county. The notice must describe the tax levy that will be imposed for the fund. A county may levy a tax all taxable property within the county that may not exceed one and sixty-seven hundredths' cents ($0.0167) on each one hundred dollars ($100) of assessed valuation. A county that in any year adopts a proposal under this chapter must submit the proposal to the department of local government finance before May 1 of the year the fund is adopted. (IC 3-11-6-9; IC 6-1.1-41-3; IC 6-1.1-41-4)

If the county adopts a proposal to establish a voting system purchase fund or, after the fund is established, adopts a proposal to modify the tax rate of the fund at a public hearing, the county shall publish notice of adoption in accordance with IC 5-3-1-2(i) in a manner prescribed by the department of local government finance. (IC 6-1.1-41-3)

If least one hundred (100) taxpayers in the county file a petition with the county auditor stating their objections to the county adopting the establishment of a voting system purchase fund not later than noon thirty (30) days after notice of adoption of the voting system purchase fund is published, then the county auditor shall immediately certify the petition to the department of local government finance. The department of local government finance must, within a reasonable time, fix a date for a hearing on a petition that was certified to the office by the county auditor. The hearing must be held in the county where the fund was established. The department of local government finance shall give notice of the hearing to both the county auditor and the first ten (10) taxpayers whose names appear on the petition. The notice must be given by letter signed by the commissioner or deputy commissioner of the department of local government finance and sent by mail with prepaid postage to the auditor and the taxpayers at their usual place of residence at least five (5) days before the date fixed for the hearing. (IC 6-1.1-41-6; IC 6-1.1-41-7; IC 6-1.1-41-8)

After a hearing on the objection to the establishment of the voting system purchase fund, the department of local government finance shall certify approval, disapproval, or modification of the proposal to the county auditor. After this certification is made either a taxpayer who signed a petition objecting the establishment of the fund or the county against which a petition was filed may petition for judicial review of the final determination of the department of local government finance. The petition for judicial review must be filed in the tax court not more than forty-five (45) days after the department certifies its actions on the proposed fund to the county auditor. If the department of local government finance certifies a tax levy in an amount less than the county initially adopted in its fund establishment order, they may impose a greater tax rate for the fund in a subsequent year by voting to reestablish the fund using the procedure that was used to establish the fund. (IC 6-1.1-41-9; IC 6-1.1-41-13)

The tax levy must be advertised annually as other tax levies are advertised. (IC 6-1.1-41-13)

If the county considers it advisable after fund and tax levy has been approved, the county legislative body may pass an ordinance to reduce or rescind the annual levy. Additionally, at least fifty (50) taxpayers in the county where the fund was established file with the county auditor, by noon August 1 of a calendar year, a petition for reduction or revision of the levy approved to provide revenue to the fund. The petition must state the taxpayers' objections to the levy. Once the petition is filed, the county auditor shall certify the petition to the department of local government finance, and the same procedure for notice and hearing of a taxpayer objection to the establishment of the fund must be followed. After a hearing on the petition, the department of local government finance may confirm, reduce, or rescind the levy. The department of local government finance's action is final and conclusive. (IC 6-1.1-41-11; 6-1.1-41-12)

Revenue placed into the county voting system purchase fund may only be used for that purpose and does not otherwise revert to the county general fund after each year. But, if the county that established the fund decides that the purposes for which the fund was established have been accomplished or no longer exists or rescinds the tax levy for the fund, then the county that established the fund for may transfer the balance in the fund to the county general fund. (IC 6-1.1-41-14; IC 6-1.1-41-15)

BALLOT INFORMATION

Ballot Layout

Generally, the information on hand-counted paper ballots, optical scan ballot cards, or direct record electronic (DRE) voting machines does not change from a primary to a general election. Ballot instructions, order and placement of offices and ballot standards are generally the same between the two elections, though there are subtle differences. For the primary election, the public question and office order in IC 3-10-1-19 must be followed.

Indiana law only permits a voter to receive a primary ballot that lists the candidates of **one party**. State law ***requires*** the ballot cards of each party participating in the primary be **distinctively marked or be of different colors to be easily distinguishable.** (IC 3-10-1-13; IC 3-10-1-17) However, state law does not require that **the primary ballot(s) be printed in any specific colors,** so long as this requirement is met. While it is optional for a party symbol to be printed on an optical scan primary election ballot card, the party symbol ***must*** be used on primary DRE voting system ballot labels. (IC 3-11-14-4)

A box or line for two sets of poll clerk initials must be placed on the back of a primary, general, municipal, or special election ballot card and the precinct's number or designation. (IC 3-11-13-28.1) The clerk's signature and seal of the office must be printed on an absentee ballot. (IC 3-11-4-19; 3-11-10-27) In a year where the clerk may be running for re-election or as a candidate for another elected office, the clerk's signature may NOT be printed on the ballot. (NOTE: this does not apply if the clerk is only running for a party office such as precinct committeeman or state convention delegate.) A generic seal prescribed by the election division must also be printed on the absentee ballot (IC 3-5-4-9). The generic seal is available from the Indiana Election Division or the county portal accessible to county users through the statewide voter registration system. DRE ballot labels (that is, the screen) are not required to have the initials, seal, or county clerk's signature when used for absentee voting at the clerk's office or satellite location and traveling boards. (IC 3-11-10-26.2(f))

A county election board *may* require a voting system to display both the candidate's name and a ballot number or other candidate designation uniquely associated with the candidate. (IC 3-11-15-13.1)

Candidate filing deadlines dictate when a county election board will have the information needed to begin ballot layout. Please remember the Indiana Election Division also certifies federal, statewide, state legislative, judge and prosecutor candidates and any statewide public question authorized by the Indiana General Assembly to county election boards. State law requires the Division to submit this information not later than seventy-four (74) days before the primary election and seventy-four (74) days before a general election. (IC 3-8-2-17; IC 3-8-7-16)

Specific Ballot Requirements

In a county using an optical scan voting system, the county election board must prepare ballot cards that are uniform in size, quality, and color (IC 3-11-13-11(c)). As noted in previous sections, state law requires ballot cards used in the Democratic and Republican Party primary elections to be distinctively marked or be of different colors to be easily distinguishable. (IC 3-10-1-13; IC 3-10-1-17) Ballot cards must be of sufficient thickness so that the printing cannot be distinguished from the back of the ballot. A ballot may also contain a ballot variation code to ensure that the proper ballot is used in a precinct. (IC 3-11-2-10(f))

In counties that use DRE ballot labels, the county election board must prepare the ballot label on the electronic voting machine by placing every office up for election, public question, and ballot variation code on the screen of the voting machine, for each primary, municipal, and general election. (IC 3-11-14-3.5(a)) Although not a DRE, a ballot marking device used with an optical scan voting system must follow these same standards for information displayed on its screen.

Lastly, all ballots must be arranged so all candidates for the office appear on the same page or screen of the ballot. However, in the primary election, candidates for political party offices (precinct committeeman and state convention delegate) are not required to be arranged on the primary ballot so that all candidate names appear on the same page or screen. (IC 3-11-2-12.3)

Ballot Printing Minimum Requirements

Primary Election

In the May primary election, in those precincts where ballot card voting systems are to be used, each county election board shall prepare and distribute separate primary ballots for each political party participating in a primary election at least equal in number to one hundred percent (100%) of the number of votes cast for the candidate of the party who received the greatest number of votes cast in the precinct at the last general election. In those precincts where electronic voting systems are to be used, the board shall determine the number of ballots required to be printed and furnished to the precincts for emergency purposes only. (IC 3-10-1-12)

Municipal, General, or Special Election

In the November general or municipal election, and in any special election, in those precincts where ballot card voting systems, including those that use a ballot marking device, are to be used, each county election board shall prepare and distribute the number of ballots at least equal to one hundred percent (100%) of the number of voters in the inspector's precinct or vote center, according to the poll list. In those precincts where electronic voting systems are to be used, only the number of ballots needed for emergency purposes are required to be printed and furnished to the precincts or vote centers. (IC 3-11-3-11)

Cautionary Statement & Instructions

The following paragraphs apply to **all** ballot methods unless otherwise noted. A cautionary statement must appear, underlined, at the top of all ballots:

"It is a crime to falsify this ballot or to violate Indiana election laws."

In a May primary election, the next statement on the ballot should read: "OFFICIAL PRIMARY BALLOT _____ Party (insert the name of political party.)

After the cautionary statement (and the "official primary ballot" notice, if the ballot is for the May primary election), the following instruction must be given to voters:

1) General instructions on how to select candidates and complete the ballot.
    a. In the primary, general instruction on ballot cards should include, "To vote for a person, darken or shade in the oval *(or circle, or square, or draw a line to connect the arrow)* that is associated with the person's name in the proper column."
    b. In the primary, general instructions on the DRE ballot label should include, "To vote for a person,

touch the screen (or press the button) in the location indicated." (IC 3-10-1-19)

NOTE: Instead of printing these instructions on the ballot, the above notice may be posted inside each voting booth as provided in IC 3-11-2-8(b).

2) Independent ticket instructions (Used only if there is an independent Presidential/Vice Presidential or Governor/Lieutenant. Governor ticket on the general election ballot): "A vote cast for an independent ticket will only be counted for the candidates for President and Vice President or governor and lieutenant governor comprising that independent ticket. This vote will NOT be counted for any OTHER independent candidate appearing on the ballot." This applies to a general election only.

3) Write-In instructions: "A write-in vote will NOT be counted unless the vote is for a DECLARED write-in candidate. To vote for a write-in candidate, you must make a voting mark on or in the square to the left of the name you have written in, or your vote will not be counted." This applies to a municipal or general election only.

When using ballot cards, these instructions must be placed on the ballot below the cautionary statement. (IC 3-11-13-11(k)) When using DRE ballot labels, the instructions can be placed on a ballot label in the same manner as ballot cards or on a separate document posted in the voting booth where a voter can easily read the instructions. (IC 3-11-14-3.5(l))

Public Questions & Straight Party Devices

Any authorized public questions are printed below the voter instructions at the top of the ballot. Statewide questions must come first; local public questions come next. While state law does not dictate the order by which multiple local public questions must be placed, a general rule of thumb is to list them in the order certified to the county election board. NOTE: A state or local level judicial retention question is not a public question and appears later on the ballot as covered below.

After the title of each statewide or local public question are placed these instructions, **"To vote on this public question, make a voting mark on or in the square to the left of the word "YES" or "NO".** After the instruction place any explanatory text for the public question and the question itself in the following manner:

(The explanatory text for the public question, if required by law)
Shall (insert public question)?

[ ] YES
[ ] NO

NOTE: State law requires that a state or local public question is to be printed on a ballot without quotation marks surrounding the text of the public question. (IC 3-10-9-1; IC 3-10-9-4; IC 3-11-2-15; IC 3-11-13-11.5; IC 3-11-14-3.7)

After all public questions have been added to the ballot, the straight party ticket option is then placed on a general or municipal election ballot. **(Remember, straight party voting does NOT apply to a primary election!)** This is a ballot option that gives the voter the ability to select one political party as a means for having a vote count for candidates of that political party on the ballot. In 2016, the Indiana General Assembly amended the Indiana Election Code to allow the straight ticket option to only count in elections for partisan office where only one person could be elected. A straight ticket ballot will not cast votes for candidates of that party running where more than one person

can be elected ("at large" candidates for county council, city common council, town council, or township board, for example).

The following straight party ticket instructions must be placed on the general or municipal election ballot (omit this language in the May primary election):

"(1) You are not required to vote a straight party ticket. If you do not wish to vote a straight party ticket, do not make a mark in this section, and proceed to voting the ballot by office.

(2) To vote a straight (insert political party name) ticket for all (insert political party name) candidates on this ballot, except for candidates described in (3) below, make a voting mark on or in this circle and do not make any other marks on this ballot.

(3) To vote for any candidate for an at-large office (insert county council, city common council, town council, or township board if those offices appear on this ballot) to which more than one (1) person may be elected; or a school board office, you must make another voting mark for each candidate you wish to vote for. Your straight party vote will not count as a vote for any candidate for that office.

(4) If you wish to vote for a candidate seeking a nonpartisan office or on a public question, you must make another voting mark on the appropriate place on this ballot."

For electronic voting systems, (1) in the straight party ticket instructions must conform as nearly as possible:

"If you do not wish to vote a straight party ticket, press "NEXT" (or replace "NEXT" with the term used by that voting system to permit a voter to skip a ballot screen) to continue voting." (IC 3-11-14-3.5(m))

In a presidential general election (2028, 2032, and so on), there must also be instructions stating a ballot cast for candidates for President and Vice President are votes cast for electors and alternate electors pledged to support the candidates. (IC 3-10-4-3)

The straight party ticket (and presidential elector in presidential election years) instructions must be placed on the ballot above of names of the political parties. (IC 3-11-2-10(b); IC 3-11-13-11(l); IC 3-11-14-3.5(m))

Following the instructions, the name of each political party along with the party device (a ballot symbol chosen by the political party), is placed on the ballot. The ballot device (party ticket symbol) must be placed immediately below or beside the party's name. The party name and device must be of uniform size and type. (IC 3-11-13-11(l); IC 3-11-14-3.5(m))

A political party's device or symbol is not to be printed on a general election ballot, municipal general election ballot, or special election ballot when (1) the party has no candidates on the ballot; or (2) the only candidates of the political party on the ballot are the ones for whom a straight party ticket vote will not count as a vote for any individual candidate. (Straight party devices are not used in the primary election.) (IC 3-11-2-9; IC 3-11-13-14; IC 3-11-14-14.5)

Ballot Office Order

Immediately after the straight party section is the placement of each office up for election in the precinct the ballot is built. (IC 3-11-13-11(e); IC 3-11-14-3.5(e)) There are differences in office order between the primary and municipal

or general election. For the primary election, the office order is outlined in IC 3-10-1-19. For municipal or general elections, the office order for ballot cards is set forth in IC 3-11-13-11(e) and the office order for DREs is set forth in IC 3-11-14-3.5(e). When an office is up for election (in a precinct) it should be placed in the following order:

Primary Election Ballot Office Order

- Federal & State Office
    - President of the United States
    - United States Senator
    - Governor
    - United States Representative
- State Legislative Office
    - State Senator
    - State Representative
- Circuit & County Judicial Office
    - Judge of the Circuit Court
    - Judge of the Superior Court
    - Judge of the Probate Court (St Joseph County Only)
    - Prosecuting Attorney
    - Circuit Court Clerk
- County Office
    - County Auditor
    - County Recorder
    - County Treasurer
    - County Sheriff
    - County Coroner
    - County Surveyor
    - County Assessor
    - County Commissioner
    - County Council Member
- Township Office
    - Township Assessor
    - Township Trustee
    - Township Board Member
    - Judge of the Small Claims Court (Marion County Only)
    - Constable of the Small Claims Court (Marion County Only)
- City Office
    - Mayor
    - Clerk or Clerk-Treasurer
    - Judge of City Court
    - City-County Council or Common Council Member
- Town Office
    - Clerk-Treasurer
    - Judge of Town Court
    - Town Council Member
- Political Party Office

- Precinct Committeeman
- State Convention Delegate

General Election Ballot Office Order

- Federal & State Office
  - Electors for President & Vice President of the United States
  - United States Senator
  - Governor & Lieutenant Governor
  - Secretary of State
  - Auditor of State
  - Treasurer of State
  - Attorney General
  - United States Representative
- State Legislative Office
  - State Senator
  - State Representative
- Circuit & County Judicial Office
  - Judge of Circuit Court
  - Judge of Superior Court
  - Judge of Probate Court (St. Joseph County Only)
  - Prosecuting Attorney
  - Clerk of the Circuit Court
- County Office
  - County Auditor
  - County Recorder
  - County Treasurer
  - County Sheriff
  - County Coroner
  - County Surveyor
  - County Assessor
  - County Commissioner
  - County Council Member
- Township Office
  - Township Assessor
  - Township Trustee
  - Township Board Member
  - Judge of the Small Claims Court (Marion County Only)
  - Constable of the Small Claims Court (Marion County Only)
- City Office
  - Mayor
  - Clerk or Clerk-Treasurer
  - Judge of City Court
  - City-County Council or Common Council Member
- Town Office
  - Clerk-Treasurer
  - Judge of Town Court

    - Town Council Member
- At-Large Offices (Vote for More Than One)*
    - County Council Member
    - Township Board Member
    - Common Council Member
    - Town Council Member
- School Board Office
    - At-Large Seat(s)
    - District Seat
- Judicial Retention Questions
    - Justices of the Supreme Court
    - Judges of the Court of Appeals
    - Judge of Tax Court
    - Authorized local judicial retention questions
    - Local nonpartisan judicial offices (Allen and Vanderburgh County Only)**

* Under current law, for a general or municipal election, a partisan office where more than one candidate can be elected (county council at-large, city common council at-large, or town council at-large) is to be placed on the ballot after all single member partisan offices (i.e., U.S. Senator, Indiana state senator, circuit court clerk, etc.) and before any school board office. Exception: When candidates are to be elected to a county council, city common council, or town council that includes both at-large and district members on the ballot, then the candidates for the at-large office must be listed first followed by the district office in the order on the ballot provided in IC 3-11-2-12. (IC 3-11-2-12.4(c))

** If more than one local nonpartisan judicial office is on the general election ballot, the offices are to be placed on the ballot in alphabetical or numerical order, according to the name of the office. If there is more than one candidate for a local nonpartisan judicial office, the candidates for the office are to be listed in alphabetical order according to surname. (IC 3-11-2-14)

NOTE: In both a primary and general election, at the discretion of the county election board, Prosecuting Attorney, Clerk of the Circuit Court, and County Offices may be placed on the ballot card before county judicial offices (Circuit or Superior Court Judge). (IC 3-10-1-19.5; IC 3-11-13-11(e)); IC 3-11-2-12.5; IC 3-11-14-3.5(e))

If there is any office that has multiple districts on the ballot, *such as a County Council that has seats for District 1, 2, 3, and 4 up for election*, then the districts must be placed alphabetically or numerically. Offices may be listed continuously either vertically or horizontally and can be placed on separate pages of the ballot. (IC 3-11-13-11(e)) Each office name must be of uniform size and in bold type. At a primary election, if there is an office on the ballot that includes both district and at-large seats then the at-large seats must be placed first and then the district seats. (IC 3-11-13-11(f); IC 3-11-14-3.5(f); IC 3-10-1-19.2)

At a general or municipal election, political parties on the straight party ticket and candidates for partisan political office must be placed in the following political party order based on the results of *the last Secretary of State election in the <u>county</u>*:

1) The party whose candidate received the highest amount of votes.
2) The party whose candidate received the second highest amount of votes.

3) Any other party who had a candidate on the ballot at the last Secretary of State election, based on what order the candidate finished in that election.
4) Any other party that did not have a candidate on the ballot at the last Secretary of State election and all independent tickets, in the order the candidates filed their petitions to get on the ballot. (IC 3-11-13-11(g); IC 3-11-14-3.5(g))

Each office placed on the ballot, except for a school board office, must have its own instructions on how many candidates can be elected. These instructions must be placed immediately below the office name. (IC 3-11-13-11(f); IC 3-11-14-3.5(f)) For offices where only one person can be elected the instructions are, **"Vote for one (1) only."** For an office where more than one person can be selected the instructions are, **"Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office. To vote for this office, you must make a voting mark for each candidate you wish to vote for. A straight party vote will not count as a vote for any candidate for this office."** (The sentence referring to a straight party vote is not used during a primary election.)
Note: State law provides two different instructions for partisan offices where more than one person can be selected (for optical scan ballot cards see IC 3-11-13-11(f)(2) and (i); for DRE electronic voting systems see IC 3-11-14-3.5(f)(2) and (i)). Both instructions are only required to substantially read the same as what is printed in the statute.

For each school board office, there must be instructions on how many candidates can be elected. For each school board office on the ballot, these instructions must be placed immediately below the office name. (IC 3-11-2-12.9(b)) The instructions are, "**To vote for a candidate for this office, make a voting mark on or in the square to the left of the candidate's name. A straight party vote will not count as a vote for any candidate for this office.**"

Note: State law provides different instructions for both single member school board offices and at-large school board offices on an optical scan ballot card voting system and on a DRE electronic voting system. (For optical scan ballot cards see IC 3-11-13-11(f)(3) and (j); for DRE electronic voting systems see IC 3-11-14-3.5(f)(3) and (j). Both instructions are only required to substantially read the same as what is printed in statute. For single member school board offices, the instructions read, "**Vote for one (1) only. A straight party vote will not count as a vote for any candidate for this office.**" For at-large, vote for more than one, school board offices, the instructions read, "**Vote for not more than (insert the number of candidates to be elected) candidate(s) for this office. A straight party vote will not count as a vote for any candidate for this office.**"

After the specific office instructions place the candidates' names for the specific office. (IC 3-11-13-11(a); IC 3-11-13-18; IC 3-11-14-3.5(a)) If there is an office on the ballot where more than one person can be elected, then candidates from the same party should be listed together, arranged alphabetically according to the candidate's surname. *Example: Harold Hadley, Richard Ristine, and Otis Bowen are the three Republican candidates running for County Council At-Large, where three may be elected. When these candidates are placed on the ballot together, they must be listed alphabetically by surname (last name) with Otis Bowen first, Harold Hadley second, and Richard Ristine third.* However, in a primary election, all candidates for an office on a party specific ballot must be listed in alphabetical order by surname. In Lake County, candidates on a party primary ballot, except candidates for precinct committeeman and state convention delegate, are placed in random order using a lottery conducted by the Lake County Board of Election and Registration. (IC 3-10-1-13)

For school board offices, all candidates for a school board office must be listed alphabetically by surname. (IC 3-11-13-11(j); IC 3-11-14-3.5(j))

Any voting system that is initially certified by the Indiana Election Commission for marketing and use in Indiana must display a universally recognized pronunciation symbol as part of a candidate's name on:

1) a ballot;
2) voting system screen;
3) voting system activation card;
4) voting system file; and
5) voting system results report.

The universally recognized pronunciation symbol is not required to appear on any of the following:

1) A voter verifiable paper audit trail.
2) The zero and total tapes printed by the automatic tabulating machine under IC 3-12-3-2.
3) The paper zero and total tapes printed from the electronic voting under IC 3-12-3.5-2.
4) The name of a candidate printed on a ballot card by a ballot marking device used with an optical scan voting system. (IC 3-5-7-5.5)

Next to each candidate should be placed the name of the candidate's party or the word "Independent" if the candidate filed as an independent. (IC 3-11-13-11(h); IC 3-11-14-3.5(h))

For school board candidates the following must be placed next to each candidate's name based on what the candidate provided on their school board petition of nomination (CAN-34) form:

- the name of the candidate's political party that the candidate affiliates with;
- the word "Independent" if the candidate indicates that they are an independent candidate; or
- a blank space if the candidate state on the CAN-34 that they wish not to disclose any affiliation with a political party or that they do not identify as an independent candidate.

(IC 3-8-2.5-7(f); IC 3-11-13-11(d); IC 3-11-14-3.5(d))

The candidate's name and partisan designation must be uniform capital letters and have uniform space between each name. (IC 3-11-13-11(h); IC 3-11-14-3.5(h))

An office and the candidates running for that office should be grouped together and appear on the same column and same page. (IC 3-11-13-11(e); IC 3-11-14-3.5(e)) For paper ballot cards only, if there are so many candidates for a particular office that require some of the candidates to carry over onto another page on the ballot card, there must be a note of the ballot card that clearly states that more candidates are on the other page. (IC 3-11-13-13) If the ballot card is multiple pages, the instructions for how many candidates a voter can elect for a particular office can be placed above or to the side of the candidates' names and the candidate's party name can be abbreviated. (IC 3-11-13-12)

However, candidates for political party offices (precinct committeeman and state convention delegate) are not required to be arranged on the primary election ballot so that all candidate names appear on the same page or screen. (IC 3-11-2-12.3)

Box or Line for Poll Clerks' Initials

Each circuit court clerk shall print or stamp the precinct number or designation and a line for each poll clerk's initials on both an absentee ballot card and the ballot card's secrecy envelope, when used with an optical scan ballot card, before the election.

However, in a vote center county using an electronic poll list, the circuit court clerk shall not print or stamp the poll clerk's initials required by IC 3-11-13-19(a) if the printed initials of the poll clerks captured through the electronic signature pad or tablet at the time the poll clerks log into the electronic poll book system are printed by a printer separate from the electronic poll list on the back of each ballot card immediately before the ballot card is delivered to the voter.

A county using an electronic poll book may have the printed initials of the poll clerks captured through the electronic signature pad or tablet at the time the poll clerks log into the electronic poll book. The initials captured by the electronic poll book may be printed on the back of each ballot card by a printer separate from the electronic poll book and immediately before the ballot card is delivered to the voter, *whether the county is a vote center or not.* (IC 3-11-13-28.1)

Precinct Designation on Ballots

Hand counted traditional paper ballots and optical scan ballot cards must contain the precinct number or designation printed on the ballot. (IC 3-10-1-13; IC 3-11-2-3; IC 3-11-13-19)

In a vote center county using an electronic poll book, the circuit court clerk may print or stamp the precinct number or designation before the election or at the time the ballot card is printed immediately before the ballot card is delivered to a voter. (IC 3-11-13-19)

No Candidate for Office on Primary, General, Special, or Municipal Election Ballot

A county election board may print “NO CANDIDATE FILED” on a political party primary ballot when no candidate has filed for an office on the primary ballot for the Democratic or Republican Party. (IC 3-10-1-19)

A county election board may print “NO CANDIDATE FILED” in the place where a Democratic or Republican party candidate’s name would appear for an office on a general, special, or municipal election ballot when the Democratic or Republican Party has no candidate on the ballot for that office. (IC 3-11-2-12)

Uncontested Municipal Office Races

This applies only to municipal offices during a municipal or general election. (Note: there will always be at least one statewide candidate on the November general election ballot in an even-numbered election year, so practically speaking, this rule only can apply in the odd-numbered election year for the November municipal election.)

If at least one candidate has filed for any municipal office on the ballot, then the general rule is that the office must be on the ballot, unless the county election board (or the town election board if one has been established for a municipal election in a small town) acts to not have some or all uncontested municipal offices placed on the ballot by adopting a unanimous resolution as described below. (IC 3-10-6-7.5; IC 3-10-7-6)

If some candidates have filed for a municipal office but there are no more candidates nominated for any office by any means (primary, town convention, petition, or write-in candidates, for example) than seats up for election, meaning the office on the ballot is uncontested, then the town must nonetheless have an election unless the county election board (or a town election board if one is established for a municipal election in a small town) adopts a unanimous resolution of its entire membership that an election may not be held in the town for that office. (IC 3-10-6-7.5(d); IC 3-10-7-6(e))

For example, where only one candidate may be elected to an office (town clerk-treasurer) and only one candidate is competing for that office, there is no contest for the office of town clerk-treasurer. Likewise, where more than one candidate may be elected to an office (three town council members who all run at-large, for example) and only three candidates are competing for the office, there is no contest for the office for town council.

If there is a contested race for any office, all names must appear on the ballot with one exception. If there is a contest for an office that is voted on by only the residents of a particular district (a town council district where only the residents of the district vote for the office, for example), and there is no contest for an office to be voted on by the voters of the entire town (town clerk-treasurer, for example), then the county election board (or town election board if one is established for a municipal election in a small town) may, by unanimous vote, adopt a resolution that only the names of candidates in the town council district in which there is a contest shall be printed on the ballot. If this occurs, the names of all unopposed candidates for an election to be voted on by all voters of the town will not be placed on the ballot. (IC 3-10-6-7.5(c); IC 3-10-7-6(d))

Omitting Straight Party Device & Symbol

A political party's device or symbol is not to be printed on a general election ballot, municipal general election ballot, or special election ballot when: (1) the party has no candidates on the ballot; or (2) the only candidates of the political party on the ballot are the ones for whom a straight party ticket vote will not count as a vote for any individual candidate (that is, any office where more than one person can be selected). Note: Straight party devices are not used in the primary election. (IC 3-11-2-9; IC 3-11-13-14; IC 3-11-14-14.5)

Write-In Voting

All general and municipal election ballots must permit a voter to cast a write-in vote when certain conditions are met. This requirement includes absentee and provisional ballots. A column or row for write-in candidates is NOT required if there are no declared write-in candidates for that office with one exception. Procedures to permit write-in voting must be included on the ballots where candidates for federal offices appear even if no declared write-in candidate name for President and Vice-President, U.S. Senate, or U.S. House is certified to the county by the Indiana Election Division. (IC 3-11-2-6)

When a column or row for write-in voting is required, each type of voting system must provide an opportunity to cast a write-in vote by using one of the following formats:

1) Ballot Card Voting Systems: Ballot cards must be folded or accompanied by a secrecy envelope to ensure the secrecy of a write-in vote. A write-in vote cast on a ballot card voting system must include both the name of the candidate and the title of the office. (IC 3-11-13-18)
2) Electronic (DRE) Voting System: The system is designed so that the write-in vote is cast directly upon the voting unit in the proper space and recorded on the totals tape and Voter Verifiable Paper Audit Trail receipt. (IC 3-11-14-23)
3) Hand-Counted Paper Ballots: When required, an additional column will be placed to the right of all party and candidate columns (boxes) on the ballot. (IC 3-11-2-6)

Remember, the names of declared write-in candidates are NEVER printed on a ballot!

Hand Counted Paper Ballots

Hand counted paper ballots are a ballot type that is a rarely used option in Indiana, except in some small town elections. The paper ballot layout is similar to a ballot card used with an optical scan voting system. Paper ballots requirements, layout, and instructions can be found in IC 3-11-2.

Ballot Marking Device (BMD)

An optical scan system may have, but it is not required, a ballot marking device for purposes of marking a voter's paper ballot card. However, a county election board must make arrangements to use a voting system for voters with disabilities to vote privately and independently. As noted above, newer ballot marking devices employ the use of an electronic interface for a voter to call up their precinct's ballot, insert a paper ballot card and mark their selections in the system. Much like a DRE voting system, a BMD is designed to prevent a voter from "overvoting" in all contests on the ballot. Once completed, the voter's choices are printed on the paper ballot card that a voter inserts into the optical scan tabulator. The BMD unit does NOT store election results; the optical scan tabulator reads and stores the voter's choices on secured media within the unit.

Older versions of a ballot marking device asked a voter to insert a pre-printed ballot card. A marker or other type of writing stylus would connect a line or darken an oval for the voter. The ballot card was then inserted into the optical scan tabulator for tabulation.

State law (IC 3-11-13-7.5) requires that the interface of the marking device used with an optical scan voting system must include the following:

1) The information required by IC 3-11-14-3.5.
2) The instructions required by IC 3-11-2-8.
3) The information and instructions required by IC 3-11-2-10.

It must also comply with the same disability access standards as an electronic voting system under IC 3-11-15-13.6.

Further, a ballot card used with a marking device must have either preprinted or printed by the marking device the following:

1) When the marking device is used for absentee voting under IC 3-11-10-26, the circuit court clerk's signature and seal are required by IC 3-11-10-27.
2) When the marking device is used by a voter to cast a provisional ballot, the circuit court clerk's signature and seal are required by IC 3-11.7-1-7.
3) A line or box for each poll clerk's initial as required by IC 3-11-13-9.
4) When the marking device is used during a primary election, the name of the political party whose primary the voter is participating in or the word "nonpartisan" if the voter is voting a ballot that contains only a public question certified by the county election board under IC 3-10-9.

If the voting system produces a ballot card, the ballot card must contain a summary ballot scan of the voter's ballot that includes the following:

1) The name or designation of each office on the voter's ballot.
2) The name of the candidate and the candidate's political party as selected by the voter.
3) If the voter selects a straight party ticket, the name of the political party ticket the voter selected.
4) A description of the text of any public question or judicial retention question on the voter's ballot that the

county election board determines reasonably conveys the content of the public question or judicial retention question and the response the voter selected for each question.

The ballot card may contain additional information (IC 3-11-13-7.5(b)), and a ballot card used with the marking device may be a different dimension or size than other ballot cards approved by the county election board for use in an election; and that are not designed to be marked by the marking device.

Ballot marking devices typically have accessibility features, such as an audio-enabled ballot or the ability to use a sip-puff device for voters with disabilities. For this reason, counties using an optical scan voting system across all voting methods (absentee and Election Day) will have one or more BMDs available for voters to comply with the accessibility requirements of the Help America Vote Act (HAVA). Alternatively, some counties will use an optical scan voting system for most absentee and Election Day voting but may use a DRE system to comply with accessibility standards. Please see "Voting Systems for Voters with Disabilities" section for more information.

"Special" Ballots

Federal Write-In Absentee Ballot (FWAB)

The Federal Write-in Absentee Ballot (FWAB) is prepared for military and overseas voters and printed by the Department of Defense. The FWAB is available at www.fvap.gov. On this ballot, a military or overseas voter may write-in the names of candidates for any offices, including federal, statewide, legislative, and local, as well as votes on any public questions. **However, in Indiana, the military and overseas voter must have a Federal Post Card Absentee Application (FPCA) on file and an absentee ballot sent to the voter to process this "back-up" ballot should the original absentee ballot not be timely received**. Please see the "Absentee Voting" section of this *Manual* for more information on military and overseas voters.

Non-Partisan Public Question Ballot in May Primary Election

In the May primary election, voters are required to select a Democratic or Republican Party ballot. The partisan ballots would include any public question that is certified to or by the county election board to appear on the May ballot. However, not all voters affiliate with the Democratic or Republican parties. Should a public question be certified to appear on the May primary ballot, then the county election board must produce a non-partisan only ballot with only the public question(s) certified in a particular jurisdiction. (IC 3-10-9)

17-Year-Old Ballot

In Indiana a person who will be 18 years of age on or before the November election is permitted to register to vote and participate in the primary election, if otherwise eligible. (IC 3-7-13-2) While an "underage" voter is permitted to vote on the nomination of candidates for elected office and party offices in a primary election, the person is not permitted to vote on a public question if a public question is certified to appear on a jurisdiction's May ballot. (IC 3-7-13-3) Therefore, a county election board must print a special Democratic and Republican party primary ballot that includes the candidates running for elected office and party office (for example, state convention delegate and precinct committeeman) but excludes any public question, if applicable. A "17-year-old" ballot style will be used for absentee voting or on Election Day if it is necessary for the county to produce such a ballot in a primary election.

Federal Only Ballot

In even-numbered general election years, counties are required to produce a "federal only" ballot. This ballot is only given to overseas voters who apply for an absentee ballot using the Federal Post Card Application (FPCA) and select option #4 – "I am an overseas voter and my return is uncertain." Under federal law, these persons are permitted to

vote only in federal offices – President, U.S. Senate, and U.S. House. In 2026, only U.S. house will appear on Indiana's primary and general election ballots. In 2028, President, U.S. Senate, and U.S. House will appear on Indiana's primary and general election ballot. (IC 3-11-4-8) Federal only ballots are only used for absentee voting and designed for use only by this narrow universe of voters; therefore, county election officials should not place a federal only ballot in election supplies used on Election Day or otherwise provide this ballot to voters who do not meet this specific qualification.

Presidential Only Ballot

In 2028, county election boards must produce a presidential only ballot, which would only include the office of President and Vice President for use in the November general election. A presidential only ballot is only used by a voter who qualifies for a specific voter registration fail-safe: if an individual who moves out of Indiana to another state on or after twenty-nine (29) days before the general election, then the registered voter is permitted to return to their old Indiana precinct and vote on a presidential only ballot if otherwise qualified either in person on election day or by voting an absentee ballot. The voter must complete the VRG-15 form at their Election Day voting location or file the VRG-15 with their absentee ballot application before the application can be processed. Each polling location should have a presidential only ballot style available on Election Day to provide to voters that meet this very specific requirement. (IC 3-10-10)

Non-Public Question Ballots

The "Voter Fail Safes" section flagged a state law that does not permit an individual who moved out of the election district to vote on a public question pertaining to specific school referendum if the voter meets certain conditions. While the voter is entitled to vote for offices and candidates on the ballot, the voter would not be eligible to vote on the public question, and the county election board must provide a ballot with the public question removed.

For the November municipal and general elections, counties must be prepared to have a separate ballot style in the precinct(s) where the school corporation has certified certain types of public questions to the county election board. This ballot style must omit the public questions related to the school corporation, though other offices, judicial retention questions, and other types of public questions (statewide or local) must be included, (IC 6-1.1-20-1.9; IC 6-1.1-20-3.9; IC 20-46-1-16; IC 20-46-9-16)

More information about the specific types of public questions certified to county election boards by the school corporation that would require this special ballot style can be found in the "Voter Fail Safes" section of this *Manual.*

Ballot Printing, Generally

The Indiana Election Division does not prepare ***any*** primary election or general election ballots. This responsibility is left to county election officials, though state law provides the framework by which the offices and public questions must be ordered on the ballot, the type of voting equipment to be used, and the method by which to tabulate election results.

As noted in the "Voting Systems & ePollbook" section of this *Manual*, Indiana law permits three types of voting methods: optical scan ballot card voting systems, direct record electronic voting systems, and hand-counted paper ballots. With an **optical scan voting system**, a ballot card upon which the voter marks their selections with a pen, pencil, or other ballot marking device is used. These ballot cards are then reviewed by the voter and inserted into an electronic card reader or optical scanner and tabulated.

A **direct record electronic (DRE) voting system** (or "touchscreen computerized voting system") allows a voter to make their selections on an interface (or "ballot label"), which is then electronically cast, and the image of the ballot label is stored within the unit. Indiana law requires the use of a voter verifiable paper audit trail with all DRE voting systems. (IC 3-11-14-2)

On rare occasions, a county may decide to use a hand-counted, **traditional paper ballot**. This should not be confused with the ballot card used with an optical scan voting system noted above. While both are printed on card or paper stock, a paper ballot is counted by hand while a ballot card is tabulated by an optical scan ballot reader.

Whichever voting method is used, each county must prepare a "ballot" for use on both Election Day and for absentee and provisional voting purposes. There are very specific Indiana statutes spelling out the format and language requirements that apply to optical scan ballots (IC 3-11-13) and direct record electronic voting system ballot labels (IC 3-11-14). (Optical scan voting systems that use a ballot marking device to print a ballot card follow the statutes under IC 3-11-13, specifically IC 3-11-13-7.5)

A county election board, the county's voting system vendor, or ballot printer should carefully study the statutes that apply to the ballot printing and layout standards for optical scan or direct record electronic voting systems.

May Primary Election Ballot Printing Needs

Each state determines when their **primary election** is to be held. In Indiana, the primary election is held on the first Tuesday after the first Monday in May. (IC 3-10-1-3) The primary election allows the two major political parties, Democratic and Republican, to nominate their candidates for November's election.

NOTE: The Democratic and Republican parties are the two major political parties in Indiana. "Major political party" designation is determined by the results of the most recent Secretary of State's race. The political party with the candidates having the highest and second-highest number of votes in that election are considered major parties. (IC 3-5-2.1-62)

Each county election board prepares all primary election ballots with the names of all candidates for major political party nominations, the names of the candidates for election to party offices such as precinct committeeman and delegates to the state political party conventions, and any other offices or elections on a public question held at the same time as the primary election. (IC 3-10-1-4.6; IC 3-10-1-5)

For a primary election, counties using optical scan ballot cards must print at least one hundred percent (100%) of the number of votes cast for the candidate of the party who received the greatest number of votes cast in the precinct at the last general election. In those precincts where DRE voting systems are to be used, the board shall determine the number of ballots (ballot cards or paper ballots) required to be printed and furnished to the precincts for emergency purposes only. (IC 3-10-1-12)

When a voter enters the polling location during a primary, the voter must provide the poll clerks with the voter's name and designate a political party affiliation **if the voter wishes to cast a primary ballot. Once a voter writes the voter's party on the primary election poll list or the voter's primary ballot choice is entered by the voter into an electronic poll book, the voter may not change the voter's primary ballot choice. This applies to early and election day voting.** (IC 3-10-1-24; IC 3-11-10-26; IC 3-10-1-24(a)(3))

Since Indiana law only permits a voter to receive a primary ballot that lists the candidates of **one party**, a county must

print separate Democratic and Republican primary election ballots and the ballot cards of each party participating in the primary must be **distinctively marked or be of different colors to be easily distinguishable.** (IC 3-10-1-13; IC 3-10-1-17) However, state law does not require that **the primary ballot(s) be printed in any specific colors,** so long as this requirement is met.

For counties using touchscreen DRE machines, state law requires there be a poll worker or ePollbook receipt that denotes the voter's choice of a Democratic, Republican, or, in rare cases, non-partisan ballot selection that the voter hands the poll worker to load the correct ballot style for the voter. (IC 3-10-1-24)

On rare occasions a statewide or local public question or other type of special election may also be held on the same date as the primary election. Should this occur, a county must print the text of the public question on the top of the partisan primary ballot after the ballot instructions. (IC 3-10-1-19) However, a voter who does not wish to vote in the Democratic or Republican Party primary election **but does wish to vote** on a public question on the ballot at a primary is not required to designate the voter's party and must be permitted to vote only on the public question. The county election board must provide a means, whether by separate "non-partisan" printed ballot or by "locking out" positions on an electronic voting system, to allow a voter who does not want to declare party affiliation access to vote on a public question.

As noted in the "Voter Registration Issues" section, Indiana permits a 17-year-old to be a registered voter and participate in the May primary election. State law permits an "underage" voter to vote in races for party offices, so it is not likely a special "17-year-old" ballot must be printed. If a special election is held on the same date as a primary election, however, a special "17-year-old" ballot must be printed to omit the special election question or office.

NOTE ON POLITICAL PARTY OFFICES: If a candidate for a party's precinct committeeman or state convention delegate election is unopposed, then the name of the unopposed candidate will not be printed on the primary ballot unless the appointed member of the county election board representing that party files a written request for the unopposed candidates to appear on the party's primary ballot. (IC 3-10-1-5)

November General or Municipal Election Ballot Printing Needs

In November, a **general or municipal election** is held. General elections are held in even-numbered years when federal offices (Electors for President and Vice-President, U.S. Senate, U.S. House of Representatives) are on the ballot. Municipal elections are held in the odd-numbered year between the non-presidential and presidential election years. (The year after a presidential election is an "off-year," though Jennings, and Wayne counties have small towns (Vernon and Cambridge City) that may hold elections at this time.)

Federal law requires the general election to be held on the first Tuesday after the first Monday in November in even-numbered years; Indiana law requires the municipal election to be held on the first Tuesday after the first Monday in November in odd-numbered years. Unless there is a special election, no federal, statewide, or state legislative offices will be on the municipal election ballot.

Each county election board is responsible for preparing all general, municipal, or special election ballots with the names of **all** candidates for federal offices, statewide offices, state legislative offices, local offices, and school board offices. The county election board also prepares ballots containing any applicable statewide or local public questions. The county may print all general election offices on a single ballot. (IC 3-11-2-2.1)

In those precincts where ballot card voting systems are to be used, the number of ballots is at least equal to one

hundred percent (100%) of the number of voters in the inspector's precinct, according to the poll list. In vote center counties, this means each voting location must have Election Day ballots for every voter in the county as the Inspector is responsible for all precincts at their one location. In those precincts where electronic voting systems are to be used, the number of ballots that will be required to be printed and furnished to the precincts for emergency purposes only. (IC 3-11-3-11)

A general or municipal election ballot must permit straight party voting for bona fide political parties (Democratic, Republican, and Libertarian parties). Straight party voting permits a voter to make one selection to cast a vote for all partisan candidates on the ballot belonging to the political party. Using the straight party device does not cast a vote for public questions, school board elections, or judicial retention questions, and voters should be advised to make those additional selections if they so desire. Further, straight party voting has been removed from at-large partisan races for county council, city council, town council, and township board when more than one (1) person can be elected to the council or board. When these at-large races appear on the ballot, voters must be instructed to make individual marks to select their choice(s).

While straight party voting is permitted in Indiana, it only applies in November general election as the primary election is focused on deciding which candidates to nominate for the fall election. In other words, a voter must make individual selections on a primary election ballot to help determine which Democratic or Republican candidates will appear on the November ballot.

Pay special attention to the "ballot layout" section above on the placement of the straight party device on the ballot. Further, the party's symbol must be printed next to the political party's name. The symbols are certified by the Indiana Election Division to the county election board before each November election.

Finally, the "Voter Fail Safes" does not permit an individual who moved out of a school corporation election district where a controlled project, school tax levy, or school safety tax levy public question have been certified to the county election board to vote on the public question. While the voter is generally entitled to vote for offices and candidates on the ballot, the voter would not be eligible to vote on the public question, and the county election board must provide a ballot with the public question removed. (IC 6-1.1-20-1.9; IC 6-1.1-20-3.9; IC 20-46-1-16; IC 20-46-9-16)

Special Elections & Public Questions

Rarely, a special election may be called to fill a vacancy created when an elected member of the U.S. House vacates his position. However, special elections are called more frequently concerning referenda. The *Referendum, Recall, and Impeachment* brochure published by the Indiana Election Division is a good resource to understand the limited types of referenda questions permitted in Indiana.

The most common types of referenda elections concern tax levies (IC 20-46-1) or capital improvement projects (IC 6-1.1-20). The Department of Local Government Finance (DLGF) website (www.in.gov/dlgf) has a section devoted to the process and is a helpful resource. Referenda must be held on the date of a primary, general, or municipal election if an election is held that year. Beginning with the 2026 election cycle, the three main referendums concerning tax levies may only be held during a November general election (even-numbered year).

Referendum questions must be certified to the county election board not later than 74-days before the primary election to be held on the primary Election Day. August 1 is the deadline for a public question to be certified to appear on the November ballot. (IC 3-10-9-3) Please refer to the "ballot layout" section above to note where public questions are to

be printed on the ballot and refer to the "Voter Fail Safes" or above sections on "Ballot Printing" for a new requirement to print a ballot without the public question for certain voters who move out of the election district that has certified a public question to the county election board.

On occasion, the Indiana General Assembly will authorize public questions specific to one or more counties or pass legislation to propose an amendment to the state's Constitution. County-specific public questions may be authorized in off-years, and legislation may note the entity required to pay for the election. Constitutional amendment questions are held on the date of the general election. Questions authorized by the Indiana General Assembly will be certified to county election boards by the Indiana Election Division.

NOTE: Judicial retention questions are not considered public questions and have a different location on the ballot.

Absentee Ballots

Each county election board is responsible for preparing all absentee ballots used in a primary, municipal, general, and special election. An absentee ballot has the same layout as an Election Day regular official ballot, but also requires the following to be printed on the back of an optical scan ballot card or hand-counted paper ballot before being issued to a voter:

1) the circuit court clerk's official seal (stamp); and
2) the signature or facsimile signature of the circuit court clerk (unless the clerk is a candidate – see below). (IC 3-11-4-19)

NOTE: the clerk shall print or stamp the precinct number or designation and a line for each poll clerk's initials on a ballot card pursuant to IC 3-11-13-19.

If the individual serving as circuit court clerk is a candidate for re-election or election to another elected office, then the name or signature of this individual cannot appear on the ballot (except as a candidate). Instead, the ballot must contain a uniform device or symbol prescribed by the Indiana Election Division. (IC 3-5-4-9) This requirement does not apply if the county clerk is only a candidate for a party office (state convention delegate and precinct committeeman).

Not less than sixty (60) days before the date of a primary, general, or municipal election, the circuit court clerk must estimate the number of absentee ballots required in the county for the election. (IC 3-11-4-10) After completing the estimate, the county election board shall immediately begin to have these ballots printed. (IC 3-11-4-14)

To comply with federal and state law, the absentee ballots must be **delivered** to the circuit court clerk at **least fifty (50) days before** any election and then **transmitted to approved applicants not later than forty-five (45) days** before any election. (IC 3-11-4-15; Military and Overseas Voter Empowerment Act [MOVE])

Please see the "Absentee Voting" section later in this *Manual* for more details.

Provisional Ballots

Each county election board is responsible for preparing all provisional ballots used in a primary, municipal, general, and special election. A provisional ballot has the same layout as an Election Day regular official ballot, but also requires the following to be printed on the back of an optical scan ballot card or hand-counted paper ballot before being issued to a voter:

1) the circuit court clerk's official seal (stamp); and

2) the signature or facsimile signature of the circuit court clerk (unless the clerk is a candidate – see below). (IC 3-11.7-1-7)

NOTE: the clerk shall print or stamp the precinct number or designation and a line for each poll clerk's initials on a ballot card pursuant to IC 3-11-13-19.

If the individual serving as circuit court clerk is a candidate for re-election or election to another elected office, then the name or signature of this individual cannot appear on the ballot (except as a candidate). Instead, the ballot must contain a uniform device or symbol prescribed by the Indiana Election Division. (IC 3-5-4-9) This requirement does not apply if the county clerk is only a candidate for a party office (state convention delegate and precinct committeeman).

Not less than sixty (60) days before the date of a primary, general, or municipal election, the circuit court clerk must estimate the number of provisional ballots required in the county for the election. (IC 3-11.7-1-4) For a special election, the circuit court clerk must estimate the number of provisional ballots that will be needed not more than three (3) days after the special election is ordered. After completing the estimate, the county election board should immediately begin to have these ballots printed. (IC 3-11.7-1-6)

To comply with federal and state law, the provisional ballots must be **delivered** to the circuit court clerk at **least fifty (50) days before** any election. (IC 3-11.7-1-6(d))

Please see the "Provisional Voting" section later in this *Manual* for more details.

Ballot Printing Errors

Unfortunately, sometimes all the safeguards don't work. It is ***always, always, always*** a good idea to have as many people as possible proof the ballots before the ballots go to print.

A county election board is required provide written notice to the county chairman of a political party with a candidate on the ballot and the superintendent of each school corporation when the ballot contains a school board candidate or a local public question concerning the school corporation to provide an opportunity for the political party or the school corporation to inspect the ballot proofs at least sixty-seven (67) days before the election. After sixty (60) days before the date of the election, the ballot is considered approved and eligible for printing. (IC 3-11-2-2.1)

Additionally, not later than the Monday before distributing ballots and voting systems to the precincts in the county, the county election board shall notify the county chairman of each major political party and, upon request, the chairman of any other bona fide political party in the county, that sample ballots are available for inspection. (IC 3-6-5-14)

When ballots with omissions, misprints or improperly set up systems make it into the hands of absentee voters (or worse still, Election Day voters) the county election board that printed the ballots must act quickly to reduce the possibility that an election result will be contested and overturned due to the ballot error.
Some ballot errors are harmless. State law specifically permits an election board to authorize the use of ballots with minor errors if the election board does not believe that the voters will be confused by the error, ***and*** no voter objects to the use of the ballots. (IC 3-11-2-16) Other ballot errors are critical and can lead to a ***court-ordered special election if a candidate contests the election due to a ballot error.***

NOTE: If the election board is notified of a "critical error" during the absentee ballot process, there are procedures to

permit voters to “recast” defective absentee ballots. (IC 3-11.5-4-2) The voter must first file a request for a replacement absentee ballot (ABS-5) before the voter is issued another absentee ballot.

When Errors or Defects Require Replacement

When an error or defect is discovered on the ballot, determining how the error or defect was created and the extent to which the error is may cause confusion or mistakes by the voters determines if the county election board is required to reprint new ballots or not. A candidate vacancy that occurs after ballots for a general, municipal, or special election have been printed creates a ballot error. The election board is required to print new ballots to remove the name of a candidate who is no longer a candidate for an office and has created a ballot vacancy when:

1) the candidate's party does not fill the vacancy under IC 3-13-1 or IC 3-13-2 not later than noon, five (5) days before the election; and
2) when a candidate has died, the election board (a) receives a certificate of death issued under IC 16-37-3 not later than noon the seventh day before the election; or (b) votes unanimously by the entire membership that there is good cause to believe that the candidate has died.

The election board must further provide the number of ballots necessary to reflect a vacancy to the following:

1) The absentee voter board.
2) The inspector of each precinct in which the candidate is on the ballot.
3) The circuit court clerk.

Additionally, if the election board reprints ballots, the election board may order the printing of new ballots that omit the name of a candidate who caused the vacancy and instead print the following statement "NO CANDIDATE" or words to that effect at the appropriate position on the ballot. If this is done these statements must be able to be selected by a voter when casting their ballot as this statement will count as a vote the candidate select to fill the ballot vacancy if the political party fills the ballot vacancy by election day.

Lastly, if a candidate vacancy is filled after noon, five (5) days before the election and before the 6:00 a.m. prevailing local time on election day, the election board is not required to reprint ballots to remove the name of an individual who is no longer a candidate but may do so upon the vote of the election board. If the county election board does not reprint ballots under this circumstance, any vote cast for the candidate whose name is left on the ballot but is no longer a candidate may not be counted as a vote for the candidate selected by the political party to fill the ballot vacancy. But if the office on the ballot where the vacancy occurs is a single member (vote for one (1) only) office, then any straight party ticket vote that would apply to the candidate whose name was left on the ballot would apply as a vote for the candidate selected by the political party to fill the ballot vacancy. (IC 3-11-3-29.5; IC 3-12-1-14; IC 3-12-1-15; IC 3-12-1-16)

CEB Hearing Requirement for Printing Errors

The county election board must follow a specific statute procedure to determine if ballots need to be reprinted because of a discovered ballot errors or defects other than those created by a candidate vacancy after ballots have been printed. When an error or defect of this type is discovered, the board may take one of the follow steps:

1) order the reprinting or correction of the ballot; or
2) conduct a public hearing concerning the defective ballots.

If the county election board decides to conduct a public hearing on the matter, the board chair may only call the meeting after informing each political party, ticket, or candidate that the board determines may have an interest in the

matter. At the hearing, the board must allow public testimony to be offered by a person concerning the defective ballots. Additionally, the board must make findings of fact concerning the following:

1) The number of ballots, if any, containing the error or omission that have already been cast.
2) The cost of correcting the error through the use of reprinted ballots or any other suitable method.
3) Whether the error or omission would be likely to cause confusion or mistakes by voters.
4) Whether any voter objects to the use of the ballots, notwithstanding the error or omission.

If a voter files a written objection to the use of the ballots with the board before the board concludes the hearing, or the board determines that the use of the ballots would be likely to cause confusion or mistakes by voters then the board shall order the ballots to be reprinted or altered to conform with the requirements of state election code. But if no written objection is filed by the conclusion of the meeting and the board does not make the above determination then the board can vote to use of the defective ballots, notwithstanding the error or omission. (IC 3-11-2-16)

Replacement Absentee Ballots

If the county election board reprints the ballot according to IC 3-11-3-29.5 or 3-11-2-16, a voter who has already been provided or voted a defective ballot by absentee ballot is entitled to request a new ballot to be recast. To receive a new ballot, the absentee voter files the "Statement Concerning Defective, Lost, Destroyed, or Spoiled Absentee Ballot" (ABS-5) form with the voter's county circuit court clerk (or Lake or Porter County Election Director). (IC 3-11-4-17.7; IC 3-11.5-4-2)

Once the ABS-5 form is filed with the circuit court clerk, the clerk shall do the following:

1) Place the written request with the absentee voter's original ballots.
2) Mark "canceled" on the original set of ballots.
3) Preserve the original ballots with other defective ballots.
4) Deliver a new set of ballots to the absentee voter. If a voter files the ABS-5 form in person during the period in-person absentee voting is being conducted at the clerk's office or satellite absentee voting location then, at the voter's discretion, the voter may cast their replacement absentee ballot at the clerk's office, the office of the board of elections and registration, or satellite location or be sent the replacement absentee ballot in the same manner the voter receive their original absentee ballot. (IC 3-11.5-4-2)

Should a voter only cast a ballot determined by the county election board to have an error or defect, then the county election board must count that ballot if the intent of the voter can be determined and can be counted according to the standards found in IC 3-12-1.

Additionally, a voter may request a replacement absentee ballot using the ABS-5 form when the voter states on the form that their original absentee ballot has been destroyed, spoiled, lost, or not received by the voter after a reasonable time has elapsed for delivery of the ballot by mail, the absentee ballot does not bear the bipartisan initials required IC 3-11-4-19, or the absentee ballot envelope was not signed by the voter when they delivered the absentee ballot to the clerk. But, during a primary election, a voter may not request a replacement ballot for a political party different from the political party indicated in the voter's application for an absentee ballot.

The ABS-5 form can be filed with the county election board by email, mail, or hand-delivery.

Lastly, after receiving the official replacement ballot, the voter must destroy any spoiled ballot in the possession of the voter or any lost or delayed official ballot that comes into the possession of the voter after the voter receives a replacement ballot. (IC 3-11-2-16; IC 3-11-3-29.5; IC 3-11-4-17.7; IC 3-11.5-4-2)

ABSENTEE VOTING

NOTE: While this *Manual* provides a roadmap for the county election administrator to follow, it does not replace instructions found in Title 3 of the Indiana Code. In addition to reviewing this section, county election administrators are encouraged to review IC 3-11 and IC 3-11.5, where absentee procedures are largely covered. County users may also find additional training materials and standard operating procedures on the county portal of the statewide voter registration system.

A person who cannot be physically present to vote at the polls on Election Day does not lose the person's right to participate in the electoral process. In Indiana, qualified voters eligible to vote by absentee ballot may select the appropriate method for casting the ballot: 1) by mail, 2) in-person "early voting" in the office of the circuit court clerk, or 3) by traveling board. Military and overseas voters and voters with print disabilities may request an absentee ballot to be delivered by fax, email, or mail.

Each method has its own state-prescribed or federally prescribed form, and a voter must use a current (or "grandfathered" or legacy) version of the form.

Form versions can be found on the Forms Master List posted to the SVRS County Portal. All election forms found on forms.in.gov are current; however, the Forms Master List identifies whether older versions of the forms can be used or modifications to the forms can be made, pursuant to the specific Order signed by the co-directors of the Indiana Election Division.

Note: All Indiana counties are required to count absentee ballots at a central location on Election Day, unless the county adopts procedures under IC 3-11.5-4-11.5 where the absentee counting process may begin up to three days before Election Day. Many of these central count procedures will be covered in this section. Additionally, an "Absentee Central Count Tool Kit" is provided in the index with examples of resolutions and other materials where no prescribed state form exists. (IC 3-11.5-1-1.1)

Absentee Voter Boards

To assist with absentee procedures noted below, each county election board must appoint as many absentee voter boards as it believes will be necessary to administer absentee voting in the county. Absentee voter boards consist of two (2) people, one nominated by each of the two major political parties.

To be eligible to serve on an absentee voter board, a person must meet the following qualifications (IC 3-11.5-4-22):

1) be a registered voter of the county;
2) be able to read, write and speak the English language;
3) may not have any property bet or wagered on the outcome of the election;
4) may not be a candidate to be voted for at the election, except as an unopposed candidate for a city office, town office, township office, school board office, precinct committeeman or state convention delegate; and
5) may not be the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted on in the election, except for an unopposed candidate.

NOTES: Any relationship identified above that is the result of birth, marriage, or adoption (an adopted child, for

example) would disqualify a person who is the relative of an **opposed** candidate from working on an absentee voter board. This provision **does not** apply if the candidate is **unopposed.**

A person who is a candidate to be voted on at the election, or who is related to a candidate in a manner that would disqualify the person from serving, may still serve as an absentee voter board if: (1) the candidate is seeking nomination or election to an office that is not county-wide (a city or township, for example); and (2) the county election board restricts the duties of the person on the absentee voter board to functions that could have no influence on the casting or counting of absentee ballots within that election district.

Further, a county election board, by unanimous vote of its members, may appoint a 16- or 17-year-old student (otherwise eligible to serve as a poll worker under IC 3-6-6-39) as a member of an absentee voter board (other than a traveling board).. (NOTE: a 16- or 17-year-old nonvoter can also be appointed to fill vacancies in absentee counter or courier positions.) (IC 3-11.5-4-23)

The county chairmen of each of the two major political parties make nominations for appointment to an absentee voter board. Not later than noon, prevailing local time, fifty (50) days before Election Day, the county election board must notify the county chairmen of the number of nominations that will be needed to fill positions on absentee voter boards to support absentee-by-mail, early voting, and traveling board operations. The county chairmen must notify the county election board of their nominations not later than noon, prevailing local time, forty-six (46) days before Election Day. The county election board **must** appoint those persons nominated by the county chairmen. If a county chairman fails to make the nominations, then the county election board may appoint any voter of the county subject to the qualifications listed above. (IC 3-11-10-37; IC 3-11.5-4-23)

A voter appointed to an absentee voter board is entitled to compensation. A member of an absentee voter board must be compensated using the following standards (IC 3-11.5-7-2):

1) traveling absentee voter boards are entitled to a per diem in an amount set by the county executive (county commissioners) per day and reimbursement for mileage paid at a rate set by the county council;
2) absentee voter boards assigned to the office of the clerk of the circuit court are entitled to a per diem set by the county executive (the county commissioners);
3) absentee voter boards assigned to deliver voted absentee ballots to the precincts on Election Day are entitled to a per diem and reimbursement for mileage paid at a rate set by the county council.

When the county election board makes an appointment under this section and the individual accepts the appointment by swearing the oath of office required under this title, a contract is created between the county election board and the individual in which the county election board retains the services of the appointed individual as an independent contractor. For purposes of Article 2, Section 9 of the Constitution of the State of Indiana a member of an absentee voter board (or absentee ballot counter or courier team) is not a lucrative office. (IC 3-11.5-4-23)

A member of an absentee voter board must receive training from the county election board before beginning to perform the member's duties. (IC 3-11-10-39)

An absentee voter board member or absentee ballot counter is subject to the same penalties as a precinct poll worker for knowingly, recklessly, or negligently failing to perform an election law duty, being subject to removal as a board member or counter and to a penalty of up to $500 imposed by the county election board. (IC 3-6-5-35)

Absentee Voting By Mail

A qualified voter may request that the ballot be mailed to the voter. The ballot is mailed to the voter at the address listed on the application, whether ***outside or inside*** the voter's county of residence. (IC 3-11-4-18; IC 3-11-10-24) In this case, a voter is mailed an absentee ballot, voting instructions, and a postage fully prepaid return envelope that includes an affidavit for the voter to sign. (IC 3-11-4-20; IC 3-11-4-21)

A voter who is otherwise qualified to vote in person may vote by absentee ballot by mail if the voter meets one of the following qualifications (IC 3-11-10-24; IC 3-11-10-25):

1) Absent from the county on Election Day and has a specific, reasonable expectation of being absent during the entire 12 hours that the polls are open;
2) Absent from the precinct of the voter's residence on Election Day because of working as a precinct election officer, a watcher, a challenger or pollbook holder, or as a person employed by an election board to administer the election for which the absentee ballot is requested;
3) Confined on Election Day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury during the entire 12 hours that the polls are open;
4) A voter with disabilities;
5) An elderly voter (a voter at least 65 years of age);
6) Prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury during the entire twelve (12) hours that the polls are open;
7) Scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open;
8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12 (Note: These chapters discuss voter fail safes, which may include those who have moved from their precinct and meet other requirements. In these instances, it may be possible for the voter to vote one last time at their old precinct, but the county must first receive a VRG-4/12 from the voter, if the voter marks this box on the ABS-Mail form).
9) Prevented from voting due to observance of a religious discipline or religious holiday during the entire 12 hours the polls are open; or
10) Participates in the Attorney General's address confidentiality program (for domestic abuse).
11) A voter who is a member of the Indiana National Guard deployed or on assignment inside Indiana or public safety officer (meaning an individual who is one of the following):
    a. A member of a fire department (as defined in IC 36-8-1-8).
    b. An emergency medical service provider (as defined in IC 16-41-10-1).
    c. A member of a police department (as defined in IC 36-8-1-9).
    d. A correctional officer (as defined in IC 5-10-10-1.5).
    e. A state police officer.
    f. A county police officer.
    g. A police reserve officer.
    h. A county sheriff.
    i. A deputy sheriff.
    j. An excise police officer.
    k. A conservation enforcement officer.
    l. A town marshal.
    m. A deputy town marshal.
    n. A postsecondary educational institution police officer appointed under IC 21-17-5 or IC 21-39-4.

o. A probation officer.
p. A paramedic.
q. A volunteer firefighter (as defined in IC 36-8-12-2).
r. An emergency medical technician or a paramedic working in a volunteer capacity.
s. A member of the armed forces of the United States.
t. A member of the Indiana Air National Guard.
u. A member of the Indiana Army National Guard.
v. A member of a state or local emergency management agency.
w. A member of a consolidated law enforcement department established under IC 36-3-1-5.1.

12) A voter is a "serious sex offender" as defined by state law (IC 35-42-4-14(a))
13) A voter is prevented from voting due to the unavailability of transportation to the polls.

NOTE: Previously, the phrase "member of the military" was listed as a reason to use the state-prescribed ABS-Mail application. Instead, a qualified military or overseas voter should use the Federal Post Card Application (FPCA), which is the dual voter registration and absentee application form prescribed by the Federal Voting Assistance Program under the U.S. Department of Defense. The FPCA form provides more protections to this class of voters as noted in the "Military and Overseas Voters" section below and in federal law.

Voter Identification Requirement to Vote by Mail

Voters who want to vote by any absentee method must provide voter identification information with their absentee ballot application, including but not limited to the ABS-Mail form. The application gives voters two options to select from:

1) Provide the voter's Indiana driver's license or state ID card number OR the voter's unique ID found in the statewide voter registration system on the voter's registration record OR the voter's last four digits of their Social Security number.
2) Photocopy of the voter's ID that complies with the state's photo ID law. See the "Photo ID Law" section of the "Election Day" chapter of this *Manual* for more information.

If a voter selects option 1, county election officials will confirm the number provided on their absentee ballot application matches the voter's registration. If the provided voter ID number is not on the voter's registration record or does not match, then county officials will attempt to validate the provided voter ID number using the statewide voter registration system against records maintained by the Indiana Bureau of Motor Vehicles or the Social Security Administration. If the voter ID number is validated through this process, then the voter ID number will be added to the voter's registration record, and the bi-partisan review process will continue. If the voter ID number is not validated, then the absentee ballot application will be found defective or be rejected and the voter will be sent notice (ABS-24). Voters are encouraged to provide more than one of the required voter ID numbers.

If a voter selects option 2, county election officials will confirm the photocopy of the ID meets the state's voter ID law. If the ID complies with this statute (IC 3-5-2.1-84), then a bi-partisan team will continue the review of the application. If the supplied ID does not comply with the state's photo ID law, then the absentee ballot application will be found defective or be rejected and the voter will be sent notice (ABS-24). Because an absentee application can be transmitted over email, a voter can send a digital image or photograph of the voter's ID with their emailed absentee ballot application. A copy of the voter's valid photo ID must be provided each time an absentee application is submitted.

However, an absentee ballot application submitted online through the Indiana Voter Portal (www.indianavoters.in.gov) must require the voter to provide the voter's driver's license number, Indiana identification card number, the unique identifying number assigned to the voter's voter registration record, or the last four digits of the voter's Social Security number to access the absentee application. The voter is only required to provide one of these types of voter identification numbers but the voter ID number on the voter's registration must match the information entered by the voter.

If the numbers match, then the voter can access the online absentee application. If the numbers do not match, then the voter can provide an Indiana driver's license or state ID card number or the last four digits of their Social Security number when prompted. The voter will conditionally submit their absentee ballot application. County officials will validate the voter's supplied ID number against BMV or SSA records. If the voter ID number is validated, it will be added to the voter's registration record, and the bi-partisan team will continue their review of the application. If the voter ID number cannot be validated, then the absentee ballot application will be found defective or rejected and the voter sent an ABS-24 notice. Note: Voters will not be able to upload a copy of an ID that complies with the state's photo ID law through the online portal. (IC 3-11-4-2; IC 3-11-4-3; IC 3-11-4-5.1; IC 3-11-4-17)

Voters using the online absentee application module on indianavoters.in.gov do not sign their absentee ballot application. The voter's signature on their voter registration record is applied to the application by SVRS. Upon completion, the voter will receive a confirmation notice and can download a copy of their submitted application. Voters should not send this copy to county officials; the application is electronically submitted for county review in SVRS.

The identification number provided on the voter's absentee ballot application or the photocopy of the identification document provided with the application is confidential. A county voter registration official is only required to redact the confidential information in responding to a public records request under IC 5-14-3. However, the identification number will become public record when it is added to the voter's registration record.

See "Absentee Ballot Application Defect Notice Process" later in this Chapter of the *Manual* for more information on the ABS-24 notice and other requirements to assist voters in curing their defective or rejected absentee application before the deadline to file.

Proof of Residency Documentation (ABS-12) for Certain First Time Voters

Certain first-time voters who registered to vote using a paper state or federal voter registration application may be required to submit proof of residency for their absentee ballot to be counted, if the voter ID number (DLN, SSN4) provided on their registration form cannot be validated using SVRS or if the voter required to provide proof of residency has not already submitted the documentation to the county.

A copy of a valid Indiana driver's license or state ID card where the residence address on the ID matches the voter's registration is **one** of several acceptable residency documents, including a utility bill, paycheck stub, or school transcript. (IC 3-7-33-4.5; IC 3-11-8-25.2) County election officials must provide the ABS-12 (Proof of Residency Documentation) form with the voter's absentee ballot and its packet contents that is sent to the voter. This documentation must be received by the county voter registration official not later than 6 p.m. on Election Day for the voter's absentee ballot to be counted.

See "Processing Absentee Applications" section in this *Manual* for more details.

Limitations on State or Political Subdivisions Mailing Any Absentee Ballot Application

An agency of the state or a political subdivision (meaning a county, city, town, township, school corporation, public library, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, special taxing district, or other type of local governmental corporate entity) may only mail any type of absentee ballot application (ABS-Mail, ABS-Traveling Board, ABS-VPD, FPCA, etc.) to an individual who requests the application for themselves or their family members (meaning their spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece). However, these entities may email or hand-deliver absentee applications to any voter. (IC 3-11-4-2(g))

This limitation does not apply to any private individual, political party, or other entity providing an absentee ballot application to another individual. For example, a political party may mail any type of absentee ballot application to voters, even if the absentee ballot application is unsolicited. Additionally, government forms, like the absentee ballot application, must still be made available to an individual, political party, or other entity appearing in person to request copies of the form. However, any entity other than the Indiana Election Division or county election board mailing an absentee ballot application to a voter must comply with applicable disclaimer requirements. See the "Required Disclaimer for Mailings that Include an Absentee Ballot Application" section later in this Chapter for more information.

Absentee by Mail (ABS-MAIL) Application Deadline

An application for an absentee ballot to vote by mail (ABS-MAIL) **must** be received by the circuit court clerk, the Lake County Election Director, or Porter County Election Director not earlier than the date the registration period resumes following an election and not later than 11:59 p.m. (prevailing location time) twelve (12) days before Election Day, if the application is a mailed, emailed, faxed, or hand-delivered. (IC 3-11-4-3)

Alternatively, Indiana voters can submit their ABS-Mail application through indianavoters.com, after logging in to their customized voter page. This requires a person to be currently registered to vote and enter the requested information into the website to access their page. A voter can select the ABS-Mail application link on their portal page, which will prompt the voter to provide their Indiana driver's license number, the last four digits of their Social Security Number, or unique ID associated with the voter's registration record. See "Voter Identification Requirements to Vote by Mail" above for more information.

An application for an absentee ballot received on or after December 1 is an adequate application for an absentee ballot for the next scheduled election held in the voter's precinct (primary, general, municipal, or special election). However, different deadlines apply to military and overseas voters using the Federal Post Card Application (FPCA) and for voters with print disabilities using the combined form (ABS-VPD). (IC 3-11-4-3; IC 3-11-4-6)

As noted above, "received" means the clerk, Lake County Election Director, or Porter County Election Director has physical custody of the form and it has been filed with the office**. Absentee applications to vote by mail that are postmarked on or before the absentee ballot application deadline date and received after the deadline must be rejected!** State law also permits absentee applications to be mailed or faxed to the election official, but again, must be received by the deadline to be processed. Deadline dates are noted in the instructions on the ABS-Mail form and in several Indiana Election Division publications.

A person who receives a completed absentee ballot application from another person must indicate on the application the date the person received the application and file the application with the county election

board by noon (prevailing local time), ten (10) days after receiving it, or by the applicable absentee ballot deadline, whichever occurs first. (IC 3-11-4-2(l)) However, this requirement for timely delivery does not apply to a postal employee or to an employee of a bonded courier company.

Any person can file an absentee ballot application of another person with the county election board but is required to submit an affidavit with the application (ABS-17) that must be made available to the voter by the county election board. The affidavit must be signed by the person who received the completed application from the applicant. This section does not apply to an individual filing their own absentee application or to an employee of the USPS or a bonded courier company acting in the individual's capacity as an employee of the USPS or bonded courier company, or to the election division, a county election board, or a board of elections and registration. (IC 3-11-4-2)

Absentee Ballot Application Delivered to Wrong County

If a circuit court clerk receives an absentee ballot application for a voter who is registered to vote in another county, the clerk shall forward the absentee ballot application to the correct county. The absentee ballot application forwarded will be considered received as of the time and date it was delivered to the initial county. (IC 3-11-4-3)

Returning Absentee Ballots Received By Mail

A voter who receives an absentee ballot by mail must personally mark the ballot in secret. State law does not permit any person, even the voter's POA, spouse, or family member, to make choices on the ballot for another voter. A voter unable to personally mark their own absentee ballot must vote absentee before an absentee voter board. (IC 3-11-10-24(b)) However, a voter with print disabilities may vote by using the system developed by the Secretary of State that complies with web content guidelines making web content available for these individuals. (IC 3-5-2.1-106; IC 3-11-4-6(k); IC 3-11-10-24(l))

The voter must seal the voted absentee ballot in the postage pre-paid security envelope provided by the county election board; however, a voter may designate another individual to assist them with enclosing and sealing the ballot in the security envelope. This individual must sign the affidavit on the outside of the envelope to indicate this assistance. (IC 3-11-4-21)

In addition, the voter must sign the affidavit provided on the outside of the envelope to affirm the individual has personally marked their ballot and is a qualified voter of the precinct. The voter must then deliver the sealed absentee ballot envelope to the county election board by 1) depositing the envelope in the mail or by a bonded courier company; 2) delivering the envelope in person to any early voting location or to the county clerk or election board office; or 3) delivering the envelope to a member of the voter's family or a member of the voter's household or a person designed at the attorney in fact for the voter for delivery in person, by US mail, or by a bonded courier company. (IC 3-11-10-24)

As noted above, a family member (as defined for poll worker eligibility purposes in IC 3-6-6-7(a)(4)) to return a voter's voted absentee ballot to the county election board. In addition to the voter, a member of the voter's household or the voter's designated attorney-in-fact, the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece whose relationship to the voter is the result of birth, marriage, or adoption may deposit the absentee ballot envelope in the mail or hand-deliver a voter's absentee ballot to the county election board. (IC 3-11-10-24(c))

A voter who receives an absentee ballot by mail may return the voted absentee ballot by U.S. mail or by personal delivery to the county at a circuit court clerk's office where in-person absentee voting is occurring, a satellite office of

the circuit court clerk established by the county election board to conduct in-person absentee voting, or a vote center location being used as a satellite location to conduct in-person absentee voting. Under current law, on Election Day, an absentee ballot must be delivered to the county election board before the polls close at 6 p.m. (local prevailing time). As an alternative, a voter may surrender their ballot to Election Day precinct officials to vote in-person or execute the necessary affidavit at the polling place to vote in-person.) (IC 3-11-10-24(e); IC 3-11.5-4-18)

If any other person receives from a voter a ballot prepared by a voter for voting, the person commits a Level 6 felony. (IC 3-14-2-16)

A voter who presents and surrenders a sealed and signed absentee-by-mail ballot return envelope at an early voting location may request a replacement ballot at that location rather than casting the ballot received in the mail by the voter. The voter must complete the ABS-5 before being processed as an in-person absentee voter and receiving a new absentee ballot. Then the voter may cast the requested replacement absentee ballot at the early voting location in the same manner as any other voter who casts an absentee ballot at an early voting location. The absentee voter board working at the in-person absentee voting location must write "rejected" on the outside of the voter's original absentee-by-mail ballot and place it in the rejected absentee ballot bag. (IC 3-11-4-17.7; IC 3-11.5-4-2)

Any person who delivers a voted absentee ballot to the county election board must complete an affidavit (Form ABS-19) that contains:

1) information concerning the voter;
2) information concerning the person delivering the voted absentee ballot;
3) the person's statement that the person is delivering the absentee ballot as a member of the voter's household, family member as defined by IC 3-6-6-7, or the voter's attorney in fact (if the individual is an attorney in fact, they must attach a copy of the power or attorney unless it has already been filed with the county election board);
4) the date and location where the absentee ballot was delivered to this person;
5) a statement that the individual delivering the absentee ballot has complied with Indiana laws governing absentee ballots; and
6) a statement that the affidavit is executed under the penalties of perjury, including a statement of the penalties for perjury. (IC 3-11-10-24(d))

A voted absentee ballot to vote by mail **must** be received by the circuit court clerk, the Lake County Election Director, or Porter County Election Director not later than 6 p.m. (prevailing local time) on Election Day . (IC 3-11.5-4-3) As noted above, "received" means the clerk, Lake County Election Director, or Porter County Election Director has physical custody of the ballot by the deadline time. Absentee vote-by-mail ballots that are postmarked on or before Election Day and received after Election Day must be rejected! Deadline dates are noted in several Indiana Election Division publications.

Additionally, certain first-time voters required to provide proof of residency must file the provided ABS-12 form with the county voter registration office not later than 6 p.m. on election day for their absentee ballot to be counted. (IC 3-11-4-18)

There are special absentee counting rules (including deadlines) for military and overseas voters. Please see the "Military and Overseas Voter" section in the *Manual* for those details.

Requesting a Replacement Vote-By-Mail Absentee Ballot before Election Day

If a voter has been mailed an official absentee ballot and notifies the county election board that:

1) the ballot has been destroyed, spoiled, lost, or not received by the voter after a reasonable time has elapsed for delivery of the ballot by mail; or
2) the absentee ballot does not bear the bipartisan initials of the absentee voter board required under IC 3-11-4-9; or
3) the absentee ballot envelope was not signed by the voter,

then the voter must file the Form ABS-5 with the county election board by email, mail, or hand-delivery. (IC 3-11-4-17.7; IC 3-11.5-4-2) The circuit court clerk must place the ABS-5 with the voter's original ballot, mark "cancelled" on the envelope containing the original ballot, preserve the original ballot with the other defective ballots, and deliver a new ballot to the absentee voter. (IC 3-11-4-17.7)

However, in a primary election, a county election board may not provide a voter who requested a replacement ballot an absentee ballot for a political party that is different than the political party indicated on the voter's absentee application. (IC 3-11-4-17.7(d))

It is also advisable that a voter be instructed to ignore or destroy the materials sent to them, including their spoiled absentee ballot (unless the individual is surrendering their spoiled absentee ballot at an early voting location or on Election Day to vote in-person). Should a voter's original and replacement absentee ballot arrive timely at the county election board, the original ballot should be rejected, and the replacement ballot should be processed. (IC 3-11-4-17.7; IC 3-11-4-17.8; IC 3-11-10-1.5)

NOTE: Voters with an unsigned ballot security envelope will receive an ABS-18A (Notice to Absentee Voter of Missing Signature on Absentee Ballot Security Envelope and Affidavit of Unsigned Absentee Ballot) from the county election board. The ABS-18A can be used to "cure" the missing signature or the voter can request a replacement ballot using the ABS-5 form using the procedures noted above. For more information about the ABS-18A, see the "Signature Mismatch or Missing Signature" section of this chapter. However, once the absentee ballot is in the county election board's possession, it should not be given back to the voter to sign or otherwise alter the affidavit. Instead, the county must follow the ABS-5 or ABS-18 procedures.

Drop Boxes for Absentee Ballots By Mail

If a county election board uses a "drop box" for the return of absentee ballots, then the "drop box" must be under the physical control and supervision of the county election board. An absentee ballot that is deposited into a "drop box" not under the physical control and the supervision of the county election board must be rejected. The board shall promptly notify the voter of the rejection of the ballot, if possible. (IC 3-11-10-24)

Any drop box or other container that is located in a building under the control of a political subdivision in which a document may be deposited for other purposes related to the circuit court clerk's office or an office of any other political subdivision must have a notice posted by the political subdivision in control of the drop box container in a prominent location adjacent to the drop box or container substantially stating, "Do not deposit a voted absentee ballot into this box or container. The absentee ballot will not be counted." (IC 3-11-10-24)

Note: Voters may drop off completed absentee ballots to any early voting location in the county. County election boards are advised to have a secure way at each location to store the completed absentee ballots and proper controls on returning them to the county.

Absentee Voting by Traveling Board

A qualified voter confined within the county because of illness or injury, a voter caring for a confined person, or a disabled voter whose precinct is not accessible to a disabled voter may vote an absentee ballot before a bi-partisan traveling absentee voter board. (IC 3-11-10-25) An absentee ballot voted before a traveling absentee voter board must be cast on ***any of the nineteen (19) days*** immediately preceding the election. (IC 3-11-10-25)

For voters voting absentee by mail or before a traveling board, a voter who is otherwise qualified to vote in person may vote by absentee ballot if the voter meets one of the following qualifications (IC 3-11-10-25):

1) Expects to be confined due to illness or injury;
2) Expects to be caring for a confined person at a private residence; or
3) A voter with disabilities who believes the voter's polling place is not accessible.

State law permits a traveling board to go *OUTSIDE* of the county to provide a ballot to a confined voter IF the county election board unanimously agrees to permit out-of-county travel. (IC 3-11-10-25)

A voter with a disability who is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope MUST vote before an absentee voter board either in-person in the clerk's office or by traveling board. (IC 3-11-10-24(d)) A voter with print disabilities may vote by using the system developed by the Secretary of State that complies with web content guidelines making web content available for these individuals. (IC 3-5-2.1-113; IC 3-11-4-6(k); IC 3-11-10-24(l))

Voter Identification Requirements to Vote by Travel Board

Voters who want to vote by any absentee method must provide voter identification information with their absentee ballot application, including the ABS-Travelling Board form. The application gives voters two options to select from:

1) Provide the voter's Indiana driver's license or state ID card number OR the voter's unique ID found in the statewide voter registration system on the voter's registration record OR the voter's last four digits of their Social Security number.
2) Photocopy of the voter's ID that complies with the state's photo ID law. See the "Photo ID Law" section of the "Election Day" chapter of this Manual for more information.

If a voter selects option 1, county election officials will confirm the number provided on their absentee ballot application matches the voter's registration. If the provided voter ID number is not on the voter's registration record or does not match, then county officials will attempt to validate the provided voter ID number using the statewide voter registration system against records maintained by the Indiana Bureau of Motor Vehicles or the Social Security Administration. If the voter ID number is validated through this process, then the voter ID number will be added to the voter's registration record, and the bi-partisan review process will continue. If the voter ID number is not validated, then the absentee ballot application will be found defective or be rejected and the voter will be sent notice (ABS-24). Voters are encouraged to provide more than one of the required voter ID numbers.

If a voter selects option 2, county election officials will confirm the photocopy of the ID meets the state's voter ID law. If the ID complies with this statute (IC 3-5-2.1-84), then a bi-partisan team will continue the review of the application. If the supplied ID does not comply with the state's photo ID law, then the absentee ballot application will be found defective or be rejected and the voter will be sent notice (ABS-24). Because an absentee application can be transmitted over email, a voter can send a digital image or photograph of the voter's ID with their emailed

absentee ballot application. A copy of the voter's valid photo ID must be provided each time an absentee application is submitted.

However, an absentee ballot application submitted online through the Indiana Voter Portal (www.indianavoters.in.gov) must require the voter to provide the voter's driver's license number, Indiana identification card number, the unique identifying number assigned to the voter's voter registration record, or the last four digits of the voter's Social Security number to access the absentee application. The voter is only required to provide one of these types of voter identification numbers but the voter ID number on the voter's registration must match the information entered by the voter.

If the numbers match, then the voter can access the online absentee application. If the numbers do not, then the voter can provide an Indiana driver's license or state ID card number or the last four digits of their Social Security number when prompted. The voter will conditionally submit their absentee ballot application. County officials will validate the voter's supplied ID number against BMV or SSA records. If the voter ID number is validated, it will be added to the voter's registration record, and the bi-partisan team will continue their review of the application. If the voter ID number cannot be validated, then the absentee ballot application will be rejected, and the voter sent an ABS-24 notice. Note: Voters will not be able to upload a copy of an ID that complies with the state's photo ID law through the online portal. (IC 3-11-4-2; IC 3-11-4-3; IC 3-11-4-5.1; IC 3-11-4-17)

Voters using the online absentee application module on indianavoters.in.gov do not sign their absentee ballot application. The voter's signature on their voter registration record is applied to the application in SVRS. Upon completion, the voter will receive a confirmation notice and can download a copy of their submitted application. Voters should not send this copy to county officials; the application is electronically submitted for county review in SVRS.

The identification number provided on the voter's absentee ballot application, or the photocopy of the identification document provided with the application is confidential. A county voter registration official is only required to redact the confidential information in responding to a public records request under IC 5-14-3. However, the identification number will become public record when it is added to the voter's registration record.

See "Absentee Ballot Application Defect Notice Process" later in this Chapter of the Manual for more information on the ABS-24 notice.

Proof of Residency Documentation (ABS-12) for Certain First Time Voters

Certain first-time voters who registered to vote using a paper state or federal voter registration application may be required to submit proof of residency for their absentee ballot to be counted, if the voter ID number (DLN, SSN4) provided on their registration form cannot be validated using SVRS or if the voter required to provide proof of residency has not already submitted the documentation to the county.

A copy of a valid Indiana driver's license or state ID card where the residence address on the ID matches the voter's registration is one of several acceptable residency documents, including a utility bill, paycheck stub, or school transcript. (IC 3-7-33-4.5; IC 3-11-8-25.2) County election officials must provide the ABS-12 (Proof of Residency Documentation) form with the voter's absentee ballot and its packet contents that is sent to the voter. This documentation must be received by the county voter registration official not later than 6 p.m. on Election Day for the voter's absentee ballot to be counted.

See "Processing Absentee Applications" section in this Manual for more details.

Limitations on State or Political Subdivisions Mailing Any Absentee Ballot Application

An agency of the state or a political subdivision (meaning a county, city, town, township, school corporation, public library, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, special taxing district, or other type of local governmental corporate entity) may only mail any type of absentee ballot application (ABS-Mail, ABS-Traveling Board, ABS-VPD, FPCA, etc.) to an individual who requests the application for themselves or their family members (meaning their spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece). However, these entities may email or hand-deliver absentee applications to any voter. (IC 3-11-4-2(g))

This limitation does not apply to any private individual, political party, or other entity providing an absentee ballot application to another individual. For example, a political party may mail any type of absentee ballot application to voters, even if the absentee ballot application is unsolicited. Additionally, government forms, like the absentee ballot application, must still be made available to an individual, political party, or other entity appearing in person to request copies of the form. However, any entity other than the Indiana Election Division or county election board mailing an absentee ballot application to a voter must comply with applicable disclaimer requirements. See the "Required Disclaimer for Mailings that Include an Absentee Ballot Application" section later in this Chapter for more information.

Traveling Board Application (ABS-TRAVELING BOARD) Deadline

An application for an absentee ballot **must** be received by the circuit court clerk or the Lake or Porter County Election Director not earlier than the date the registration period resumes following an election and not later than 12:00 p.m. (noon), prevailing local time, on the day before Election Day. The application may be a mailed, emailed, faxed, or hand-delivered application from a confined voter or person caring for a confined person and the applicant requests that the ballot is delivered by a traveling board.

Alternatively, Indiana voters can submit their ABS-Traveling Board application through indianavoters.com, after logging in to their customized voter page. This requires a person to be currently registered to vote and enter the requested information into the website to access their page. A voter can select the ABS-Traveling Board application link on their portal page, which will prompt the voter to provide their Indiana driver's license number, or the last four digits of their Social Security Number, or the unique ID associated with the voter's registration record. See "Voter Identification Requirements to Vote by Traveling Board" above for more information.

As noted above, "received" means the clerk, Lake County Election Director, or Porter County Election Board has physical custody of the form. **Applications received after this deadline date, even if postmarked on or before the deadline date, must be rejected**. State law also permits absentee applications to be mailed or faxed to the election official, but again, must be received by the deadline to be processed. Deadline dates are noted in the instructions on the ABS-Mail form and in several Indiana Election Division publications.

However, if the county election board determines by a unanimous vote that an otherwise qualified voter has been hospitalized or injured after the deadline to apply for an absentee ballot, the board may authorize the person to vote by absentee ballot. (IC 3-11-4-1(b))

A person who receives a completed absentee ballot application from another person must indicate on the application the date the person received the application and file the application with the county election board by noon (prevailing local time), ten (10) days after receiving it, or by the applicable absentee ballot

deadline, whichever occurs first. (IC 3-11-4-2(l)) However, this requirement for timely delivery does not apply to a postal employee or to an employee of a bonded courier company.

Any person can file an absentee ballot application of another person with the county election board but is required to submit an affidavit with the application (ABS-17) that must be made available to the voter by the county election board. The affidavit must be signed by the person who received the completed application from the applicant. This section does not apply to an individual filing their own absentee application or to an employee of the USPS or a bonded courier company acting in the individual's capacity as an employee of the USPS or bonded courier company, or to the election division, a county election board, or a board of elections and registration. (IC 3-11-4-2)

Traveling board appointments are limited and are scheduled at a mutually agreeable time for the voter and county election board. Voters should provide a reliable phone number or email address, if possible, for county election officials to schedule an appointment. As noted above, using the online traveling board application found on indianavoters.com, state law requires the voter to provide a phone number to submit the request electronically through the website. (IC 3-11-4.5-1)

A traveling board may not be denied access to a voter's residence or place of confinement if the voter is confined due to illness or injury if the traveling board requests access at a time agreed to by both the board and the voter, and the time is during the regular office hours of the circuit court clerk.

An absentee traveling board visiting an individual already determined to be a voter of the county, and with the unanimous approval of the county election board, may permit the voter to complete the absentee application and proceed to cast an absentee ballot before the traveling board during that visit if both members of the absentee voter board approve the application. (IC 3-11-10-25)

ePollbooks & Voting Equipment Use with Traveling Board

An absentee voter board visiting a voter absentee voting by travel board may use an electronic poll book to obtain the voter's signature. (IC 3-11-10-25)

The county election board may adopt a resolution, by unanimous vote of the entire board, to allow a voter voting an absentee ballot by travel board to use a ballot marking device that produces an optical scan paper ballot card when voting before an absentee voting board. The ballot card printed by the ballot marking device must be initialed by the absentee voter board team and enclosed in the ballot security envelope. The voter and the team must complete the affidavit found on the ballot security envelope. (IC 3-11-10-26.2)

For counties using a DRE voting system, a county election board can unanimously agree on a resolution to permit a voter voting absentee by traveling board to cast their ballot on a direct record electronic voting system. An absentee ballot voted on an electronic voting system under this section is not required to bear the seal, signature, and initials prescribed by IC 3-11-10-27. (IC 3-11-10-26.2)

The resolution to use a ballot marking device or DRE voting system for travel board appointments must adopt procedures to do the following:

1) Secure absentee votes cast on an electronic voting system or marking device that produces a marked optical scan ballot that provides protection comparable to the protection provided to absentee votes cast by paper ballot.

2) Compare the signature on an absentee ballot application (or on an electronic poll book if no application was executed by the voter) with the applicant's signature on the applicant's voter registration record.
3) Ensure that an invalid ballot (as determined under IC 3-11.5) is not counted.
4) Specify how a spoiled absentee ballot is to be canceled in the direct record electronic voting system if a voter casts and returns a replacement absentee ballot.

A resolution may also contain other provisions to implement this section that the board considers useful and that are not contrary to Indiana or federal law.

If a resolution to use a BMD unit or DRE voting system is adopted, the circuit court clerk may use as many electronic voting machines for recording absentee votes as the clerk considers necessary, subject to the resolution adopted by the board. Additionally, a resolution must include the procedure for casting an absentee ballot on an electronic voting system must, except as provided in this IC 3-11-10-26.2, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk under IC 3-11-10-26. (IC 3-11-10-26.2)

Traveling Board Ballot Deadline & Emergency Exceptions on Election Day

Traveling board appointments must conclude the day before the election. (IC 3-11-10-25) However, if the county election board determines by a unanimous vote that an otherwise qualified voter has been hospitalized or injured after the deadline to apply for an absentee ballot, the board may authorize the person to vote by absentee ballot. (IC 3-11-4-1(b))

Early Voting at the Clerk's Office (In-Person Absentee Voting)

A qualified voter may vote before an absentee voter board at the county courthouse or other designated location for absentee voting in the county. An absentee ballot voted before an absentee voter board must be cast ***not more than twenty-eight (28) days before the election nor later than noon (prevailing local time) on the day before the election.*** (IC 3-11-10-26)

If a voter votes at the clerk's office or a satellite office, the voter is **not required** to attest that the voter is confined, a voter with disabilities, elderly, working at the polls in a precinct other than where the voter resides, a specific, reasonable expectation of being absent from the county on Election Day, or working during the entire 12 hours the polls are open, observing a religious holiday, participating in the Attorney General's confidentiality program, is a "serious sex offender", is a member of the Indiana National Guard deployed or on assignment inside of Indiana or a public safety office, or unable to obtain transportation to the polls. **A voter must claim one of the reasons listed above to vote absentee by mail. A voter must be ill or injured, or caring for a person at a private residence, or a voter with disabilities whose precinct is not accessible to the voter to vote by traveling board.** (IC 3-11-4-1; IC 3-11-4-2; IC 3-11-4-18; IC 3-11-10-24; IC 3-11-10-25; IC 3-11-10-26)

All counties must make one location of the Clerk's Office as designated by the circuit court clerk available for in-person early voting for the 28days before Election Day. If the twenty-eighth day before a general election falls on the Columbus Day state holiday, then in-person, early voting begins twenty-seven (27) days before the election. In addition, the clerk's office location must be open the two Saturdays preceding Election Day. Most counties must permit voters to cast absentee ballots for at least seven (7) hours on each of the two (2) Saturdays preceding Election Day. For counties with a population of less than 20,000, the county election board may reduce the number of in-

person, “early voting” hours the clerk’s office is open to four (4) on the two (2) Saturdays preceding Election Day. (IC 3-11-10-26) Early voting hours may be reduced in a special election; see IC 3-11-10-26.5 for details.

More than seventy (70) of the 92 counties in Indiana have moved to a vote center model, which means a voter may vote on Election Day at any of the voting locations unanimously approved by the county election board. The vote center law not only requires the one location of the county Clerk’s office to be open for early voting at the time and dates noted above, but also requires at least one vote center used on Election Day to be open the two Saturdays before Election Day. A county election board in a voter center county may include in its plan additional satellite offices established under IC 3-11-10-26.3(e). (IC 3-11-18.1-4)

Other counties still require a voter to vote on Election Day at a polling location assigned to their precinct. This is an important distinction from a vote center model not only in the way a person votes on Election Day, but also for in-person absentee voting. A county election board may adopt a resolution to authorize the circuit court clerk to establish satellite early voting locations (other than the clerk’s office) in the county where voters may cast absentee ballots before an absentee voter board. The county election board must adopt such a resolution by unanimous consent of the entire membership of the board. The resolution must state the locations and hours of operation of any satellite offices. The voting procedures at these offices must be substantially the same as the procedures for absentee voting at the clerk’s office. (IC 3-11-10-26; IC 3-11-10-26.3)

Additionally, the county election board may adopt a resolution by majority vote allowing in-person absentee voting at one location of the circuit court clerk’s office or an established satellite location on the third Saturday preceding Election Day for at least four (4) hours. (IC 3-11-10-26). The circuit court clerk (not the county election board) must designate one location of the clerk’s office to be made available during regular business hours for the twenty-eight (28) days before the election, including the two (2) Saturdays before Election Day. This minimum requirement remains unaffected, and a circuit court clerk retains the ability to conduct early voting during this twenty-eight (28) day window for extended weekday and weekend hours, ending at noon (local prevailing time), the day before Election Day.

The county election board does not need to pass a “new” satellite early voting resolution for the general or municipal election if such a resolution was adopted for the primary election. However, a county election board may want to add more sites to the primary election satellite early voting plan or to remove sites that were used in the primary election. In this case, the county election board must unanimously agree to the satellite early voting locations that are to be opened in a general or municipal election that are different from those offered in the primary election. (IC 3-11-10-26.3(e))

In vote center counties, the establishment of satellite early voting locations, including the one vote center used on election day required to be designated as a satellite location for the two Saturdays before Election Day, are determined by the county election board amending the vote center plan, by unanimous vote of the entire membership. (IC 3-11-18.1-15)

NOTE: in odd-numbered municipal election years (for example, 2027, 2031) or in a special election conducted under IC 3-10-8, a county election board may reduce the dates and hours of in-person early voting through a unanimous resolution. Resolutions adopted under IC 3-11-10-26.5 are not effective in even-numbered general election years (for example, 2024, 2026), unless the resolution is specific to a special election called under IC 3-10-8 that is not held at the same time as a general election.

Staffing Early Voting Locations

As noted above, "early voting" is voting before an absentee voter board, which is made up of one member nominated by the Democratic Party county chair and one member nominated by the Republican Party county chair. If the chairs fail to nominate individuals by the deadline, then the county election board must fill the vacant positions with qualified individuals. (IC 3-11.5-4-23)

Early voting locations, whether in a non-vote center or vote center county, do not use precinct election officers (that is, an inspector, judge, or clerk). The county election board has a responsibility to identify the total number of absentee board members needed to support each early voting location to manage procedures found in law, including checking in voters, reviewing the voter's photo ID, issuing ballots or challenges where provisional ballots are needed, supporting voters, and ensuring the security of all balloting materials. The teams are evenly divided between the two political parties, and any concerns raised by voters are to be directed to the absentee voter board. If the absentee voter board is in conflict, then the matter is to be decided by the county election board.

Counties may have other support staff at early voting locations. However, voters are to be supported by the absentee voter board teams.

See the "Absentee Voter Board" section above for more information.

Compensation for Using Sites as an Early Voting Location

School buildings, fire stations, and other public buildings must be made available for use as an early voting location without charge to the county. A county cannot be required to sign an agreement to assume liability as a condition for using the public building as a polling place. (IC 3-11-8-4)

Accessibility Requirements for Early Voting Locations

In-person absentee voting locations (or "early" voting sites) must be located in an accessible facility for elderly voters and voters with disabilities. (IC 3-11-10-26.7) The sites must comply with state and federal standards concerning parking areas, paths to the facility where voting occurs, the entrance to the facility, passages within the facility, and the room or area within the facility where voting occurs. (IC 3-11-10-26.7)

County election administrators may purchase additional equipment to aid a site in becoming compliant with the Americans with Disabilities Act (ADA). For example, portable wheelchair ramps may be used to help a wheelchair user bridge the surface of a parking lot to the elevated level of a sidewalk or door entrance. Portable "doorbells" may be placed outside the voting entrance for an individual to push and alert a poll worker inside the individual needs assistance opening the door. If voting occurs on the second floor or an elevated platform inside a polling location, please ensure any elevators or wheelchair lifts are operational before early voting begins.

The accessible voting area must be on an accessible route and have adequate maneuvering space for voters who use wheelchairs or other mobility aids. Allow approximately five square feet for a wheelchair to navigate behind and around the machine. Blinds on windows behind check-in staff should be closed so voters who read lips can communicate with workers. Tables should have a clear knee space of at least 27 inches.

Each early voting location must have at least one voting system equipped for an individual with disabilities, such as a direct record electronic (DRE) voting system or other ballot marking device. Poll workers must be trained on how to use the accessible features of a voting system and create a welcoming environment for all voters.

The U.S. Department of Justice Civil Rights Division includes an ADA checklist for polling place locations on its website: https://www.ada.gov/votingck.htm

Photo Identification Requirements

An absentee voter casting a ballot before an absentee board in the office of the circuit court clerk (or a satellite office of the clerk) before Election Day is required to provide proof of identification in the same manner as a voter who casts a vote in person at the polls on Election Day. (See "Photo Identification" section of this manual.) (IC 3-11-10-26)

If the voter is unable or declines to present the identification, the voter is permitted to cast a provisional ballot. (IC 3-11.7-5-2.5) The provisional ballot voter should complete the affidavit of the challenged voter (PRE-4), complete the provisional absentee ballot, seal the marked provisional absentee ballot in the ABS-6 security envelope, enclosed the sealed ABS-envelope in the PRO-10 envelope, and sign the PRO-10 security envelope.

Counties using SVRS to process absentee in-person voters in real-time should record the voter as casting an absentee ballot and attach the ABS-IN PERSON application to the outside of the PRO-10 security envelope. Counties using an ePollbook to substitute for the ABS-IN PERSON application should have the provisional ballot voter sign the ePollbook. Counties using an ePollbook and an electronic voting system (DRE) during in-person absentee voting should attach the affidavit created by the county election board that is used in place of the ABS-IN PERSON application to the PRO-10 security envelope. (IC 3-11-10-26; IC 3-11.7-2-2)

Voters who reside in a state licensed care facility (nursing home, for example) that is used as polling place, vote center, or satellite absentee facility are exempt from the Photo ID requirement to vote in-person. (IC 3-10-1-7.2; IC 3-11-8-25.1) However, the voter must still provide a voter ID number on their absentee application for it to be matched or confirmed by county election officials before mailing an absentee ballot, dispatching an absentee voter board, or in the rare instance the ABS-In Person application is used, before the voter's application can be processed.

If a voter wanting to vote an in-person absentee ballot fails to provide proof of identification, the voter must instead cast a provisional ballot. The absentee voter board, both orally and in writing on the Notice and Instructions to Provisional Ballots (PRO-9) form, must provide the voter an explanation of the actions that the voter must take for the provisional ballot to be counted.. (IC 3-11-10-26)

Proof of Residency Documentation (ABS-12) for Certain First Time Voters

Certain first-time voters who registered to vote using a paper state or federal voter registration application may be required to submit proof of residency for their absentee ballot to be counted, if the voter ID number (DLN, SSN4) provided on their registration form cannot be validated using SVRS or if the voter required to provide proof of residency has not already submitted the documentation to the county.

A copy of a valid Indiana driver's license or state ID card where the residence address on the ID matches the voter's registration is one of several acceptable residency documents, including a utility bill, paycheck stub, or a public college or university school transcript. (IC 3-7-33-4.5; IC 3-11-8-25.2)

During early voting, an absentee voter with a "proof of residency" flag on their poll book entry may be offered a provisional ballot if the voter cannot provide acceptable proof of residency. The voter will complete the challenged voter affidavit on the PRE-4/PRO-2 envelope and the member of the absentee voter board who challenges the individual completes the challenger affidavit. If using a ballot card, the voter is issued a provisional ballot that is sealed in the ballot security envelope that is first signed by the voter and then the absentee voter board members. The ballot

security envelope is placed inside the PRE-4/PRO-2 envelope, and the outer envelope is sealed. The voter then completes the PRO-2 affidavit before leaving.

Additionally, the absentee voter board at the early voting location must provide the ABS-12 notice to the voter so that the voter can comply with the requirement and have their absentee ballot counted on election day. (IC 3-11-10-28)

Proof of residency documentation must be received by the county voter registration official not later than 6 p.m. on Election Day for the voter's absentee ballot to be counted.

See "Processing Absentee Applications" section in this Manual for more details.

Early Voting Application (ABS-IN PERSON) Deadline

An application to request an in-person absentee ballot to be issued during early voting (ABS-In Person) is a publicly available form available on the state's website. However, , since all counties are using electronic pollbooks (ePollbooks) for early voting, which eliminates the need for a paper application if certain procedures are followed (IC 3-11-10-26(d)). Should the paper application be needed, counties will generally make these forms available at early voting locations for voters to be completed on-site.

If the ABS-In Person application is used, it **must** be received by the circuit court clerk, the Lake County Election Director, or the Porter County Election Director not earlier than the date the registration period resumes following an election and not later than noon (prevailing local time), on the day before Election Day, if the voter is voting absentee in person at the clerk's office or satellite absentee voting facility. If the voter is waiting in line before the early voting site closes for the day, the voter may still complete the paper absentee application, submit it for county review and approval, and be issued an absentee ballot, if found to be a qualified voter.

See "Early Voting Ballot Deadline" section below on how to identify voters in line before the site closes to ensure the county is only processing those individuals who were in the queue at closing time.

NOTE: **The voter identification requirement for absentee ballot applications does not apply to early voting (in-person absentee voting) in counties that use electronic poll books to sign in voters**. However, if a county uses the ABS-In Person application instead of the ePollbook, then a voter will need to provide their voter ID number or a photocopy of the voter's photo ID with their application in addition to presenting an ID to vote early. More information about these requirements can be found in the other absentee ballot application sections of this Chapter.

NOTE: Counties may use an ePollbook only during early voting OR during early voting and on Election Day. (IC 3-7-29-6).

Early Voting Ballot Deadline

The deadline for early voting at the Clerk's Office or satellite early voting location, including designated vote centers, is 12:00 p.m. (noon), prevailing local time, the day before the election. However, a person who queued up in the line to absentee vote in-person on or before early voting ends each day and at the noon deadline for the final must be permitted to vote, if otherwise eligible.

When the deadline to absentee vote in person at the clerk's office or satellite location arrives, a person designated by the clerk must determine who the last person in line to vote is and do one of the following:

1) Write down the name of each voter.

2) Stamp each voter's hand.
3) Stand, or designate another individual to stand, immediately behind the last voter who may vote.

Completing a Voter's Abandoned Early Voting Absentee Ballot

Similar to the procedures used on Election Day when a voter does not cast their ballot, if the voter is still present at the early voting location, a member of the absentee voter board at the early voting location shall attempt to advise the voter not to leave the early voting location because the voter's absentee ballot has not been cast and permit the voter to return to the voting booth to complete the process of casting the voter's absentee ballot.

If the voter has left the early voting location or declines to return to the voting booth, then the absentee voter board shall use one of the following procedures based on the type of ballot being used by the voter at the early voting location:

Traditional Hand Counted Paper Ballots and Optical Scan Ballot Cards

The absentee voter board at the early voting location shall do the following:

1) Enter into the voting booth and place the voter's ballot inside the absentee ballot return envelope provided so none of the voter's marks can be seen.
2) Transfer or deposit absentee ballot return envelope to the location where previously cast absentee ballots have been secured.
3) Promptly complete a form prescribed by the Indiana Election Division, that is signed by both members of the absentee voter board, containing all the following:
    a. The name of the voter who left the clerk's office or satellite office without completing the process of casting a ballot if the voter's name is known.
    b. The approximate time that the voter left the clerk's office or satellite office.
    c. Whether the voter was advised that the voter could return to the booth to complete the casting of the ballot.
    d. A statement made under the penalties for perjury indicating that:
        i. the absentee voter board members jointly transferred or deposited the envelope or folded ballot in the location where previously cast absentee ballots had been secured; and
        ii. the absentee voter board members (and any other person) did not make any alterations to the choices made by the voter.

Direct Record Electronic (Electronic Voting System)

The absentee voter board shall enter the voting booth, complete the process of casting the absentee ballot for the voter, and complete the form described in the paper ballot/optical scan ballot card section above.

After the absentee ballot has been sealed in an absentee ballot return envelope (paper ballot/optical scan ballot card) or cast (DRE), the absentee voter board shall mark on the electronic poll book (if used) or in the statewide voter registration system (SVRS) that the voter has returned an absentee ballot. Since the absentee ballot is placed into an unsigned absentee ballot envelope, the absentee ballot will be subject to the absentee ballot missing signature procedure found in IC 3-11.5-4-13.6. (IC 3-11-10-26.4)

Assistance to Voters Casting Early Voting Absentee Ballots

A voter with a disability or who is unable to read or write English may request assistance with completing their ballot. The voter may request assistance from the bi-partisan absentee voter board members or a person of the voter's choice, other than the voter's employer, an officer of the voter's union, or an agent of the voter's employer or union.

The two members of an absentee board assisting an absentee voter voting in person at the clerk's office or satellite absentee facility or the individual designated by the voter must complete the PRE-3 affidavit before entering the voting booth to cast an absentee ballot. The absentee voter board will keep the PRE-3 form and return it with the other election supplies at the end of the day. (IC 3-11-9-2; IC 3-11-9-3)

Political Party Watchers at Satellite Early Voting Offices

A bona fide county political party (i.e., Democratic, Libertarian or Republican Party) may appoint up to two (2) watchers for each satellite office for in-person early voting established under IC 3-11-10-26.3. A watcher appointed to a satellite office may:

1) Enter, leave, and reenter the satellite office at any time the office is open;
2) Inspect the voting systems before absentee ballots are received at the satellite office each day;
3) Inspect the work being done by any elected official, absentee board member, or county employee at the satellite office (except when an individual enters a confidential login or password to obtain access to an ePollbook or the statewide voter registration system or to operate a voting system used for absentee voting); and
4) Witness any proceeding of the county election board or an absentee voting board at the satellite office. (IC 3-6-8-7)

Protection and Advocacy Services Commission Access to Early Voting Locations

An individual credentialed by the Indiana Protection and Advocacy Services Commission is entitled to be present in early voting locations or Election Day polling locations per IC 3-11-10-26.8 to conduct activities related to the voting access program authorized under federal law. An individual must carry an ID card detailing their status as an individual present in the polls or early voting locations who is credentialed by the Indiana Protection and Advocacy Services Commission. The credential must include the name of the person. (IC 3-11-8-15)

"Chute" and Electioneering During Early Voting

"Electioneering" means making a verbal statement, displaying a written statement indicating support or opposition to a candidate, political party, or public question appearing on the ballot, or wearing or displaying an article of clothing, sign, button, or placard that states:

1) the name of any political party or includes the name, picture, photograph, or other likeness of any candidate or currently elected federal, state, county, or local official; or
2) support for the approval or defeat of a public question.

The term does not include expressing support or opposition to a candidate or a political party or expressing approval or disapproval of a public question in material mailed to a voter or a telephone or an electronic communication with a voter.

The electioneering statute applies to early voting locations, including a requirement to establish a chute from the entrance to the clerk's office or satellite location. The chute is an area that extends fifty (50) feet in radius from the entrance to the voting location (rather than just a "length" or pathway). No electioneering can occur inside the chute or within the room where voting occurs. (IC 3-5-2.1-21)

A person who knowingly does any electioneering:

1) on election day within the polls or the chute;

2) before election day within the office of the circuit court clerk or a satellite office of the circuit court clerk established under IC 3-11-10-26.3 used by an absentee voter board to permit an individual to cast an absentee ballot or fifty (50) feet of the entrance to the office of the circuit court clerk or satellite office; or
3) except for a voter who is the person's spouse; an incapacitated person (as defined in IC 29-3-1-7.5) for whom the person has been appointed the guardian (as defined in IC 29-3-1-6); or a member of the person's household;

in the presence of a voter whom the person knows possesses an absentee ballot provided to the voter in accordance with Indiana law commits a Class A misdemeanor. (IC 3-14-3-16)

Persons Allowed in Room Where Absentee Early Voting Occurring

Before election day at the designated clerk's office or a satellite early voting location only those individuals that can be present inside a polling place on Election Day found in IC 3-11-8-15, can be in the room where early voting (or in-person absentee voting) is occurring. This list includes absentee voter board members, watchers, voters for the purposes of voting, minor children accompanying voters, those individuals authorized to assist a voter under IC 3-11-9, and others listed in IC 3-11-8-15. (IC 3-11-10-26.8)

Voting Before an Absentee Voter Board During Early Voting

A voter voting before an absentee voter board shall mark the voter's ballot in the presence of the board, but not in such a manner that either of the members of the board can see for whom the voter voted, unless the voter requests the help of the board in marking a ballot under IC 3-11-9. The circuit court clerk shall provide, to the extent practicable, the same degree of privacy to absentee voters voting at the office of the circuit court clerk as provided to voters at the polls on election day.

If a voter is required to provide proof of residency under IC 3-7-33-4.5 and does not present the required additional information before receiving the absentee ballot, the absentee ballot shall be processed in accordance with IC 3-11.5-4-3.5. Upon accepting the completed absentee ballot from the voter who is required but fails to provide proof of residency, the board shall provide the voter with a notice listing the documentation the voter may submit to the county voter registration office to comply with IC 3-7-33-4.5; and stating the address and hours of the county voter registration office. (IC 3-11-10-28)

When using a ballot card or paper ballot, the voter shall fold each ballot separately in a manner to conceal the voter's markings. The voter shall then, in the presence of the board, place the ballot in an envelope furnished by the county election board. (IC 3-11-10-28)

The ballot security envelope used for in-person absentee voting must have an affidavit printing on its fact that contains the voter's affirmation under penalties of perjury that the following information is true: the voter must indicate the voter's precinct and township (or ward and city or town) and indicate whether the voter is entitled to vote as a resident of the precinct or is entitled to vote under IC 3-10-11 or IC 3-10-12 (that is, the voter fail safe laws). The voter must **FIRST** sign and date the affidavit, and after the voter signs their affidavit, **BOTH** absentee voter board members must sign the affidavit and print the member's name. (IC 3-11-10-29)

Surrendering an ABS-Mail Ballot to Vote Early at an In-Person Absentee Voting Site

A voter who presents and surrenders a sealed and signed absentee-by-mail ballot return envelope at an early voting location may request a replacement ballot at that location rather than casting the ballot received in the mail by the voter. In a primary election, however, a voter may not request a replacement absentee ballot for a different

political party from the party indicated on the voter's initial absentee application. (IC 3-11-4-17.7; IC 3-11-4-17.8; IC 3-11.5-4-2)

The voter must complete the ABS-5 before being processed as an in-person absentee voter and receiving a new absentee ballot. Then the voter may cast the requested replacement absentee ballot at the early voting location in the same manner as any other voter who casts an absentee ballot at an early voting location. The absentee voter board working at the in-person absentee voting location must write "rejected" on the outside of the voter's original absentee-by-mail ballot and place it in the rejected absentee ballot bag.

Absentee Applications

Absentee ballot applications must be made on state approved forms, except for the Federal Postcard Application (FPCA) form and Federal Write-In Absentee Ballot (FWAB) for military and overseas voters. Applications must be mailed or emailed, upon request, to voters and party central committees, though state agencies and political subdivisions may only mail any type of absentee application to a voter or a member of the voter's family (see next section for more information). (IC 3-11-4-4; IC 3-11-4-5.8) Additionally, an absentee application to vote by mail (in English and Spanish) or by traveling board or the ABS-VPD form used by voters with print disabilities may be made online at indianavoters.com after logging into the voter's profile on indianavoters.com.

A county election board may receive absentee ballot applications on the date voter registration opens for the next election. For example, a voter may request an absentee ballot for the May 2026 primary election as early as December 1, 2025, or the date voter registration "opens" for the primary election. Applications received before this deadline are early and may not be filed or processed by county election officials. Absentee application deadlines are noted below. (IC 3-11-4-3) However, military and overseas voters using the FPCA, voters with print disabilities using the ABS-VPD form, or voters that qualify for the ABS-Attorney General form follow a different filing schedule. These ongoing applications are good for one calendar year (January 1 to December 31) and may not be filed for county processing until January 1 each year. Please see the military and overseas voter section, the voters with print disabilities, or ABS-Attorney General sections of this *Manual* for more information.

Absentee ballot applications require the applicant to swear or affirm that the information set forth on the application is true to the best of the applicant's knowledge or belief. It must also allow an individual accepting a completed application from another person to include the date the individual received it, other than absentee applications for early voting at the clerk's office or a satellite location.

A voter must sign the voter's own absentee ballot application, unless the voter has a disability preventing them from signing their application. If a voter with disabilities cannot sign the application, the voter can ask the person holding the voter's power of attorney to assist the voter in completing their application, and this person may then sign the absentee application for the voter. In addition, if the voter does not have a power of attorney, the voter may designate an individual eligible to assist the voter under IC 3-11-9-2(a) (that is, any person except for the voter's employer or union representative) to sign the application on behalf of the voter and add the individual's name to the application. A person who assisted with the completion of the application to swear under the penalties of perjury to the statements required to be made by the assisting person on the application. (IC 3-11-4-2)

The absentee ballot application must also set forth the penalties for perjury. These absentee ballot application requirements do not apply to certain military and overseas voters who swear an oath specified under federal law.

Limitations on State or Political Subdivisions Mailing Any Absentee Ballot Application

An agency of the state or a political subdivision (meaning a county, city, town, township, school corporation, public library, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, special taxing district, or other type of local governmental corporate entity) may only mail any type of absentee ballot application (ABS-Mail, ABS-Traveling Board, ABS-VPD, FPCA, etc.) to an individual who requests the application for themselves or their family members (meaning their spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece). However, these entities may email or hand-deliver absentee applications to any voter.

This limitation does not apply to any private individual, political party, or other entity providing an absentee ballot application to another individual. For example, a political party may mail any type of absentee ballot application to voters, even if the absentee ballot application is unsolicited. Additionally, government forms, like the absentee ballot application, must still be made available to an individual, political party, or other entity appearing in person to request copies of the form. However, any entity other than the Indiana Election Division or county election board mailing an absentee ballot application to a voter must comply with applicable disclaimer requirements. See the "Required Disclaimer for Mailings that Include an Absentee Ballot Application" section later in this Chapter for more information.

Voter Identification Requirements to Submit Any Absentee Ballot Application

Voters who want to vote by any absentee method must provide voter identification information with their absentee ballot application, including the ABS-Mail, ABS-Traveling Board, FPCA, etc. The application gives voters two options to select from:

1) Provide the voter's Indiana driver's license or state ID card number OR the voter's unique ID found in the statewide voter registration system on the voter's registration record OR the voter's last four digits of their Social Security number.
2) Photocopy of the voter's ID that complies with the state's photo ID law. See the "Photo ID Law" section of the "Election Day" chapter of this Manual for more information.

If a voter selects option 1, county election officials will confirm the number provided on their absentee ballot application matches the voter's registration. If the provided voter ID number is not on the voter's registration record or does not match, then county officials will attempt to validate the provided voter ID number using the statewide voter registration system against records maintained by the Indiana Bureau of Motor Vehicles or the Social Security Administration. If the voter ID number is validated through this process, then the voter ID number will be added to the voter's registration record, and the bi-partisan review process will continue. If the voter ID number is not validated, then the absentee ballot application will be found defective or be rejected and the voter will be sent notice (ABS-24). Voters are encouraged to provide more than one of the required voter ID numbers.

If a voter selects option 2, county election officials will confirm the photocopy of the ID meets the state's voter ID law. If the ID complies with this statute (IC 3-5-2.1-84), then a bi-partisan team will continue the review of the application. If the supplied ID does not comply with the state's photo ID law, then the absentee ballot application will be found defective or be rejected and the voter will be sent notice (ABS-24). Because an absentee application can be transmitted over email, a voter can send a digital image or photograph of the voter's ID with their emailed absentee ballot application. A copy of the voter's valid photo ID must be provided each time an absentee application is submitted.

However, an absentee ballot application submitted online through the Indiana Voter Portal (www.indianavoters.in.gov) must require the voter to provide the voter's driver's license number, Indiana identification card number, the unique identifying number assigned to the voter's voter registration record, or the last four digits of the voter's Social Security number to access the absentee application. The voter is only required to provide one of these types of voter identification numbers but the voter ID number on the voter's registration must match the information entered by the voter.

If the numbers match, then the voter can access the online absentee application. If the numbers do not, then the voter can provide an Indiana driver's license or state ID card number or the last four digits of their Social Security number when prompted. The voter will conditionally submit their absentee ballot application. County officials will validate the voter's supplied ID number against BMV or SSA records in SVRS. If the voter ID number is validated, it will be added to the voter's registration record, and the bi-partisan team will continue their review of the application. If the voter ID number cannot be validated, then the absentee ballot application will be found defective or rejected and the voter sent an ABS-24 notice. Note: Voters will not be able to upload a copy of an ID that complies with the state's photo ID law through the online portal. (IC 3-11-4-2; IC 3-11-4-3; IC 3-11-4-5.1; IC 3-11-4-17)

Voters using the online absentee application module on indianavoters.in.gov do not sign their absentee ballot application. The voter's signature on their voter registration record is applied to the application in SVRS. Upon completion, the voter will receive a confirmation notice and can download a copy of their submitted application. Voters should not send this copy to county officials; the application is electronically submitted for county review in SVRS.

The identification number provided on the voter's absentee ballot application, or the photocopy of the identification document provided with the application is confidential. A county voter registration official is only required to redact the confidential information in responding to a public records request under IC 5-14-3. However, the identification number will become public record when it is added to the voter's registration record.

NOTE: The Federal Post Card Application (FPCA) used by military and overseas voters is prescribed by the US Department of Defense. In the state-specific instructions, the voter ID requirement is explained, and the voter is instructed to provide a photocopy of the voter's photo ID or a voter identification number in section 6 of the FPCA.

See "Absentee Ballot Application Defect Notice (ABS-24) Process" in the *Manual* for more information on the ABS-24 notice.

Temporary BMV Credential Status Information

When the BMV provides credential information (that is, state-issued driver's license, ID card, or learner's permit) through SVRS for purposes of validating a new voter ID number on a voter's absentee application, the information shall include whether the individual was issued a temporary credential under IC 9-24-11-5(c) or IC 9-24-16-3(f) (referring an individual who holds a temporary immigration status as described in that statute). This information shall also be provided to the county voter registration official through the SVRS module. The temporary credential information provided by the BMV and given to the county voter registration official is confidential and may not be provided to the public.

Note: This is a "point in time" verification, captured at the time of the credential application, and may not reflect the individual's true status or eligibility to register to vote. Records with this indicator reflect one of the following circumstances:

- Individuals who are not US citizens and have temporary lawful status

- Individuals who are not US citizens and have lawful permanent status
- Individuals who may be US citizens and whose lawful status could not be determined at the time of the transaction and verification is pending.

Additional research is required by the election official to determine the individual's eligibility to vote. (IC 3-11-4-2.2) However, after July 1, 2025, any voter updating or applying to register to vote in Indiana with a temporary credential status as shared by the BMV must be sent a VRG-26 form to provide proof of citizenship documentation. If the voter fails to provide the documentation or provides incorrect information, then their registration application is rejected. Counties may want to review any notes found in SVRS or confirm whether a VRG-26 might have been issued to the voter but the 30 day period to respond after receiving notice has not expired to inform the decision-making of the absentee voter board or the appointed members of the county election board.

Pre-Completed Absentee Applications

A person may provide another person with a "pre-completed" absentee ballot application with only the following items provided on it: the voter's name, registration address, mailing address, and date of birth. However, a person is prohibited from providing another person with an absentee ballot application with the following items "pre-completed" on the application:

1) the address to mail the ballot (other than the individual voter's own registration address);
2) the party ballot choice in a primary election or a non-partisan public question only ballot;
3)
3) the reason why the voter is qualified to vote absentee by mail or before a traveling board; and
4) the voter identification number of the individual.

The county election board shall deny a pre-completed absentee ballot application if the application is challenged by a county election board member or absentee voter board member in a sworn affidavit (ABS-20), and the county election board, after conducting a hearing, determines that the absentee ballot application violates this requirement. (IC 3-11-4-2)

Assistance to Voters Completing an Absentee Application

The affidavit of assistance on the absentee application is required to be used if (1) a voter with disabilities received help signing the form (IC 3-11-4-2(b) or (2) a voter received help completing the following information on the form (IC 3-11-4-2(d) and (h)):

- The address to which the absentee ballot would be mailed, if different from the voter registration address of the individual;
- In a primary election, the major political party ballot requested by the individual or public question only ballot;
- The reason why the voter is qualified to vote absentee ballot by mail or before a traveling board; or
- The voter identification number of the individual.

The person assisting must complete the affidavit of assistance found on the absentee application, including:

1) The name, address, and telephone numbers of the person assisting.
2) The date of the assistance.
3) That the individual assisting complied with state laws regarding submitting applications (such as timeliness).
4) That the person assisting had no reason to believe that the applicant was ineligible or did not properly complete and sign the application.

A voter can designate any person with completing their absentee application, except for their union representative or employer. (IC 3-11-4-2; IC 3-11-9-2) However, this prohibition does not prevent a person's employer or union representative from delivering absentee ballot applications to the Indiana Election Division or county election board. NOTE: An individual holding the voter's power of attorney must attach the POA paperwork to the absentee application, if assisting the voter with completing their form.

Taking Custody of Another Voter's Completed Absentee Ballot Application

A person who receives a completed absentee ballot application from another person must file the application with the county election board by noon (prevailing local time), ten (10) days after receiving it, or by the applicable absentee ballot application deadline, whichever occurs first. (IC 3-11-4-2(g)) This requirement does not apply to a postal employee or to an employee of a bonded courier company.

There is a line under the signature box on the ABS-Mail, ABS-Traveling Board, and ABS-VPD applications for the person taking custody of another individual's absentee application to indicate the date the person received the absentee application from the voter.

Other than a postal employee or an employee of a bonded courier company, a person who files an absentee ballot application (other than the person's own application) with the county election board must complete and file an affidavit (ABS-17) stating the following:

1) The name, address, and telephone numbers of the person filing the application.
2) That the individual filing the application complied with state laws regarding submitting applications.
3) The date (or dates) that the absentee ballot applications attached to the affidavit was received.
4) That the person filing the application had no reason to believe that the applicant was ineligible or did not properly complete and sign the application.
5) That the affidavit is completed under the penalties of perjury (with those penalties being set out on the affidavit).

The county election board shall record the date and time the affidavit was filed. (IC 3-11-4-2)

Required Disclaimer for Mailings that Include an Absentee Ballot Application

A mailed communication of more than 100 pieces of substantially similar pieces of mail that includes an Indiana absentee ballot application is required to set forth, in a clear and conspicuous manner, the name and mailing address of the person who mailed the communication in at least 12-point type size that is clearly readable by the recipient of the mailing with a reasonable degree of color contrast between the background and the printed statement. A communication complies with the contrast requirement if the information is printed in black text on a white background or the degree of color contrast between the background and the text of the information is not less than the color contrast between the background and the largest text included in the mailing. The requirement to include the name and mailing address of the person who mailed the communication that includes an Indiana absentee ballot does not apply to direct mailings of one hundred (100) pieces or less of substantially similar mail. (IC 3-6-4.9; IC 3-11-4-5.2)

Additionally, any person sending an absentee ballot application to an individual must print on the envelope or the enclosure constituting the envelope that contains the absentee application, using at least 16-point font size, underlined, and clearly legible print (IC 3-11-4-2):

> "(Name of person sending the absentee application) has sent you the enclosed application. This is unsolicited and is not sent by a state or local election official."

The "unsolicited" disclaimer is required if mailing one absentee application or more to an individual, even if the person consented to receiving the application from the third party organization. However, this requirement does not apply to a county or state election official when the official mails an absentee ballot application form to a voter under IC 3-11-4-4(b) or the Public Records Law (IC 5-14-3).

Finally, the campaign finance law requires the "paid for by" language on communications that may be applicable. This may mean an organization's mailing that includes an absentee application has three distinct requirements: name and mailing address in 12-point font; the "unsolicited" disclaimer in at least 16-point font and underlined; and the "paid for by" disclaimer required under the state's campaign finance law found in IC 3-9.

A person, other than a state or local election official, who mails an absentee ballot application to another individual without a disclaimer identifying the person who sent the application and stating that the application was not solicited by the person who received it and was not sent by a state or local official, violating IC 3-11-4-2(f), commits a Class A misdemeanor. (IC 3-14-1-3)

Absentee Applications as Public Records

Except for the ABS-Attorney General form, absentee applications are public records. Counties are required to make copies or scan absentee applications and make those available to individuals requesting the public documents. (IC 3-11-10-8.5) The voter ID information found on the absentee application, including any copy of their Indiana credential, is confidential and must be redacted. (IC 3-11-4-2.2(d)) All other information on the absentee application is public record and should not be redacted.

Please see the "Record Retention & Public Access" chapter of this *Manual* for more information.

Absentee Application Deadlines

A voter who is eligible to vote by absentee ballot must first file a state-approved application form requesting the ballot. Absentee applications are not kept on file for all future elections; instead, an eligible voter must submit an absentee application in each election the voter wants to vote absentee. However, military and overseas voters using the Federal Post Card Application (FPCA) have an ongoing request for an absentee ballot for one calendar year, January 1 to December 31. Voters with print disabilities can use a combined form (ABS-VPD), which is an ongoing request for one calendar year, January 1 to December 31. Voters who qualify for the Attorney General's address confidentiality program may use the ABS-Attorney General form, which is an ongoing request for one calendar year, January 1 to December 31.

As noted above, requests for an absentee ballot must be made on current or, if applicable, "grandfathered" forms. County election officials should review the forms orders signed by the co-directors of the Indiana Election Division or the Forms Master List found on the INSVRS County Portal to determine which versions are acceptable for use in an election.

An application for an absentee ballot **must** be received by the circuit court clerk, the Lake County Election Director, or Porter County Election Director not earlier than the date the registration period resumes following an election and not later than the following dates: (IC 3-11-4-3)

1) **Form ABS-In Person:** Noon (prevailing local time) on the day before Election Day if the voter is voting absentee in person at the clerk's office or satellite absentee voting facility. When the hour for closing the location or office or the deadline for voting established by IC 3-11-10-26 occurs, a voter who is in the act of

voting or in line to vote shall be permitted to vote, if otherwise qualified to vote according to law. However, an individual designated by the circuit court clerk shall determine the end of the line of voters who are waiting to vote; and use one (1) of the following methods to identify the voters in the line who may vote if otherwise qualified to vote according to law:

a. Write down the name of each voter.
b. Stamp each voter's hand.
c. Stand, or designate another individual to stand, immediately behind the last voter who may vote. (IC 3-11-10-29.2)

2) **Form ABS-Traveling Board**: Noon (prevailing local time) on the day before Election Day, if the application is a mailed, emailed, faxed, or hand-delivered application from a confined voter or person caring for a confined person and the applicant requests that the ballot is delivered by an absentee (traveling) voter board.

3) **Form ABS-Mail or Form ABS-Attorney General:** 11:59 p.m. (prevailing local time) twelve (12) days before Election Day, if the application is a mailed, emailed, faxed or hand-delivered application from a voter wanting to vote by mail. (IC 3-11-4-3)

4) Form ABS-VPD: This form is used only by voters with print disabilities as defined in IC 3-5-2.1-107 as an individual who is unable to independently mark a paper ballot or ballot card due to blindness, low vision, or a physical disability that impairs manual dexterity. A voter with print disabilities must file an ABS-VPD form not later than 11:59 p.m. (prevailing local time) twelve (12) days before Election Day, if the application is a mailed, emailed, faxed, or hand-delivered. (Note: if the voter is requesting an update to the voter's registration address outside of the voter's precinct, then the ABS-VPD form must be received by the voter registration deadline for the election to process the registration request. The absentee voter may qualify for a voter fail-safe to vote one last time in their old precinct. If so, the voter must file the VRG-4/12 with their absentee ballot application.)

5) **Federal Post Card Application (FPCA):** This form is used only by military and overseas voters. The deadline to receive an FPCA requesting a faxed or emailed application is noon (prevailing local time) on the day before Election Day. The deadline to receive an FPCA requesting a vote-by-mail absentee ballot is 11:59 p.m. (prevailing local time), twelve (12) days before Election Day. Note: the VR deadline for military or overseas voters using the FPCA is extended to 11:59 p.m. (prevailing local time), eight (8) days before the election. County officials must process the registration request if the FPCA is timely filed. Other rules may apply. Please refer to the "Military & Overseas Voters" section of this *Manual* and review the *Military and Overseas Voters' Guide* published by the Indiana Election Division for more details.
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For clarification, "received" means the clerk, Lake County Election Director, or Porter County Election Director has the absentee application in their possession, whether it be mailed, hand-delivered, faxed, or emailed. Absentee applications mailed on or before the deadline date as determined by the absentee method (mail, in-person, traveling board) and received after the proper deadline date may not be processed. Unlike voter registration forms, postmark dates on absentee applications are not to be considered if the application was received after the deadline.

The exception to this rule is any absentee ballot applications timely received by the Indiana Election Division or county election official that are mailed to county election officials on or after the associated deadline date for the absentee method. Those applications are to be treated as "timely" received by the county election official associated to the voter and are subject to the same review to determine if an absentee ballot is to be issued to the voter. (IC 3-11-4-3)

A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls. (IC 3-11-4-1(b))

A county election board or board of elections and registration, by unanimous vote of its entire membership, may authorize an individual who is otherwise qualified to vote in person and wishes to vote by absentee ballot to file an application for an absentee ballot if the board determines that:

1) during the last eleven (11) days before the election:
    a. the governor has declared a disaster emergency under IC 10-14-3-12; or
    b. the county has declared a local disaster emergency under IC 10-14-3-29;
2) the disaster emergency prevents the individual from voting in person at a polling place; and
3) an absentee voter board can receive the voter's absentee ballot not later than 6 p.m. on election day.

The same official absentee ballots must be used in these emergency circumstances. Taking into consideration the amount of time remaining before the election, the commission, the county election board, or the board of elections and registration shall determine whether the absentee ballots are transmitted to and from the voter by mail or personal delivery. An absentee ballot that is personally delivered shall comply with the requirements of IC 3-11-4-19, IC 3-11-4-20, and IC 3-11-4-21. (IC 3-11-4-1(c)(d))

Absentee Application Processing

The county election board (or absentee voter board in clerk's office) must examine each absentee ballot application to determine whether:

1) the applicant is a registered voter;
2) the applicant's voter identification corresponds to their voter registration record or, if a photocopy of the voter's ID is attached, whether the ID meets the requirements of the Indiana photo ID law (see above "Voter Identification Requirements to Submit Any Absentee Application" section);
3) the information on the application appears to be true; and
4) the application has been completed and filed in accordance with Indiana and federal law. (IC 3-11-4-17.5)

Upon receiving an application to vote absentee, determine if the applicant is a registered voter of the precinct or the voter has submitted a voter registration application and the voter registration status is in pending status. If the applicant is not a registered voter of the precinct or have an application that has been process and their registration is in "pending" status, their application must be ***DENIED.***

NOTE: If an individual's voter registration application is "pending," the absentee ballot may not be sent to the voter until the voter's registration status becomes active. (IC 3-11-4-18(c))

If the voter has changed the voter's name or address *within the precinct,* then the application serves as a change of address or name change request, and the application may be processed. The voter registration record should be updated as a correction before Election Day, if possible, to reflect the address change or name change.

If the new address of the applicant is *outside* the precinct, the voter must complete a change of address using the state or federal voter registration form to update their registration before the registration deadline. Or, if eligible for a voter fail-safe after the registration deadline, the voter must include the VRG 4/12 form with their absentee application for the county to review and transfer the voter to the proper precinct, if appropriate. (IC 3-11-4-17.5)

If the voter is required by law to provide additional proof of Indiana residency documentation as part of the registration process but has not yet provided it, then the county election board must approve the application if the application otherwise complies with state law. However, the county election board must add a notation to the application and to the statewide voter registration system indicating that the applicant will be required to provide this additional documentation to the county voter registration office before the absentee ballot may be counted. (IC 3-11-4-17.5(e)) The county election board must also send the ABS-12 notice, which is generated in SVRS, with the voter's absentee ballot packet to the voter stating that the voter is required to provide this additional residence documentation to the county voter registration office not later than 6 p.m. on Election Day for the absentee ballot to be counted. (IC 3-11-4-18) Proof of residency documentation and the requirement for the voter's name and residence address to conform to their registration application is covered in the "Voter Registration" chapter of this *Manual*.

County election administrators add the voter's absentee application request in SVRS. The system allows counties to perform a variety of functions to expedite the mailing of absentee ballots and the creation of reports to track absentee activity. County election officials may want to refer to training manuals found in the SVRS county portal for more details. Additionally, absentee information entered into SVRS allows a voter to track when their absentee ballot was mailed and received by the county election board at www.indianavoters.com.

After an absentee ballot application is approved, the voter is provided with a ballot and, if voting by mail, additional materials to aid in completing it. County election administrators must organize and store absentee applications by precinct.

Additionally, applications to absentee vote by mail and traveling board must be copied or scanned and, with some exceptions, made available for public inspection before the voter's returned absentee ballot is attached to the original application and stored for Election Day counting. (IC 3-11-10-8; IC 3-11-10-8.5) ABS-Attorney General applications are not subject to public inspection. (IC 3-11-10-8.5) Further, the voter identification number provided on the voter's absentee ballot application is confidential. A county voter registration official is only required to redact the confidential information in responding to a public records request under IC 5-14-3. However, the identification number will become a public record when it is added to the voter's registration record. See the "Retention of Election Records" section of this *Manual* for more information.

Please see "Absentee Ballot Application Defect Notice" for more information related to any absentee ballot application that is found to be defective or rejected.

Primary Election Major Party Preference

In a primary election, a voter must indicate a major party preference – Democratic or Republican – on their application. A non-partisan "Public Question Only" choice is also available and can only be selected if a special referendum election is held in a jurisdiction within the county. See "Ballot Layout" section of this *Manual* for more information. A primary election absentee voter's application must be rejected if party preference or "public question only" is not selected. (IC 3-11-4-18.5)

If this information is missing, the application is considered incomplete and should be rejected. The voter must submit a new absentee application. However, if the voter submits a new absentee application (or a completed absentee ballot) and changes their mind regarding their party affiliation for the primary, this is not sufficient reason for the absentee application or absentee ballot to be considered "defective" for purposes of cancelling an absentee ballot application or sending a replacement absentee ballot. (IC 3-11-4-17.7)

In a primary, once a voter writes the voter's party on the poll list, or the voter enters the voter's primary party ballot choice into an electronic poll book during in-person absentee "early" voting or on Election Day, or the voter has been mailed or otherwise provided with a primary ballot, the voter may not change the voter's primary party ballot choice. Nor may a voter who requests a replacement absentee ballot in a primary be provided with a replacement absentee ballot for a different political party than the original ballot requested. (IC 3-10-1-24; IC 3-11-4-17.7; IC 3-11-10-26)

Challenged Absentee Applications or Voter in "Pending" Status

A county election board member or absentee ballot voter board member may challenge an absentee ballot application by filing an affidavit (ABS-20). (IC 3-11-4-18.5) The affidavit must contain a brief statement of the facts indicating that:

1) the applicant is not a voter of the precinct according to the voter registration record;
2) the application contains a false statement; or
3) the application has not been properly executed or filed in accordance with state or federal law.

If the absentee voter board member files a challenge affidavit (ABS-20) or the two absentee board members cannot agree on whether to approve or deny the application, the absentee voter board members shall refer the application to the county election board for determination. A majority vote of the county election board is required to determine the challenge and if the voter's absentee ballot application should be approved or rejected. (IC 3-11-4-17.5)

Once the challenge affidavit is filed, the county election board shall notify each applicant and conduct a public hearing on the challenge and either approve or deny the application. The county election board may also refer the matter, if appropriate, to the county prosecuting attorney.

Alternatively, if a challenge affidavit is submitted by a person who is applying to vote absentee in the clerk's office or satellite voting location during early voting, the voter shall be permitted to cast a provisional ballot, which the county election board shall retain and not transmit to the absentee ballot counters for processing. (IC 3-11-4-17.5)

The requirement that absentee ballots be mailed on the same day that the absentee ballot application is received does not apply to absentee ballot applications that have been challenged or individuals whose voter registration application status is "pending." (IC 3-11-4-18.5)

Absentee Ballot Application Defect Notice (ABS-24) Process

The county election board is required to notify any applicant whose absentee ballot application (ABS-Mail, FPCA, ABS-Traveling Board, etc.) is found defective, denied, or rejected. This notice of disposition (ABS-24) is created in SVRS. Notice may be given by personal delivery, mailing to the voter, or e-mailing the voter if an email address has been provided. (IC 3-11-4-17.5)

Depending on the scenario, an additional review by the county clerk may be necessary after the bi-partisan application review process contemplated in IC 3-11-4-17.5 for all absentee ballot applications, including ABS-Mail, ABS-Traveling Board, ABS-In Person, ABS-VPD, FPCA, and ABS-Attorney General forms. The defect notice processes are established based on the type of absentee ballot application and when the application is received.

Defect Notice Process No. 1

If the application is:

1) an application to receive an absentee ballot by mail (ABS-MAIL);
2) the application is received by the county not later than twelve (12) days before election day (11:59 pm); and

3) the circuit court clerk (or election director in Lake County or Porter County) determines that the application does not fully comply with the requirements of the election code, then the clerk (or election director in Lake County or Porter County) must send the voter:
    A. a new absentee ballot application; and
    B. the ABS-24 form generated in SVRS that includes a brief explanation of the defect found on the ABS-Mail application, a statement informing the voter that the voter is not entitled to vote before election day by absentee ballot unless the application complies with all legal requirements, and instructions for submitting a second application for an absentee ballot.

Note: If the absentee ballot application is for any other method of absentee voting (Travel Board, FPCA, ABS-VPD, for example), then the county election board will reject the absentee ballot application under IC 3-11-4-18.5 and generate the notice of disposition (ABS-24) in SVRS to send to the voter AND follow Defect Notice Process No. 3 (if implemented by the circuit court clerk for that election).

Defect Notice Process No. 2

If the application is:

1) an application to receive an absentee ballot by mail (ABS-MAIL);
2) the application is received after the county by the absentee ballot by mail application deadline (11:59 pm, twelve (12) days before the election) and before noon the day before election day; and
3) the circuit court clerk (or election director in Lake County or Porter County) determines that the application does not fully comply with the requirements of the election code; then the clerk (or election director in Lake County or Porter County) must:
    a. send the voter an ABS-24 form generated in SVRS that includes a brief explanation of the defect found in the application, a statement informing the voter that the voter is not entitled to vote before election day by absentee ballot unless the application complies with all legal requirements, and include a statement that the application was received after the deadline for the application to be processed.

Note: If the absentee ballot application is for any other method of absentee voting (Travel Board, FPCA, ABS-VPD, for example), then the county election board will reject the absentee ballot application under IC 3-11-4-17.5 and generate the notice of disposition (ABS-24) in SVRS to send to the voter AND follow Defect Notice Process No. 3 (if implemented by the circuit court clerk for that election).

Defect Notice Process No. 3

This cure process applies to any absentee ballot application:

1) that was received before the applicable deadline for that application type under IC 3-11-4-3;
2) found to be defective by the county election board (or the absentee voter board) during their review of the application; and
3) that the circuit court clerk (or election director in Lake County or Porter County) determines that the application does not fully comply with the requirements of the election code.

The circuit court clerk (or election director in Lake County or Porter County), notwithstanding IC 3-11-10-25(e) (that permits an absentee traveling board to visit an individual already determined to be a voter of the county, and with the unanimous approval of the county election board, permits the voter to complete the absentee application and proceed to cast an absentee ballot before the traveling board during that visit if both members of the absentee voter board approve the application), may:

A. deliver a new absentee application in person to the voter;
B. approve the new application if the clerk determines that the defects in the first application have been corrected; and
C. if accompanied by a bi-partisan absentee voter board, provide an absentee ballot to the voter.

The voter may then return the completed absentee ballot to the absentee voter board that accompanied the clerk with the new application or return the application county election board by 6 pm on election day. If a county circuit court clerk (or election director in Lake County or Porter County) chooses to provide this cure process, it must be done in a uniform manner to all applications covered by this procedure.

Note: If an absentee ballot application is not covered under Defect Notice Process No. 1 or Defect Notice Process No. 2, as described above, and the county circuit court clerk does not implement Cure Process No. 3 in their county for the election, then any absentee ballot application must still go through the standard review process by the county election board or absentee voter board at the clerk's office under IC 3-11-4-17.5 and IC 3-11-4-18.5.

Additionally, the requirement that each voter whose absentee ballot application is denied is to receive a notice of the denial (ABS-24) applies to all application whether they are put through one of the cure processes described above. (IC 3-11-4-2; IC 3-11-4-17.5; IC 3-11-4-17.6)

Absentee Ballots

Absentee Ballot Printing & Mailing Deadline

In addition to printing ballots used on Election Day, each county election board must print absentee ballots. Information on ballot layout, instructions, and requirements for optical scan ballot cards and electronic (DRE) voting machines can be found in the "Ballot Layout" chapter in this *Manual*.

Not less than sixty (60) days before the date of a primary, general, or municipal election, the circuit court clerk must estimate the number of absentee ballots required in the county for the election. (IC 3-11-4-10) After completing the estimate, the county election board shall immediately begin to have these ballots printed. (IC 3-11-4-14)

To comply with federal and state law, the absentee ballots must be **delivered** to the circuit court clerk at **least fifty (50) days before** any election and then **transmitted to approved applicants not later than forty-five (45) days** before any election. (IC 3-11-4-15; Military and Overseas Voter Empowerment Act [MOVE]) This requirement applies to all absentee applicants, including those filing the ABS-Mail, ABS-VPD, or Federal Post Card Application (FPCA).

The absentee print order delivery date and absentee ballot mailing date noted above is the absolute deadline for counties to comply with Indiana election law. A county election board may receive their absentee ballot print order in advance of the fifty (50) day deadline. Should a county receive their absentee ballot delivery early, then it must begin mailing absentee ballots not later than five (5) days after the date of the absentee ballot print order delivery. (IC 3-11-4-18(c))

EXAMPLE: In your county absentee ballots are delivered to the circuit court clerk on the 55th day before an election. If an unchallenged absentee ballot application is received on the 75th day before the election, then the ballots must be transmitted to the voter by the 50th day before the election (meaning five days after delivery on Day 55), to all voters who have already submitted an absentee application. After the 50th day before the election, absentee ballots are to be mailed the same day the unchallenged absentee application is received and approved.

The date a county election board begins mailing absentee ballots is important. After the initial push of mailing ballots out to absentee applications on file, a county must transmit an absentee ballot on the day of the receipt of the approved application. However, if a voter's absentee application is challenged or the voter's registration is in pending status, then the ballot may not be sent until the challenge is resolved or the voter's registration status becomes active. (IC 3-11-4-18(c))

The statewide voter registration system is designed with a default "ballot ready date," or the date the initial push of absentee ballots is to be mailed. Counties may submit a county authorization form in SVRS to move the date up in the calendar, but the ballot ready date must be set not later than 45-days before the election. This mail date is communicated to voters on indianavoters.com, so it is important counties set an accurate date in the system.

Any absentee ballot sent by mail to a voter MUST be sent by non-forwardable U.S. mail and include a postage pre-paid return envelope. (IC 3-11-4-20; IC 3-11-10-24)

Additional Absentee Ballot Requirements

Absentee optical scan or paper ballots (direct record electronic or DRE voting system are exempt from this rule), regardless of whether they are mailed or voted in person, must have the following three validations placed upon the back of the ballot **before being issued to a voter:**

1) the circuit court clerk's official seal (stamp);
2) the signature or facsimile signature of the circuit court clerk (unless the clerk is a candidate for elected office – see below); and
3) the initials of both members of an absentee voter board. (IC 3-11-4-19)

If the individual serving as circuit court clerk is a candidate for re-election or election to another elected office, then the name or signature of this individual cannot appear on the ballot (except as a candidate). Instead, the ballot must contain a uniform device or symbol prescribed by the Indiana Election Division. (IC 3-5-4-9) If the circuit court clerk is only on the ballot to run for a party office (precinct committeeman and state convention delegate), then state law does not require the county to use the generic seal and the clerk's signature may appear on the ballot.

Bi-Partisan Initials on Absentee Ballots

In the case of a mailed absentee ballot, including a "scantron" style of optical scan ballot, the initials of the two appointed members of the county election board could be substituted for those of the absentee voter board. In the case of a ballot delivered by an absentee voter board, the ballot must be initialed by the absentee voter board delivering the ballots by travel board or during in-person early voting or (where a county election board adopts a resolution to permit this procedure), by the county election board or the election board member's representative. During in-person early voting in counties that use optical scan ballot cards, the absentee voter board may initial the absentee ballot up to 24 hours before the ballot is provided to the voter. (IC 3-11-4-19; IC 3-11-10-19; IC 3-11-10-27)

During early voting at the clerk's office or satellite office, absentee voter board members may affix their initials to the absentee ballot card after the voter marks and prints their ballot from a ballot marking device used with an optical scan voting system. The absentee ballot must be presented in a manner so that the absentee board cannot see how the voter marked their ballot.

Counties using a ballot marking device with their optical scan voting system for early voting can continue to require absentee board members to affix their initials to the blank absentee ballot card before handing it to the voter.

Whichever method is selected, it is critical for bi-partisan initials to be affixed to all absentee ballots before the completed absentee ballot is sealed in the security envelope for storage and counting on Election Day. (IC 3-11-10-27)

Further, an absentee board member, a county election board member, or the county election board member's representative is prohibited from placing their initials on an absentee ballot until after the voter's application for that absentee ballot has been approved or not more than twenty-four (24) hours before an absentee ballot is provided to a voter. An initialed absentee ballot must be kept under bipartisan control after the ballot is initialed until the ballot is mailed. (IC 3-11-4-19; IC 3-11-10-27)

Absentee ballots that are not initialed by two individuals may not be counted. (IC 3-11.5-4-13) In the case of a recount or contest petition, an absentee ballot that does not have the initials of the absentee voter board or the county election board members may not be counted. (IC 3-12-1-13) If the ballot lacks the clerk's seal and signature (or the alternative device or symbol prescribed by the Indiana Election Division), the ballot may also be challenged if there is evidence of fraud. (IC 3-12-1-12) ***Therefore, it is important that each absentee ballot is validated with two sets of initials before being mailed or handed to a voter by an absentee voter board during in-person early voting or by traveling board!***

Absentee Ballot Security Envelopes

Before the 2024 election cycle, the Indiana Election Division revised the absentee ballot envelope templates (ABS-6, ABS-8, ABS-10A, ABS-10B, ABS-16) and created a style guide for counties to follow. The state worked with each county to design "camera ready" envelope designs approved by the USPS to share with their print vendors. Mail design features include the correct placement of the official campaign mail "swoop" and proper wording of USPS terms to ensure the mail is being handled correctly.

When requested, this design included on the return envelope an intelligent mail bar code for USPS equipment to "read" and better direct the mail piece back to your office. If your mailing address for your absentee-by-mail ballots has changed, please contact the Indiana Election Division (elections@iec.in.gov) as soon as possible to see how the agency can support any corrections to the template. The templates and style guide are available on the INSVRS County Portal.

Vote-By-Mail Absentee Ballot Packet

A "packet" of election materials must be sent to voters who request to vote absentee by mail. There are four essential elements: 1) outer envelope (ABS-8), 2) absentee ballot, 3) voted absentee ballot envelope & affidavit (ABS-6), and 4) absentee voter's bill of rights. Counties may include additional information to a voter, short of electioneering. For example, a county may insert a document on how to mark their ballot or remind voters to return ballots as soon as possible because of delays in postal processing.

1) Outer Absentee Ballot Envelope

This is the larger of the two envelopes needed to mail an absentee voter's election materials. The ABS-8 outer security envelope template created for each county now includes all legal and postal requirements. (IC 3-11-4-18(a)) Each template was reviewed by USPS mail design analysts, though county election boards are encouraged to reach out to their USPS contact to review the final envelope used by the county. Learn more at www.usps.gov or you can reach a USPS mail design analyst at 855-593-6093 or mda@usps.gov.

2) Absentee Ballot
The "Absentee Ballot Printing" section above includes important reminders for review. Be certain absentee voter boards (or the county election board members) are affixing their initials to the back of the ballot in the box or line designated. Please see IC 3-11-4-19 and IC 3-11-10-27 or review the "Bi-Partisan Initials on Absentee Ballots" section.

3) Voted Absentee Ballot Envelope & Affidavit
Counties are required by law to provide a postage, pre-paid envelope for a voter to return an absentee-by-mail ballot. (IC 3-11-4-20) This return envelope must include the ABS-6, which is the affidavit an absentee voter must sign before returning the ballot to the county election board. (IC 3-11-4-21) As noted above, USPS mail design analysts are available to review a proof of the county's absentee ballot return envelope and affidavit to ensure it meets postal requirements.

NOTE: A special federal ballot envelope provided by the Federal Voting Assistance Program may be used. **For more information, see the current edition of the *Military and Overseas Voters Guide*, or contact the Federal Voting Assistance Program at *www.fvap.gov*.**

4) Absentee Voter's Bill of Rights
The Indiana Election Division prescribes a statement that includes information concerning: (1) the rights and responsibilities of voters in casting and returning an absentee ballot; (2) the laws concerning assisting an absentee voter, completing the ballot in secret, and returning the voted ballot; and (3) how to report election law and absentee ballot law violations. A county election board must provide a voter who receives an absentee ballot by mail with a copy of the Absentee Voter's Bill of Rights. (IC 3-5-8-2.5)

NOTE: When mailing any overseas or military absentee ballots, counties must include the MOVE Sheet produced by the Indiana Election Division along with the Absentee Voter's Bill of Rights.

Please see the "Military and Overseas Voters" or "Voters with Print Disabilities" section for more information about the absentee balloting materials to be sent with requests for emailed or faxed ballot.

Absentee Ballot Tracking
A county may assign a unique tracking number as prescribed by the Election Division, using IMb Tracing or a similar automated tracking method, to each absentee ballot mailed to a voter to provide real-time tracking information for the envelope containing the ballot. "IMb Tracing" refers to a real-time mail tracking service offered through USPS. (IC 3-11-4-18)

Note: Some counties opted to include an IMb number on the absentee-by-mail return envelope template created through partnership with the state and USPS. The IMb number on this envelope is static, as it only needs to know where the absentee ballot is to be returned (that is, the county election board office). Any changes to a county's absentee-by-mail address not only need to be updated on forms and website but may also need to be updated on their absentee envelope template if it was initially used. Please contact IED (elections@iec.in.gov) for more information.

Absentee Ballot Receipt Deadlines
Not later than 6 p.m. (prevailing local time) on Election Day each circuit court clerk, or an agent of the clerk, shall visit the appropriate post office to accept delivery of absentee envelopes. (IC 3-11.5-4-7) A mailed absentee ballot for

most voters **must** be received by the circuit court clerk, the Lake County Election Director, or Porter County Election Director not later than 6 p.m. (prevailing local time) on Election Day. (IC 3-11.5-4-10)

For clarification, "received" means the clerk, Lake County Election Director, or Porter County Election Director has the absentee ballot in their possession. Absentee ballots mailed on or before the deadline date and received after the proper deadline date noted above may not be counted. **However, overseas voters who filed an FPCA to request absentee ballots are exempt from this rule and their absentee ballot can be counted if the postmark is dated on or before Election Day and received up to noon, ten days after the election.** (IC 3-12-1-17)

If a county uses electronic poll books, absentees received by 6 p.m. must be pushed to the ePollbooks at the Election Day voting locations to determine if any of the absentee voters voted on Election Day. If the voter voted in-person on Election Day, then the absentee ballot must be rejected. If the voter has not voted, then the absentee ballot can be processed following the absentee central count procedures.

In a rare case that a county uses traditional paper poll lists, the deadline to receive an absentee ballot by mail, fax, or electronic mail is extended to 6 p.m., but if such a ballot is received by the county between noon and before 6 pm (local prevailing time) on Election Day, the ballot must not be processed or counted until:

1) the polls in each precinct have closed;
2) the poll list for the precinct with an absentee ballot that was returned between noon and 6 pm on Election Day has been returned to the county election board;
3) the county election board confirms whether the voter cast a ballot at the polls on Election Day.

Once it is confirmed the absentee voter did not appear in-person to vote on Election Day, then the absentee ballot can be processed using the absentee central count procedures. (IC 3-11.5-4-10)

If an overseas voter using the FPCA to request an absentee ballot mails their absentee ballot and the envelope is postmarked on or before the date of the election, then a county election board must count the overseas voter's absentee ballot if received not later than noon (prevailing local time), ten (10) days after the date of the election. (IC 3-12-1-17) Additionally, the deadline for the county to receive a faxed or emailed absentee ballot and ABS-9 affidavit from a military and overseas voter is 6 p.m. (prevailing local time) on Election Day. (IC 3-11.5-4-10; 3-12-1-17) More information about these procedures, including the use of back-up Federal Write-In Absentee Ballot (FWAB), can be found in the "Military & Overseas Voters" section of this *Manual*.

Further, voters with print disabilities who requested an absentee ballot by mail, fax, or email must return the ballot and secrecy waiver not later than 6 p.m. on Election Day for the ballot to be counted. (IC 3-11-10-1; IC 3-11.5-4-10)

Upon receiving an absentee ballot, the county election board or the absentee voter board in the clerk's office, must note whether the voter was required to provide additional residence documentation as part of the voter registration process, but had not done so when the board previously mailed out the absentee ballot to the voter. If the county voter registration office advises the board that the voter has still not provided the required documentation, then the board must add a notation to the application and to the secrecy envelope in which the ballot is contained, alerting the absentee ballot counters that they must check the voter's registration file on Election Day to determine if the voter has supplied the required residence documentation. If not, the absentee ballot counter must process this absentee ballot as a provisional ballot. (IC 3-11.5-4-12)

Note: The county clerk or their agent must visit the post office by 6 p.m. on Election Day. (IC 3-11.5-4-7)

First Signature Review

Under Indiana law, absentee ballots must be compared to the absentee ballot application (or ePollbook, if used during in-person early voting) prior to Election Day by the county election board or absentee voter board to determine its genuineness. A second signature review on Election Day is also to be performed by absentee ballot counters, and more details about this second signature review can be found in the "Central Count of Absentee Ballots" section in this *Manual*.

For this first signature review, the county election board or absentee voter board must examine the signature of the absentee voter upon return of the absentee ballots on or before Election Day. The county election board, or the absentee voter board members, shall compare the signature that appears on the envelope containing the absentee ballots, or if there is no envelope, with the voter's signature in SVRS, with the signature that appears on the voter's absentee ballot application or, in the case of an ePollbook used for in-person absentee "early" voting, the signature from the ePollbook. (IC 3-11-10-26.2; IC 3-11.5-4-5)

Some deference in determining the genuineness of the voter's signature should be given to voters with disabilities. County election officials should look at the affidavit of voter assistance on the absentee application to determine if the person had help with affixing their name to the absentee application. For vote-by-mail ballots, the voter must personally sign their name to the ballot secrecy envelope (ABS-6). (IC 3-11-4-21) Voters with disabilities voting absentee in-person at the clerk's office or satellite location or by traveling board will have their signatures attested to by the absentee voter boards present. (IC 3-11-10-29) More information about these procedures can be found in the "Power of Attorney & Assistance to Absentee Voters" section of this *Manual*.

The county election board or absentee voter board can compare the voter's signature on the absentee ballot application with the signature on the ballot secrecy waiver form (ABS-9 for military and overseas voters; ABS-25 for voters with print disabilities). (IC 3-11.5-4-5)

If a county election board unanimously or by majority or both members of the absentee voter board finds that the signature is not genuine or is missing, then a "Signature Mismatch" or "Missing Signature" Affidavit (ABS-18A or ABS-18B) must be sent to the voter. Please see "Signature Mismatch or Missing Signature Absentee Procedures" in this *Manual* for more information.

If one member of county election board finds that the signature is missing or is not genuine, then the absentee ballot goes to election day review that may result in a notice being sent to a voter. When the county election board does not unanimously find that the signature is genuine, they must write on the absentee ballot envelope "SIGNATURE DISPUTED" and then proceed to secure the absentee ballot for processing and counting on election day. (IC 3-11.5-4-5(b); IC 3-11.5-4-13.5(d); IC 3-11.5-4-13.6)

If a county election board (or absentee voter board) unanimously finds that the signature on a ballot envelope or transmitted affidavit is genuine, the board shall immediately enclose the accepted and unopened ballot envelope together with the voter's application for absentee ballot in a large or carrier envelope. The carrier envelope may contain other matched absentee applications and approved absentee ballots belonging to voters from the same precinct.

The carrier envelope must be securely sealed and endorsed with the official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only on Election Day under IC 3-11.5." (IC 3-11.5-4-5)

Inaccurate Signature Date on Absentee Ballot Envelope Affidavit

Absentee ballots where the absentee ballot counters find the voter's affidavit does not contain an accurate date of the applicant's signature must be rejected. This applies to any absentee ballot using a ballot security envelope, whether to vote by mail, travel board, or during in-person early voting. (IC 3-11.5-4-13)

Voters with an inaccurate signature date on the affidavit are not sent an ABS-18A or ABS-18B (missing or mismatched signature notice to cure the defect). Instead, if a voter has marked and returned an absentee ballot, the voter may not vote in person unless absentee ballot counters or the county election board issues a certificate (ABS-21). The voter must appear in person before the county election board not later than 5 p.m. (local prevailing time) to receive the ABS-21. This form should be given to the poll workers at the voter's polling location to allow the voter to cast a ballot in person on Election Day, if otherwise qualified (IC 3-11.5-4-13; IC 3-11.5-4-21)

Security and Storage of Absentee Applications & Ballots Before Election Day

Each circuit court clerk shall keep all accepted ballot envelopes securely sealed in the clerk's office until the ballot envelopes are opened by absentee ballot counters on Election Day, or if using procedures to begin the central count up to three (3) days before Election Day. (IC 3-11.5-4-6; IC 3-11.5-4-11.5)

During the period that absentee ballots are being received, each county election board shall keep the ballots in cabinets, boxes, or a room upon which there are two (2) locks – one (1) for each of the appointed members of the election board. Each day the absentee ballots shall be placed in the cabinets, boxes, or room under the direction of the appointed members of the board.

If an appointed member cannot be present each day, then that member shall designate someone from the member's political party to be present with the key to lock at the time the ballots are secured and at the time the lock is opened the next day. The key of each appointed member of the board shall be kept secure in the manner determined by that appointed member. (IC 3-11-10-10)

In all counties except for Marion County, all absentee ballot envelopes (and when applicable, the corresponding absentee applications) must be sorted and stored **by precinct** before Election Day, during the central count of absentees, and after being counted.

Marion County Only: Absentee Ballot Counting Procedures

Absentee ballot counters in Marion County are not required to group absentee ballots cards by precinct prior to counting. In Marion County, absentee ballot envelopes may be opened by machine instead of by the absentee ballot counters. (IC 3-11.5-4-12.5) The absentee ballot counters may count ballots, and prepare and deliver certificates for counted ballots, for multiple precincts without first finishing counting one precinct before starting the next precinct, provided that the ballots have been accepted by the counters and the ballots are not required to be remade before counting.

After counting, absentee ballots may be stored in the order in which the absentee ballots were counted and not in order by precinct. (IC 3-11.5-6-4; IC 3-11.5-6-5; IC 3-11.5-6-21)

Opening Absentee Ballot Using Envelope Opener

Absentee ballot envelopes may be opened by machine instead of by the absentee ballot counters. (IC 3-11.5-4-12.5)

Central Count of Absentee Ballots

All Indiana counties must count absentee ballots at a central location. (IC 3-11.5-1-1.1) An absentee ballot cast in a county that counts absentee ballots at a central location must be received by the county election board by 6 p.m. (prevailing local time) on Election Day to be counted. (IC 3-11.5-4-10) *(NOTE: See "Military and Overseas Voters" for the later deadline that applies to absentee ballots from some of these voters.)* Not later than 6 p.m. (prevailing local time) on Election Day each circuit court clerk, or an agent of the clerk, shall visit the appropriate post office to accept delivery of absentee envelopes. (IC 3-11.5-4-7)

Absentee Couriers & Counters

To conduct an absentee ballot program, a county using certified paper poll lists (instead of ePollbooks) must appoint a courier to deliver information to a precinct about voters who cast an absentee ballot before Election Day for the information to be marked in the poll list. Using a paper poll list is no longer a common practice in Indiana but may be an option from time to time during municipal or special elections.

All counties must appoint bi-partisan counting teams to review the absentee balloting materials and count the votes cast on an absentee ballot.

A county election board must appoint as many absentee ballot counters (and couriers, if applicable) as it believes will be necessary to administer absentee voting in the county. Absentee ballot counter (and if applicable, courier) teams consist of two (2) people, one appointed from each of the two major political parties. To be eligible to serve on an absentee ballot counter or courier, a person must meet the following qualifications (IC 3-11.5-4-22):

1) be a registered voter of the county;
2) be able to read, write and speak the English language;
3) may not have any property bet or wagered on the outcome of the election;
4) may not be a candidate to be voted for at the election, except as an unopposed candidate for a city office, town office, township office, school board office, precinct committeeman, or state convention delegate; and
5) may not be the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate.

NOTE: Any relationship identified above that is the result of birth, marriage, or adoption (an adopted child, for example) would disqualify a person who is the relative of an **opposed** candidate from working as an absentee ballot counter or courier. This provision **does not** apply if the candidate is **unopposed.**

A person who is a candidate to be voted on at the election, or who is related to a candidate in a manner that would disqualify the person from serving, may still serve as an absentee ballot counter or courier if: (1) the candidate is seeking nomination or election to an office that is not county-wide (a city or township, for example); and (2) the county election board restricts the duties of the person on the absentee ballot counter or courier team to functions that could have no influence on the casting or counting of absentee ballots within that election district.

Certain 16- and 17-year-olds who are not yet voters may serve as absentee ballot counters and couriers. A person must meet the requirements found in IC 3-6-6-39 and be approved by a unanimous vote of the entire county election board to serve as an absentee ballot counter or courier. (IC 3-11.5-4-23)

A county may use one courier, if the county election board unanimously agrees and the individual is a voter of the

county. **If the county also uses an ePollbook on Election Day, couriers are not necessary.** (IC 3-11.5-4-22)

The county chairmen of each of the two major political parties make nominations for appointment to an absentee ballot counter or courier team. Not later than noon, prevailing local time, fifty (50) days before Election Day, the county election board must notify the county chairmen of the number of nominations that will be needed to fill positions on absentee ballot counting and courier teams. The county chairmen must notify the county election board of their nominations not later than noon, prevailing local time, forty-six (46) days before Election Day. The county election board **must** appoint those persons nominated by the county chairmen. If a county chairman fails to make the nominations, then the county election board may appoint any voter of the county subject to the qualifications listed above to fill any position noted above. (IC 3-11.5-4-23)

A voter appointed to an absentee ballot counting or courier team is entitled to compensation. A member of an absentee voter board must be compensated using the following standards (IC 3-11.5-7-2):

1) Couriers are entitled to a per diem in an amount set by the county executive (county commissioners) per day and reimbursement for mileage paid at a rate set by the county council; and
2) Absentee ballot counters are entitled to a per diem set by the county executive (the county commissioners).

A member of an absentee voter board must receive training from the county election board before beginning to perform the member's duties. (IC 3-11-10-39)

An absentee voter board member or absentee ballot counter is subject to the same penalties as a precinct poll worker for knowingly, recklessly, or negligently failing to perform an election law duty, being subject to removal as a board member or counter and to a penalty of up to $500 imposed by the county election board. (IC 3-6-5-35)

Marion County has additional qualifications for absentee ballot counters and couriers under IC 3-11.5-4-23.5.

Procedures Before Absentee Counting May Begin

Each circuit court clerk must keep a separate absentee ballot record for each precinct in the county. (IC 3-11.5-4-1)

For counties using an ePollbook, the county voter registration office shall download the information required to be available on an ePollbook book before the ePollbook is delivered by the county election board to each precinct or vote center's inspector or authorized representative. (IC 3-7-29-6; IC 3-11-3-10; IC 3-11-3-11) (NOTE: IC 3-11-3-10 notes the delivery procedures for ePollbooks, which can also be found in the "ePollbooks & Voting Systems" section of this *Manual*.)

The clerk must certify at the time the county voter registration office downloads information to an electronic poll book under IC 3-7-29-6(c), the names of the voters to whom absentee ballots were sent or who marked ballots in person; and whose ballots have been received by the county election board under IC 3-11-10. (IC 3-11.5-4-1; IC 3-11.5-4-24)

On Election Day, an ePollbook must be updated to indicate that the county received, not later than 6 p.m. (prevailing local time) on Election Day, a voter's absentee ballot. (IC 3-11.5-4-11(b))

All counties using electronic poll books must begin the central count of absentee ballots any time after 6:00 a.m. on election day, if the county has updated all electronic pollbooks used in each polling place or vote center to reflect all absentee ballots received by the county not later than 12:01 a.m. on election day.

The central count of absentee ballots does not need to be delayed for those absentee ballots that may arrive after 12:01 a.m. on election day. The county election board may move forward with the central count, as long as those absentee ballots that were received by 12:01 a.m. were pushed to electronic pollbooks used at election day polling locations or vote centers. There is no requirement for a county election board to adopt a resolution to begin the central count at 6 a.m. if the county uses an ePollbook or is a vote center county but may do so under IC 3-11.5-4-11(e).

In rare instances where a county or town election board uses a printed paper pollbook, the clerk must certify to the inspector or to the inspector's representative, at the time that the ballots and supplies are delivered under IC 3-11-3, the names of voters to whom absentee ballots were sent or who marked ballots in person, and whose ballots have been received by the county election board under IC 3-11-10. (IC 3-11.5-4-1)

These names may be pre-marked in the paper poll books using features of the statewide voter registration system or using reports generated from SVRS that poll workers will hand mark on Election Day. Because absentee ballots may be received until noon (prevailing local time) on Election Day, it is possible that a supplemental list will be delivered by couriers of voters voting absentee. (IC 3-11.5-4-9) The supplemental certification must be delivered to the precinct not later than 3 PM, prevailing local time, on Election Day. (IC 3-11.5-4-8)

While the last supplemental certification must be delivered to the precinct polling location by 3 p.m., absentee ballots can be timely received by the county election board for filing until 6 p.m. Therefore, any absentee ballots received by the county between noon and before 6 pm on Election Day cannot be processed or counted until:

1. the polls in each precinct have closed;
2. the poll list for the precinct with an absentee ballot that was returned between noon and 6 pm on Election Day has been returned to the county election board; and
3. the county election board confirms whether the voter cast a ballot at the polls on Election Day.

Once it is confirmed the absentee voter did not appear in-person to vote on Election Day, then the absentee ballot can be processed using the absentee central count procedures. (IC 3-11.5-4-10(b))

Before marking the pollbook, however, the inspector must alert the challengers and pollbook holders that the names of absentee voters are to be entered into the pollbook. The names and addresses of the absentee voters on the certificates are to be provided to the challengers and pollbook holders. If a challenger or pollbook holder determines an absentee voter is not a legal voter of the precinct where the ballot is being cast, then the PRE-4 challenge affidavit must be executed. (IC 3-11.5-4-15)

If while marking the poll list next to a voter's name to indicate that a voter has voted absentee the inspector determines that the voter has previously voted in person at the precinct on Election Day, then the inspector shall indicate on the list of absentee voters next to the voter's name that the voter has "voted in person at the precinct."

The poll clerks must sign a statement printed on the certificates indicating that the inspector marked the poll list and attached any "Uniform Services Voter Registration Certificate" (ABS-11) of military voters who registered and voted under IC 3-7-36-14 (see "Military and Overseas Voters" section) in the presence of both poll clerks to indicate that the absentee ballot of the voter has been received by the county election board.

In the presence of poll clerks, the inspector must seal an envelope containing the signed processed certifications, any certificates of voters who registered and voted under IC 3-7-36-14, and any PRE-4 challenge affidavits. On the outer envelope, a statement is to be printed indicating that the inspector or poll clerk has complied with the

requirements of IC 3-11.5-4 governing the marking of the poll list and certificates. The statement is to be signed by the inspector and each poll clerk. Couriers then immediately return to the central location and upon delivering the envelope to the county election board, the courier must sign a statement printed on the envelope indicating that the courier has not opened or tampered with the envelope since the envelope was delivered to the courier. (IC 3-11.5-4-9)

Please see the "Absentee Ballot Receipt Deadline" section of this *Manual* for more information related to the procedures to follow for absentee ballots received on or after 12 p.m. until the polls close at 6 p.m. on Election Day.

Failure to Provide Additional Residence Documentation

A voter may be required to provide additional residence documentation as part of the voter registration process but did not do so when the board previously mailed out the absentee ballot to the voter. The ABS-12 form is transmitted to the absentee voter to return to the county election board providing the required information. If the county voter registration office advises the board that the voter has still not provided the required documentation, then the board must add a notation to the application and to the secrecy envelope in which the ballot is contained, alerting the central count counting team or precinct inspector to check the poll list (or other county election board certification) on Election Day to determine if the voter has supplied the required documentation. (IC 3-11.5-4-3.5) If no indication is shown, the counter must process this absentee ballot as a provisional ballot. (IC 3-11.5-4-12) The voter has until 6 p.m. on Election Day to return the ABS-12 to the county voter registration office. (IC 3-11-4-18)

Second Signature Review

The county election board or the team of absentee ballot counters may conduct the second absentee signature review upon receipt of the absentee ballot not later than before the absentee ballot envelope is opened after review and prepared for tabulation.

The second signature review must be a comparison of the signature on the voter's absentee ballot application (or the signature on the electronic poll book used during early voting, pursuant to IC 3-7-29-6(a)(2) since there is no application) against the voter's signature on the absentee ballot return envelope (or the affidavit created by the county election board under IC 3-11-10-26(d)(2), or the statewide voter registration system, if there is not envelope). (IC 3-11.5-4-11)

The county election board or absentee voter board may compare the voter's signature on the absentee ballot application with the signature on the ballot secrecy waiver form (ABS-9 for military and overseas voters; ABS-25 for voters with print disabilities). (IC 3-11.5-4-5)

If the absentee counters or the county election board finds that the signature on a ballot envelope or transmitted affidavit is not genuine, the board shall write upon the ballot envelope the words "The county election board has found the signature of this voter is not genuine. This ballot is subject to IC 3-11.5-4-13.5 or IC 3-11.5-4-13.6.". (IC 3-11.5-4-4) The absentee ballot would be treated as a provisional ballot, and the county should follow the cure procedures found below in the "Signature Mismatch or Missing Signature Absentee Process" section.

If found to be genuine, the review under the central count procedures may continue, including opening the ballot security envelope and removing the ballot for tabulation, but without unfolding or permitting a ballot to be unfolded or examined (IC 3-11.5-4-12(b).Please see "Election Day Counting Procedures" below for a discussion on a resolution the county election board may adopt to forego the second signature review on in-person absentee or traveling board absentee ballots; in other words, the resolution would only require the absentee counters to perform the second

signature review on absentee-by-mail ballots.

Absentee Counting Procedures

Note: Absentee ballots case on a DRE voting system must be tabulated on Election Day.

Central Count Starting BEFORE Election Day

A county that uses electronic poll books at the polls on Election Day or that has adopted a vote center plan may adopt a resolution, by unanimous vote of the entire membership of the board, to process returned absentee ballots before Election Day. If the resolution is adopted, then absentee ballot counters, in the presence of the county election board, may process the absentee ballot of a voter as follows:

1) Beginning at noon, three (3) days before the election for any absentee ballot that has been received by the county election board not later than noon, four (4) days before the election.

2) Beginning at noon, two (2) days before the election for any absentee ballot that has been received by the county election board any time after noon, four (4) days before the election and not later than noon, three (3) days before the election.

3) Beginning at noon, the day before the election for any absentee ballot that has been received by the county election board any time after noon, three (3) days before the election and not later than noon, two (2) days before the election. (IC 3-11.5-4-11.5)

The absentee ballot counters shall do all the following:

1) Conduct a review of the absentee ballot required IC 3-11.5-4-12(a)-(c). Marion County and any other county that has adopted a resolution to forgo the second review of the absentee ballot envelope and determining if the voter is a qualified of the precinct for all voters who voted absentee in-person or by travel board apply to this procedure. County election boards cannot pass a resolution to waive the second signature review of absentee ballots sent by mail.

2) Determine if the absentee ballot cannot be counted according to IC 3-11.5-4-13.

3) Open the envelope containing the absentee ballot in a manner that does not deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting the ballot to be unfolded or examined.

4) Determine if the absentee ballot has been endorsed with the initials of:
    a. the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;
    b. the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
    c. the two (2) appointed members of the county election board or the members' designated representatives under IC 3-11-4-19.

A member of the county election board may challenge a voter under IC 3-11.5-4-15(c) when a team of absentee ballot counters is processing an absentee ballot under this pre-Election Day processing procedure. If an absentee ballot is challenged by the county election board, the absentee ballot and the ballot envelope with the signed affidavit must be placed in the PRE-4/PRO-10 provisional envelope and the absentee ballot application, if applicable, attached

to the outside of the envelope. The voter's absentee application is the voter's sworn statement at the provisional ballot hearing. The CEB should complete the challenger portion of the PRE-4 envelope. See the "Provisional Ballot" section of this *Manual* for more information.

An absentee ballot determined to be counted under this pre-Election Day processing procedure may be tabulated before Election Day ONLY IF the optical scan voting system has been certified by the Indiana Election Commission to include a ballot retraction feature. (IC 3-11-15-26; IC 3-11.5-4-6(b); IC 3-11.5-4-11.5(c); IC 3-11.5-6) After the absentee ballots for each precinct are scanned, the absentee materials must be stored in an envelope or container kept for ballots of the same precinct. The envelope or container must have the name of the precinct written on the envelope or container and be stored in a secure manner under dual lock controlled by both appointed members of the county election board. (Marion County has separate procedures for storing its absentee ballots.)

Additionally, the optical scan voting system units used for the central count and its electronic media must be safely secured until after the central count is completed. Then each unit's electronic media may be removed and the results uploaded on Election Day to the hardened computer with the software necessary to compile results.

Any absentee ballots that were not processed under the resolution adopted by the county election board, including those arriving on Election Day on or before 6 p.m. (prevailing local time), are to be processed on Election Day in a continuous manner until all absentee ballots are counted. See "Central Count Starting ON Election Day" and "Processing Absentee Ballots" sections for more details on these procedures.

Central Count Starting ON Election Day

For counties using an ePollbook, the central count of absentee ballots any time after 6:00 a.m. on election day, if the county has updated all electronic pollbooks used in each polling place or vote center to reflect all absentee ballots received by the county not later than 12:01 a.m. on election day.

The central count of absentee ballots does not need to be delayed for those absentee ballots that may arrive after 12:01 a.m. on election day. The county election board may move forward with the central count, as long as those absentee ballots that were received by 12:01 a.m. were pushed to electronic pollbooks used at election day polling locations or vote centers. There is no requirement for a county election board to adopt a resolution to begin the central count at 6 a.m. if the county is an ePollbook or voter center county but may do so under IC 3-11.5-4-11(e). (IC 3-11.5-4-11)

The Marion County Election Board may adopt a resolution to use a similar procedure for beginning the process of counting absentee ballots. (IC 3-11.5-4-11(c); IC 3-11.5-6-3).

In a rare instance where a county uses a paper poll list, at any time after the couriers return the absentee voter certificate, absentee ballot counters, in the presence of the county election board, may begin processing absentee ballots. (IC 3-11.5-4-11)

See "Processing Absentee Ballots" section below for more details on the review process.

Processing Absentee Ballots

When notified processing may begin before Election Day under IC 3-11.5-4-11.5(c) the absentee ballot counters must

do all the following:

1) Conduct a review of the absentee ballot required IC 3-11.5-4-12(a)-(c). Marion County and any other county that has adopted a resolution to forgo the second review of the absentee ballot envelope and determining if the voter is a qualified of the precinct for all voters who voted absentee in-person or by travel board apply to this procedure. County election boards cannot pass a resolution to waive the second signature review of absentee ballots sent by mail.

2) Determine if the absentee ballot cannot be counted according to IC 3-11.5-4-13.

3) Open the envelope containing the absentee ballot in a manner that does not deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting the ballot to be unfolded or examined.

4) Determine if the absentee ballot has been endorsed with the initials of:
    a. the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;
    b. the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
    c. the two (2) appointed members of the county election board or the members' designated representatives under IC 3-11-4-19.

If the county uses an optical scan ballot card voting system with an approved ballot retraction method, the absentee ballot counters may also proceed to scan, but not tabulate, the absentee ballots that have determined can be counted under law. (IC 3-11.5-4-6(b)) The tabulation of any scanned absentee ballots may not be done until Election Day and the absentee ballot counters and county election board must tabulate the absentee ballots according to IC 3-11.5-6.

For any absentee ballots processed on Election Day under IC 3-11.5-4-11, bi-partisan counter teams are to open the outer or carrier envelope containing an absentee ballot envelope and application; announce the absentee voter's name; and compare the signature upon the application or ePollbook with the signature on the affidavit found on the absentee ballot envelope, transmitted ABS-9 affidavit for military or overseas voters or ABS-25 affidavit for voters with print disabilities, or voter registration record. (IC 3-11.5-4-11(a))

The county election board of any county (other than Marion County) may adopt a resolution, by unanimous vote of the entire board, to permit absentee ballot counters to review the signatures on an absentee ballot cast in-person (by travelling board, at the clerk's office, or at a satellite absentee facility) at any time after the ballots are received by the board. The absentee ballot counters may, but are not required to, find that the signature on an absentee ballot application corresponds to the signature on the absentee ballot envelope, or that the absentee voter is a qualified voter of the precinct. However, the review and comparison of the absentee voter's signature on the ballot security envelope and absentee ballot application (or voter registration record when no application is used) by the county election board under IC 3-11.5-4-4 and IC 3-11.5-4-5 is still required. A resolution pursuant to this state law may only be repealed or amended by unanimous vote of the entire membership of the board. (IC 3-11.5-4-12(g))

The Marion County Election Board may adopt a resolution to use a similar procedure concerning the comparison of signatures. (IC 3-11.5-4-12(e)). However, absentee ballot counters in Marion County are not required to group absentee ballots cards by precinct prior to counting. The absentee ballot counters may count ballots, and prepare and deliver certificates for counted ballots, for multiple precincts without first finishing counting one precinct before starting the next precinct, provided that the ballots have been accepted by the counters and the ballots are not required to be remade before counting.

After counting, absentee ballots in Marion County may be stored in the order in which the absentee ballots were counted and not in order by precinct. (IC 3-11.5-6-4; IC 3-11.5-6-5; IC 3-11.5-6-21)

Counties following the procedures to start processing the central count absentee ballot cards (but not tabulating, unless the optical scan voting system has a state-approved ballot retraction feature) before election day under IC 3-11.5-4-11.5(e) or on Election Day under IC 3-11-4-11 may permit an absentee ballot envelope to be opened and ballot removed for processing, if the counters find that the:

1) affidavit is properly executed;
2) signature on the application corresponds to the signature on the absentee ballot affidavit;
3) absentee voter is a qualified voter of the precinct;
4) absentee voter is registered and is not required to file additional information with the county voter registration office under IC 3-7-33-4.5; and
5) in case of a primary election, the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate. (IC 3-11.5-4-12)

If not, the counter must process this absentee ballot as a provisional ballot. (IC 3-11.5-4-12)

If the absentee ballot counters find that any of the following applies, the ballots shall be rejected:

1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:
    a) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;
    b) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
    c) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
2) The signatures do not correspond or there is no signature, and the signature mismatch or missing signature is not cured by the deadline established under IC 3-11.5-4-13.5 or IC 3-11.5-4-13.6. *(Please see "Signature Mismatch or Missing Signature Absentee Procedures" for more information.)*
3) The absentee voter is not a qualified voter in the precinct.
4) The absentee voter has voted in person at the election.
5) The absentee voter has not registered.
6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax or electronic mail under IC 3-11-4-6 to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax or electronic mail.
7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.
8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.
9) The ballot has been challenged and there is no absentee ballot application from the voter to support the absentee ballot. (IC 3-11.5-4-13)

Whenever a voter with a disability is unable to make a signature:

1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or
2) on an absentee ballot security envelope that corresponds with the voter's signature:
3) in the records of the county voter registration office; or

4) on the absentee ballot application;

then the voter may request that the voter's signature or mark be attested to by the bi-partisan travel board team; a member of the voter's household; or an individual serving as attorney in fact for the voter. An attestation provides an adequate basis for the absentee ballot counters to determine that a signature or mark complies. (IC 3-11.5-4-13(c))

If the absentee ballot counters are unable to agree on a finding described under IC 3-11.5-4-12 or IC 3-11.5-4-13 of this chapter, the county election board shall make the finding. (IC 3-11.5-4-13(e))

Each ballot not accepted or counted for any of the above listed reasons must, without being unfolded to disclose how it is marked, be endorsed with the words: "Rejected <insert reason>." All rejected absentee ballots are to be enclosed and securely sealed in an envelope labeled: "Defective Absentee Ballots." The defective absentee ballot envelope must also identify the precinct and the date of the election. Rejected absentee ballots are to be returned to the same officer and in the same manner for the return and preservation of official ballots cast and uncast at the election. (IC 3-11.5-4-14)

When using an automatic tabulating machine (IC 3-11.5-6-3), or when traditional hand-counted paper ballots are used, ballots are to be counted by laying each ballot upon a table in the order in which the ballot was opened and removed from the security envelope. (IC 3-11.5-5-6)

Tabulating Absentee Ballots

To minimize delay, absentee ballot counters are to continue the count without interruption until all absentee ballots for the precinct are canvassed and the required certificates are prepared and delivered to the county election board. (IC 3-11.5-6-4; IC 3-11.5-5-5; IC 3-11.5.5-17) Counties must follow the procedures noted in IC 3-11.5-6-21 or IC 3-11.5.5-18 for securing counted and uncounted absentee ballots, and upon delivery of the ballot envelope or bag, sign an oath prescribed in IC 3-11.5-6-22 or IC 3-11.5.5-10. See "Storing Counted Absentee Ballots" later in the *Manual* for more information.

The county election board should determine the procedures for tabulating, on Election Day, absentee ballots cast on an electronic (DRE) voting system by passing a resolution at a public meeting of board before the election. (IC 3-11-10-26.2) But this must include, before using the voting system to tabulate the ballots stored in the voting system's memory, the county election board determining if any ballot must be rejected for counting under IC 3-11.5-4-13 and the rejecting or voiding any of those absentee ballots from being tabulated by the voting system. IC 3-11.5-8-1) After any rejected absentee ballots have been confirmed will not be tabulated by the voting system, the county election board then can proceed to having the voting system tabulate the rest of the ballots and produce a precinct by precinct results of each vote cast. (IC 3-11.5-8-2; IC 3-11.5-8-3)

Use of Letter Openers for Absentee Ballots

Any county may use a letter opening machine to open absentee ballot envelopes for processing. (IC 3-11.5-4-12.5)

Remaking an Absentee Ballot

At times, it may be necessary for an absentee ballot to be remade by bi-partisan remake teams. For example, absentee counters may accidentally tear a ballot card when opening an envelope or a military voter returns a faxed ballot that must be remade on a ballot card to be read by the optical scan tabulator.

If a ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating machines,

then a remake team composed of one (1) person from each of the major political parties of the county shall have the card prepared for processing to record accurately the voter's intent as described in IC 3-12-1, generally. The members of the remake team shall be appointed by the county election board. (IC 3-12-3-5)

If necessary, a true, duplicate copy shall be made of the damaged or defective ballot card by the bi-partisan remake team in the presence of witnesses and substituted for the damaged card. All duplicate ballot cards must be clearly labeled ''duplicate'' and bear a serial number, which shall also be recorded on the damaged or defective card. (IC 3-12-3-6)

For example, the voter's original ballot is damaged. The remake team will assign it a serial number and write it on the damaged ballot card. This same number is written on the remade ballot card in an area on the ballot recommended by the voting system vendor to avoid issues when the optical scan tabulator scans or "reads" the ballot. While only the remade ballot is tabulated (IC 3-12-3-7), these serial numbers "tie" the damaged ballot and remade to each other in case a court orders a review of the ballots after a recount or contest action is filed. The serial numbers allow the ballots to be matched to confirm the voter's intent was properly determined by the remake team.

Finally, an absent uniformed services voter or overseas voter or a voter with print disabilities is permitted to transmit an absentee ballot by fax or electronic mail. To facilitate the transmittal and return of the voter's absentee ballot by fax or electronic mail, the county election board may provide the voter with a paper ballot or an electronic ballot image to be used with adaptive technology rather than a ballot card. These "alternative" absentee ballots must conform with the requirements for paper ballots set forth in IC 3–10 and IC 3–11. After the voter returns the ballot by fax or electronic mail and the absentee ballot counters determine on election day that the absentee ballot can be counted, a remake team appointed by the county election board under this section shall prepare a ballot card for processing that accurately records the intention of the voter as indicated on the paper ballot. Additionally, the remake team will affix their initials to the remade ballot card and be marked and counted as a duplicate ballot. (IC 3-12-3-5(d))

The ballot remake law, IC 3-12-3-5, does not permit a remade ballot to be cast on a direct record electronic (DRE) voting system; it must be remade on a ballot card or, if applicable, a hand-counted paper ballot if the jurisdiction is using paper ballots instead. (IC 3-12-3-5(d))

Election Day Certificate for Voter with Rejected Absentee Ballot

This **does not** apply to an absentee ballot rejected based on a finding that the voter's signature on the absentee ballot security envelope affidavit does not correspond to any signature on the voter's absentee ballot application. (Please see "Signature Mismatch or Missing Signature Absentee Process" for those details.)

The absentee ballot counters or county election board shall issue a certificate (ABS-21) to a voter whose absentee ballot has been rejected so long as the voter appears in person before the county election board not later than 5 p.m. (prevailing local time) on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under IC 3-11.5-4-21, if otherwise qualified to vote. (IC 3-11.5-4-13(f))

Storing Counted Absentee Ballots by Precinct & Record Retention

As soon as the ballots have been counted, the absentee ballot counters shall, in the presence of the county election board in all counties except for Marion County, do the following under IC 3-11.5-6-21:

1) Place in a strong paper envelope or bag the following:
    a. All ballots voted and not voted, together with all protested and uncounted ballots **sorted by precinct**.
    b. One (1) copy of each of the certificates prepared under IC 3-11.5-4-1 and IC 3-11.5-4-8.

c. The tally papers.

2) Securely seal the envelope or bag.
3) Have both absentee ballot counters initial the envelope or bag.
4) Plainly mark on the outside of the envelope or bag, in ink, the precinct for which the absentee ballots were cast.
5) Deliver the envelope or bag to the circuit court clerk.
6) Notify the circuit court clerk of the number of ballots placed in the envelope or bag.

Upon delivery of the envelope or bag to the circuit court clerk, each absentee ballot counter shall take and subscribe an oath before the clerk stating that the counter (IC 3-11.5-6-22):

1) securely kept the ballots and papers in the envelope or bag;
2) did not permit any person to open the envelope or bag or to otherwise touch or tamper with the ballots; and
3) had no knowledge of any other person opening the envelope or bag.

The circuit court clerk shall file the oath with the clerk's other election documents. (IC 3-11.5-6-23)

The circuit court clerk then places the envelope or bag containing the counted absentee ballots in a receptacle provided by the county executive with two (2) different locks. (IC 3-11.5-6-24) The clerk will then lock the receptacle, retain one (1) key to one (1) lock of the receptacle, and give one (1) key to the other lock of the receptacle to the member of the county election board who is not a member of the same political party as the clerk. (IC 3-11.5-6-25)

The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31 or IC 3-10-1-31.1. (IC 3-11.5-6-26) If the election is contested, the clerk shall preserve the receptacle containing the envelope or bag of counted absentee ballots as long as the contest is undetermined. During those periods the clerk shall keep the receptacle securely locked, subject only to an order of the court trying a contest. (IC 3-11.5-6-27)

Absentee ballots are retained with other election materials for twenty-two (22) months pursuant to IC 3-10-1-31.1. When permitted under IC 3-10-1-31.1, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag. (IC 3-11.5-6-28)

Alternatively, a county election board may contract with a state educational institution to dispose of the ballots. The contract must provide that the ballots will be used by the state educational institution to conduct election research; and the state educational institution may not receive any ballots under this subsection until the period for retention under IC 3-10-1-31 or IC 3-10-1-31.1 has expired. (IC 3-11.5-6-29)

Releasing Absentee Ballot Returns

Absentee ballot returns (that is, the results) may not be released before the closing of the polls on Election Day, which is 6:00 p.m. prevailing local time. (IC 3-11.5-4-6)

A person who observes or performs any of the following under this chapter:

1) The counting of absentee ballots.
2) The proceedings of absentee ballot counters or the county election board regarding a protested ballot.
3) The preparation of a certificate by absentee ballot counters.
4) The delivery of a certificate to the circuit court clerk or county election board.

shall not provide any other person with information concerning the number of votes a candidate received for an office or cast to approve or reject a public question on absentee ballots counted under this chapter before the closing of the polls. (IC 3-11.5-6-32)

Immediately upon completion of the vote count, the absentee ballot counters shall make and sign a certificate for the news media showing the total number of absentee ballot votes received by each candidate and on each public question in the precinct. (IC 3-11.5-6-30) The absentee ballot counters shall deliver the certificate to the circuit court clerk as soon as the certificate is completed. After the closing of the polls, the circuit court clerk is to deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county immediately upon the completion of the certificate. (IC 3-11.5-6-32)

Challenged Absentee Ballots

Absentee ballots may be challenged on Election Day for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast. (IC 3-11-10-21; IC 3-11.5-4-15) If a county election board unanimously agrees on a resolution to begin its central count before election day following the procedures in IC 3-11.5-4-11.5, then these procedures may also be followed.

For counties using an ePollbook on Election Day: Before the absentee ballot counters process an absentee ballot, the absentee ballot counters shall notify the county election board. A county election board member, or a representative designated by a county election board member, may challenge the absentee ballot.

The county election board must hold a hearing to determine whether a provisional ballot may be counted, and the hearing requirements and provisional ballot processing are outlined in IC 3-11.7. However, there are two important exceptions for challenged absentee ballots that do not apply to voters challenged at the polls: 1) the absentee voter's application serves as the voter's testimony at the hearing so the absentee voter is not required to complete the affidavit on the PRO-2 security envelope; 2) an absentee voter is not required to provide proof of identification. (IC 3-11-10-22; IC 3-11.5-4-16)

In rare cases when a county or town election board uses paper poll lists on Election Day: The county election board transmits a certified list of absentee voters under IC 3-11.5-4-1 and IC 3-11.5-4-8 to the vote center or precinct polling location. The Inspector provides the list of names and addresses of the absentee voters to alert challengers and pollbook holders so that the voter may be challenged. The PRE-4 provisional ballot affidavits must be completed by the challenger, and it is recommended "absentee voter" be written in the section for the challenged voter. The PRE-4 affidavit is attached to the absentee voter certificate, and a notation should be made on the certificate to alert the counters at the central count location to set aside the challenged voter's absentee ballot and secure as a provisional ballot.

NOTE: Do not confuse "rejected" or "defective" absentee ballots with "challenged" absentee ballots. Rejected or defective absentee ballots are not counted for several reasons as outlined in a previous section of this *Manual.* Examples of rejection include signature on the application does not match the ballot or the ballot lacks two sets of absentee voter board initials. An absentee ballot may only be challenged for the reason that the absentee voter is not a legal voter of the precinct. This is the only valid challenge to an absentee voter that the county election board should decide at its hearing.

If a county election board determines an absentee voter's ballot is not counted, then the ballot associated to the

voter's unique identified on the direct record electronic (DRE) machine must be deleted or, in the case of an optical scan ballot card or paper ballot, remain sealed inside the absentee ballot envelope. The PRO-2 affidavit must be marked "not counted" with a stated reason and signed by the county election board. The voter's provisional ballot history must be updated in the statewide voter registration system (SVRS). Note: if the county election board adopts procedures to scan but not tabulate optical scan absentee ballot cards before Election Day, any challenged absentee ballot would be made provisional before the absentee ballot security envelope was opened. The absentee ballot would not be scanned and instead would be sealed inside the PRE-4/PRO-2 envelope until the provisional ballot hearing.

If a county election board counts the challenged absentee voter's ballot after making the determination after the provisional ballot hearing, then the voter's application and ballot envelope are stored with the other election materials kept by the county clerk, and the ballot is tabulated and stored with the counted ballots. The PRO-2 affidavit should be marked "counted" and signed by the county election board. The voter is to receive credit in their voting history for voting in the election.

Election Day Remedies for Certain Absentee Voters

Hand-Delivery of Absentee Ballot

On Election Day if a voter has not yet returned their absentee ballot to the county election board, the voter can hand deliver the completed absentee ballot sealed in the absentee ballot envelope to the county election board not later than 6 p.m. (prevailing local time) on Election Day. Alternatively, the voter may take their absentee ballot to their polling location, surrender it to the precinct inspector who marks the ballot "cancelled", and vote a regular ballot, if otherwise qualified. (IC 3-11-10-31; IC 3-11.5-4-18)

ABS-21 for Rejected Absentee Ballots

If a voter has marked and returned an absentee ballot, the voter may not vote in person unless their absentee ballot was rejected for a reason under IC 3-11.5-4-13. Absentee ballot counters or the county election board shall issue a certificate (ABS-21) to the voter whose absentee ballot was rejected to allow the voter to cast a ballot in person at the polls, if otherwise qualified to vote. The voter must appear in person before the county election board not later than 5 p.m. (local prevailing time) to receive the ABS-21. (IC 3-11.5-4-13; IC 3-11.5-4-21)

Previously, a voter could receive an ABS-21 if the voter's absentee ballot was not received by noon on Election Day. State law changed to permit a county to receive absentee ballots not later than 6PM on Election Day, the same time the voting locations close, so this exception is no longer needed. The county election board is not required under law to notify a voter that their absentee ballot was rejected; however, an absentee ballot will be rejected if there is a missing or mismatched signature if the voter fails to timely cure the issue with the ABS-18A or ABS-18B form.

PRE-5 Affidavit for ABS-Mail Ballot that Did Not Timely Arrive

The PRE-5 affidavit may only be used if a voter applies for an absentee ballot by mail but has not received the ballot and appears at the polls on Election Day. The voter may vote a regular ballot in person at the polls after completing the PRE-5 affidavit documenting that the person has not received the requested absentee ballot. (IC 3-11.5-4-18(c))

Failure to Provide Additional Residency Documentation

There is no remedy for this situation, if a voter who was required to provide additional residency documentation as part of the voter registration process did not return the required proof of residency documentation to the county election board by 6 p.m. (prevailing local time) on Election Day.

For absentee ballots sent by mail (ABS-Mail, ABS-VPD), the ABS-12 form is included with the absentee balloting materials for the absentee voter to complete and return with the required information. If the county voter registration office advises the board that the voter has still not provided the required documentation, then the board must add a notation to the application and to the secrecy envelope in which the ballot is contained, alerting the central count counting team to check the poll list (or other county election board certification) on Election Day to determine if the voter has supplied the required documentation. (IC 3-11-10-4.5) If no indication is shown, the counter must process this absentee ballot as a provisional ballot. (IC 3-11.5-4-12; IC 3-11-10-16.5) The voter has until 6 p.m. on Election Day to return the ABS-12 form and proof of residency documentation to the county voter registration official.

Alternatively, a voter who voted absentee in person or before a travel board and did not provide proof of residency by the time a team of absentee ballot counters begins processing absentee ballots for counting, then the voter's absentee ballot must become a provisional ballot. The voter must file their proof of residency documentation with the county election officials not later than 6 p.m. (prevailing local time) on Election Day for their provisional ballot to be counted. (IC 3-11.5-4-3.5; IC 3-11.5-4-12(c))

Signature Mismatch or Missing Signature Absentee Procedures

An absentee ballot envelope with a missing or mismatched signature (that is, found by a majority of the county election board or by both members of the absentee voter board to be not genuine) is not immediately "rejected" upon the first absentee signature review. If during the second signature review, both absentee counters or a majority of the county election board find a missing or mismatched signature, then the absentee ballot is not immediately "rejected." Instead, an absentee ballot with a missing or mismatched signature is subject to the cure procedures described below.

See "First Signature Review" in the Absentee Ballots section or the "Second Signature Review" in the Central Count of Absentee Ballots section of this *Manual* for more information.

Absentee Signature Cure Procedures

If a signature on the first or second review is found not to be genuine or is missing, then the date and reasons for the determination of the mismatched or missing signature must be documented on the outside of the unopened absentee ballot return envelope. The county will then enter the information into the statewide voter registration system (SVRS) and generate the notice (ABS-18A or ABS-18B) prescribed by the Indiana Election Division.

The ABS-18A or ABS-18B notice be sent to a voter not later than the close of business, two (2) business days after the signature mismatch or missing signature is determined by the county. The notice may be hand-delivered, mailed, or emailed to the voter (if an email address for the voter is on file) by the county election board. The county election board may also contact the voter by phone (if the board has a phone number on file for the voter) but a copy of the mismatch or unsigned ballot affidavit still must be given to the voter. Further, if the county election board does not provide the ABS-18A or ABS-18B to the voter before the close of business two (2) business days after the board determines there is a missing signature or mismatched signature on the voter's absentee ballot envelope, and the voter learns that the ABS-18A or ABS-18B should have been provided to them, then the voter or voter's representative may request the ABS-18A or ABS-18B notice and affidavit from either the county election board or the Indiana Election Division.

The notice will instruct the voter:

- how to complete and file the signature mismatch affidavit or unsigned ballot affidavit,
- how to the file the affidavit with the county election board,

- to provide a reason why their signature did not match, including that age or disability of the voter affects how their signature is made or that the absentee affidavit was executed by the person holding the voter's power of attorney or any person assisting a voter under IC 3-11-4-2(b) or a member of the voter's immediate household or power of attorney attesting to the voter's signature on the absentee by mail return envelope under IC 3-11.5-4-13(c), and
- of the deadline when the affidavit must be filed with the county election board.

The notice must also include a blank copy of the signature verification affidavit so that the voter can provide a reason their signature did not match. However, as of the publication of the December 2025 edition of this *Manual,* the statute does not address how to document the signature mismatch when a voter casts an absentee ballot on an electronic voting system.

An absentee ballot with a signature mismatch or a missing signature must be treated as a provisional ballot so that the absentee voter can cure the defect by filing the affidavit included with the ABS-18A or ABS-18B with the county election board not later than noon (local prevailing time), eight (8) days after Election Day. On the signature mismatch affidavit, the voter would swear, under penalties of perjury, that the signature on the absentee ballot security envelope affidavit is in fact that of the voter and sign the affidavit. On the affidavit of unsigned ballot, the voter would swear, under penalties of perjury, that the voter requested and returned an absentee ballot and that they are the voter whose name appears on the absentee ballot envelope and sign the affidavit. The voter can return the mismatch affidavit or the unsigned ballot affidavit in-person, by U.S. mail, email, or fax to the county election board, or to an absentee voter board during early voting at the Clerk's Office or satellite location, or on Election Day to the inspector of the precinct or chief election officer at a vote center location.

During the provisional ballot hearing, the county election board shall compare the voter's signature on the signature mismatch affidavit, or the unsigned ballot affidavit returned by the voter, with the signature on the absentee ballot affidavit envelope. If those signatures match, the board shall open the envelope and count the provisional ballot, assuming that there are no other issues regarding the validity of the provisional ballot. If the county election board, during the provisional ballot hearing, finds that the affidavit (ABS-18A or ABS-18B) signature does not match the signature on the absentee ballot security envelope affidavit, the provisional ballot shall be rejected. **The same confidentiality restrictions that apply to other provisional ballots also apply to signature mismatch ballots.** Please review the "Provisional Ballot" section in this *Manual* for more information.

If the signature on the affidavit is found to be genuine, then the signature in the voter's registration record in the statewide voter registration system (SVRS) must be updated to reflect any matching signature made on the signature mismatch affidavit. (IC 3-11.5-4-13; IC 3-11.5-4-13.5; IC 3-11.5-4-13.6)

Military and Overseas Voters

Absent uniformed services voters or overseas voters may request to have their absentee ballot transmitted by mail, email, or fax. (IC 3-11-4-5.7) Deadlines, rules, and procedures for military and overseas voters vary slightly from the general "civilian" population.

State law refers to an "**absent uniformed services voter,**" meaning a member of the military, or the spouse or dependent of a military voter, who is absent from the place of residence where the member is otherwise qualified to vote. An "absent uniformed services voter" may be within the United States or overseas. (IC 3-5-2.1-2) The definition of absent uniformed services voter includes a member of the Indiana National Guard deployed outside Indiana. An

"**overseas voter**" is an individual who may be either a civilian who resides outside of the United States or a member of the military (or spouse or dependent) who is absent from the United States on Election Day. (IC 3-5-2.1-75)

A military voter or overseas voter may apply for an absentee ballot at any time by filing the Federal Post Card Application (FPCA) prescribed by the U.S. Department of Defense. The FPCA is a combined form permitting the military or overseas voter to update their registration address and request an absentee ballot. **(NOTE: The obsolete ABS-15 state military and overseas voter application form cannot be accepted for filing.)**

The FPCA is valid for one calendar year (January 1 to December 31), and the county election board must process the FPCA application and send ballots for all elections as if an application had been submitted for each election. (IC 3-11-4-6; IC 3-11-4-8) Whenever a military or overseas voter files an FPCA for a primary election, **the application is valid for any election conducted during the period that ends on December 31 following the date the application is filed unless an absentee ballot mailed to the voter at the address in the application is returned to the county election board during that period as undeliverable.**

Sometimes a military or overseas voter will use an ABS-MAIL state form and mark the box: "I am a member of the military or a public safety officer." This does not afford the voter the same expanded benefits the FPCA form does. Instead, the ABS-MAIL form may not be used to update a voter's registration except when a voter indicates the voter moved and resides at a new address in the same precinct as their previous residence. The ABS-MAIL application is only valid for the specific election, may only be requested when voter registration opens, and be received by the county election board not later than 11:59PM, prevailing local time, twelve (12) days before the election.

Absent uniformed services voters or overseas voters have the right to submit an absentee ballot application by mail, email, or fax. The qualified military or overseas voter is entitled to request that an absentee ballot be transmitted to the voter by mail, email, or fax by using the FPCA. If the email address or fax number provided by the voter does not permit transmittal, the law then requires the county to transmit the application or ballot by mail instead.

If an absentee ballot application from a military voter or overseas voter is denied, the county election board must provide the voter with the reason for the denial of the application. The board must send a written notice to the voter stating the reasons for the denial. The notice (ABS-14) must be sent not later than 48 hours after the application is denied and sent to the voter at the address at which the voter requested that the ballot be mailed. (IC 3-11-4-17.5)

Special Exceptions for Military & Overseas Voters

Statewide Voter Registration Deadline Extended for Military & Overseas Voters Using the FPCA

If a military or overseas voter uses the Federal Post Card Application (FPCA), a county voter registration office must use update a military or overseas voter's registration if **the federal form is received not later than eight (8) days before the date of the election**.

If an absent uniform services voter (or the voter's spouse or dependent) applies to register during this time, the application is subject to the same requirements that apply to applications received from other voters during the general registration period. If the application is approved, then the voter is entitled to vote in the upcoming election.

An absent uniform services voter (or the voter's spouse or dependent) may apply to register to vote on the **seventh day before the election and until noon (prevailing local time), Election Day** if the voter:

1) returns to Indiana during the period beginning seven (7) days before Election Day and ending at noon (prevailing local time), on Election Day following discharge from service or reassignment;
2) shows the county voter registration office a discharge from service, dated not earlier than the beginning of the registration period that ended eight days before Election Day, or a copy of government movement orders, with a reporting date not earlier than the beginning of the registration period that ended eight days before Election Day;
3) completes a registration application; and
4) signs an affidavit that the voter has not voted at any other precinct in the election (ABS-13).

If an absent uniform services voter (or the voter's spouse or dependent) registers under the conditions noted above then the voter is entitled to vote in the upcoming election **at the office of the circuit court clerk** any time after the voter registers **but before noon (prevailing local time), Election Day**. If the person votes in the upcoming election at the office of the circuit court clerk, the voter will cast an absentee ballot and the circuit court clerk will certifies that the voter registered under this statute, and the circuit court clerk will attach the certification to the voter's absentee ballot envelope (ABS-11).

The county election board delivers these certificates by courier to the precinct election boards at the polls on Election Day. The inspector attaches the certificates to the poll list in the presence of the poll clerks, and the poll clerks sign a statement indicating that the inspector did so. If the person does **not** vote in the upcoming election, then the circuit court clerk delivers the voter's registration application to the board of registration (if applicable). The voter is then registered effective the first day of the next registration period. (IC 3-5-2.1-2; IC 3-7-36-14; IC 3-11-4-3; IC 3-11-10-16; IC 3-11.5-4-8; IC 3-11.5-4-9; IC 3-11.5-4-24)

Ongoing Absentee Application

An absentee ballot application (FPCA) for the primary submitted by a military or overseas voter is considered an **application for any election conducted during the period that ends on December 31 following the date of the application was filed.** This application must show that the voter was a resident and otherwise qualified to vote in the precinct where the voter resided before leaving the U.S. An overseas voter who has never resided in Indiana is not qualified to vote in Indiana pursuant to Article 2, Section 2 of the Indiana Constitution.

County voter registration officials will note the voter's military or overseas status in SVRS (M/O) when an FPCA is filed in their office. However, this designation as a uniformed services voter or overseas voters in SVRS expires January 1 of the calendar year after the year the individual submitted the absentee application indicating that status. (IC 3-11-4-6.2)

Absentee Ballots Sent by Fax or Email

The county election board shall send and receive absentee ballots by email or fax from an absent uniform service voter or overseas voter if the voter:

1) requests to receive and submit an absentee ballot by email or fax; and
2) signs and dates a statement submitted with the email or on the cover of the fax stating: **"I understand that by faxing or emailing my voted ballot I am voluntarily waiving my right to a secret ballot."** (ABS-9)

If the voter requests to receive and submit an absentee ballot by fax, then the fax number to which the ballot is faxed shall be recorded by the clerk's office with the other information recorded about absentee ballot application. The

county election board shall send, not later than the end of the first business day after the absentee ballot is received, confirmation to the voter that the ballot was received to the fax number the voter provides for this purpose or by email if the voter provides an email address (or, if no fax number or email is provided, or the fax number or email does not permit confirmation to be sent, then by U.S. mail). Voters submitting absentee ballots by email or fax do not have to mark their ballot in secret and seal the ballot into an absentee ballot envelope for delivery.

The person receiving absentee ballots by email or fax shall:

- note receipt of the ballot in the records as other absentee ballots;
- fold each ballot received separately to conceal the marking;
- enclose the ballot in a blank absentee envelope (ABS-10B) and secure the envelope (The emailed or faxed ballot may not be rejected because the ballot was sealed in the absentee ballot envelope by the person designated by the clerk to receive the ballots);
- securely attach the emailed or faxed affidavit received with the ballot to the envelope; and
- mark on the envelope "Absentee Ballot Received by FAX or Electronic Mail." (IC 3-11-10-1).

Absentee ballots sent by fax or email may be received on Election Day and counted, though are subject to the same deadlines as other absentee ballots.

The ABS-9 must be submitted with the absentee ballot for the ballot to be processed and counted. (IC 3-11-4-6)

Extended Deadline for Military and Overseas Voter's Absentee Ballot in Certain Circumstances

An absentee ballot sent and returned by mail from an overseas voter or a military voter who is stationed outside of the United States will not be considered as arriving too late to be counted if the ballot is postmarked not later than Election Day, and is received by the noon, prevailing local time, ten (10) day deadline for counting provisional ballots. (IC 3-12-1-17)

If the postmark is unclear, the county election board, by unanimous vote of the entire board, determines the postmark date. If the board cannot reach a unanimous decision about the postmark, the absentee ballot may not be counted.

This extended deadline does not apply to the Federal Write-in Absentee Ballot (FWAB) or to an absentee ballot sent by fax or email to a military or overseas voter. The deadline to receive a FWAB or absentee ballot by fax or email is 6 p.m. (local prevailing time), Election Day.

NOTE: This extended deadline to receive a mailed absentee ballot from a military or overseas voter using the FPCA does not apply to all military voters, only to military voters stationed outside of the United States or U.S. citizens residing overseas. Typically, military voters have APO or FPO addresses to note they are residing overseas. (IC 3-12-1-17)

Military Spouse Residence

A military service member's spouse (as defined in federal law) may elect to use the same residence as the service member regardless of the date on which the marriage occurred and notwithstanding the residency requirements for registering to vote using the Federal Post Card Application. (IC 3-7-36-15)

Voter Identification Requirements to Use Federal Post Card Application (FPCA)

Voters who want to vote by any absentee method must provide voter identification information with their absentee ballot application, including the FPCA. The application gives voters two options to select from:

1) Provide the voter's Indiana driver's license or state ID card number OR the voter's unique ID found in the statewide voter registration system on the voter's registration record OR the voter's last four digits of their Social Security number.
2) Photocopy of the voter's ID that complies with the state's photo ID law. See the "Photo ID Law" section of the "Election Day" chapter of this *Manual* for more information.

If a voter selects option 1, county election officials will confirm that the voter identification number provided on the voter's absentee ballot application matches the voter's registration. If the provided voter ID number is not in the voter's registration record or does not match, then county officials will attempt to validate the provided voter ID number using the statewide voter registration system against records maintained by the Indiana Bureau of Motor Vehicles or the Social Security Administration. If the voter ID number is validated through this process, then the voter ID number will be added to the voter's registration record, and the bi-partisan review process will continue. If the voter ID number is not validated, then the absentee ballot application will be found defective or be rejected and the voter will be sent notice (ABS-24). Voters are encouraged to provide more than one of the required voter ID numbers.

If a voter selects option 2, county election officials will confirm the photocopy of the ID meets the state's voter ID law. If the ID complies with this statute (IC 3-5-2.1-84), then a bi-partisan team will continue the review of the application. If the supplied ID does not comply with the state's photo ID law, then the absentee ballot application will be found defective or be rejected and the voter will be sent notice (ABS-24). Because an absentee application can be transmitted over email, a voter can send a digital image or photograph of the voter's ID with their emailed absentee ballot application. A copy of the voter's valid photo ID must be provided each time an absentee application is submitted.

The identification number provided on the voter's absentee ballot application, or the photocopy of the identification document provided with the application is confidential. A county voter registration official is only required to redact the confidential information in responding to a public records request under IC 5-14-3. However, the identification number will become public record when it is added to the voter's registration record.

Federal Write-In Absentee Ballot (FWAB)

In a primary, general, or municipal election, a military or overseas voter may submit a Federal Write-In Absentee Ballot (FWAB) to serve as a "back-up" ballot if their "official" absentee ballot is not received or timely returned. Because the FWAB and Federal Postcard Application (FPCA) have a similar format, an overseas or military voter may believe the FWAB replaces the FPCA. In Indiana, it does not. **The FWAB may not be used as an application for absentee ballot or used to register a military or overseas voter to vote.** In other words, the military or overseas voter must first apply for an absentee ballot using the FPCA for the FWAB to be valid. Further, a county must reject a FWAB filed without an FPCA.

An overseas or military voter can use the FWAB to vote for any candidate for nomination at a primary election so long as the voter chooses one political party primary to vote in. A voter cannot pick and choose candidates from different political parties. In a general, municipal, or special election a voter can vote for any candidate, political party, or public question on the ballot. If a voter writes in the name of a political party, then all the candidates for the party will receive the voter's vote (except as otherwise provided by state law, such as candidates for certain local government offices such as school board or at-large, that is, vote for more than one, local offices).

Also, a voter is not required to write the name of a candidate exactly as the name appears on the ballot. The key is that the absentee ballot counters must be able to determine the intent of voter when selecting candidates and answering public questions. If a voter submits a FWAB, the ABS-19 is not required to be attached for it to be counted and processed. (IC 3-11-4-12.5; IC 3-12-1-1.7; IC 3-12-1-18: IC 3-12-1-19; IC 3-12-2-7.5)

If a military or overseas absentee voter requests a Democratic or Republican Party absentee ballot in the May primary election on their federal post card application (FPCA) and then later returns a federal write-in absentee ballot (FWAB) with the opposite party choice, then the original FPCA supersedes the party choice noted on the FWAB. (IC 3-12-1-18) This means only the candidates on the FWAB from the political party chosen on the FPCA may be counted.

If a federal write-in absentee ballot is received by the county election board in an envelope which does not indicate that a ballot is inside, and is inadvertently opened, the ballot may be counted if otherwise valid. The county election board is required to immediately seal the absentee ballot in an envelope indicating that a voted absentee ballot is enclosed and document the date the absentee ballot was sealed in the envelope, attested to by each member of the county election board (IC 3-12-2-7.5)

Should the military or overseas voter's "official" absentee ballot NOT be timely received by the state's absentee deadlines, then the FWAB must not be counted. If the military or overseas voter's "official" absentee is timely received by the state's absentee deadlines, then a bi-partisan team is to remake an "official" ballot using the selections the military and overseas voter wrote on the FWAB to the best of their ability. (IC 3-12-2-7.5) To be counted, however, the FWAB must be received by the county not later than the specific absentee ballot deadline (noon, prevailing local time, for central count counties; by the last absentee ballot delivery in precinct count counties). (IC 3-11-10-11)

Federal Only Ballot

On the Federal Post Card Application (FPCA), a military or overseas voter must check one of these categories:

1) I am a member of the uniformed services or merchant marine or active duty or an eligible spouse or dependent.
2) I am an activated National Guard member on State orders.
3) I am a U.S. citizen residing outside the United States, and I intend to return.
4) I am a U.S. citizen residing outside the United States, and my return is not certain.
5) I am a U.S. citizen and have never resided in the United States.

For reasons #1, #2, or #3, a county election official issues the military and overseas voter a regular ballot based on the precinct assigned to their voter registration address. If a military or overseas voter selects the statement set forth in reason #4 above, then the voter receives a federal only ballot, which would only include the offices for President and Vice-President, U.S. Senate, and U.S. House, depending on the election cycle. (In Indiana, voters falling into category #4 must also be registered to vote at the address of the county voter registration office. See the *Indiana Voter Registration Guidebook* for more details.)

Note: Federal only ballots only apply to U.S. citizens who formerly resided in Indiana and now live overseas and whose return date is not certain. The federal only ballot may not be given to any other voter!

Note: Federal only ballots are NOT the same as *presidential only* ballots. As stated above, federal only ballots apply to a specific category of overseas voters. A presidential only ballot is available during presidential election years (such as 2028) and is used by "regular" voters who fall into a very specific fail-safe category depending on when and where they move to another state.

A voter using the FPCA and marks reason #5 – "I am a U.S. citizen and have never resided in the United States" – is <u>not</u> entitled to cast a regular ballot in Indiana and the application must be rejected.

MOVE Information Sheet

In addition to the Absentee Voter's Bill of Rights, the MOVE information sheet must be included in the packet of information provided to a military or overseas voter. Counties can access the MOVE sheet on the INSVRS County Portal in the current "Election Forms" folder in Shared Documents.

Notice of Dispensation of Absentee Ballot Application for Military & Overseas Voter (ABS-14)

If an absentee application submitted by a military or overseas voter is rejected, the county must send the ABS-14 notice to the voter explaining why the application was rejected. The notice is also required to be sent when your office receives and accepts an absentee ballot application from a military or overseas voter.

Processing Absentee Ballots of Military & Overseas Voters

The county election board (or absentee voter board in the office of the clerk) shall compare the signature as it appears on the affidavit transmitted with the voter's absentee ballot (that is, the return mailed secrecy envelope or the ABS-9 secrecy waiver for faxed or emailed ballots) to the voter's signature as it appears on the application for the absentee ballot. The board may also compare the signature on the affidavit with any other admittedly genuine signature of the voter. (IC 3-11.5-4-5)

For the first signature review, the absentee ballot counters or the county election board shall compare the signature on the absentee ballot application with the signature on the affidavit attached to the ballot envelope or the ABS-9 secrecy waiver if the absentee ballot was faxed or emailed. For the second signature review and counting, absentee ballots received by email or fax shall be handled and processed as other absentee ballots and may not be counted if the faxed or emailed ballot arrives after 6 p.m., prevailing local time, on Election Day. (IC 3-5-4-6; IC 3-11-4-7; IC 3-11-4-8; IC 3-11-4-17; IC 3-11-4-22; IC 3-11-10-4; IC 3-11.5-2-5; IC 3-11.5-4-4; IC 3-11.5-4-5; IC 3-11.5-4-10; IC 3-11.5-4-11; IC 3-11.5-4-13)

A mailed absentee ballot from an overseas voter or a military voter who is stationed outside of the United States will not be considered as arriving too late to be counted if the absentee by mail ballot is postmarked not later than Election Day, and is received by the noon, prevailing local time, ten (10) day deadline for counting provisional ballots. (IC 3-12-1-17) However, if the military or overseas voter has a Federal Write-in Absentee Ballot (FWAB) filed for the election, then the FWAB is counted on Election Day in place of the voter's fax, email, or mailed absentee ballot received after the applicable deadline. (IC 3-12-2-7.5)

If the postmark is unclear, the county election board, by unanimous vote of the entire board, determines the postmark date. If the board cannot reach a unanimous decision about the postmark, the absentee ballot may not be counted.

NOTE: This extended deadline does not apply to all military voters, <u>only</u> to military voters stationed outside of the United States. Typically, these voters have APO or FPO addresses. (IC 3-12-1-17)

Faxed and emailed ballots to military and overseas voters must be received not later than 6 p.m. (local prevailing time) on Election Day. If the voter has a FWAB on file, it may be counted if the faxed or emailed ballot was not received by this deadline.

Remaking an Emailed or Faxed Ballot or a FWAB

On Election Day, a bi-partisan remake team will remove the emailed or faxed absentee ballot from the ABS-10B ballot secrecy envelope and place a serial number on the printed document. (If the county election board agrees the voter's FWAB should be counted because the voter's original absentee ballot sent by mail, email, or fax was not returned by the specific deadlines, then the county will place the serial number on the FWAB.) The team will place the same serial number on an optical scan ballot card (often referred to as a paper ballot) used in the voter's assigned precinct (or, if applicable, a federal only ballot) and write the word "duplicate" on it. The serial numbers are important should a recount or contest action be filed in the election. The serial numbers on the printed paper document are used to find the optical scan ballot card used by the remake team to ensure the team correctly determined the voter's intent. (IC 3-12-3-5)

The team remakes the voter's choices on the ballot card, as the ballot card is designed to be read by the voting system's tabulating software. (The systems are not designed to read "normal" paper.) Remake teams are guided generally by IC 3-12-1in determining the voter's intent.

The voter's remade ballot is scanned and tabulated and then stored with other ballots for the voter's precinct. The voter's original absentee ballot is stored with the remade ballot.

Please see the "Remaking an Absentee Ballot" section above under the "Election Day Absentee Counting Procedures" chapter.

Limitations on State or Political Subdivisions Mailing Any Absentee Ballot Application

An agency of the state or a political subdivision (meaning a county, city, town, township, school corporation, public library, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, special taxing district, or other type of local governmental corporate entity) may only mail any type of absentee ballot application (ABS-Mail, ABS-Traveling Board, ABS-VPD, FPCA, ABS-Attorney General etc.) to an individual who requests the application for themselves or their family members (meaning their spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece). However, these entities may email or hand-deliver absentee applications to any voter.

This limitation does not apply to any private individual, political party, or other entity providing an absentee ballot application to another individual. For example, a political party may mail any type of absentee ballot application to voters, even if the absentee ballot application is unsolicited. Additionally, government forms, like the absentee ballot application, must still be made available to an individual, political party, or other entity appearing in person to request copies of the form. However, any entity other than the Indiana Election Division or county election board mailing an absentee ballot application to a voter must comply with applicable disclaimer requirements. See the "Required Disclaimer for Mailings that Include an Absentee Ballot Application" section later in this Chapter for more information.

Voters With Print Disabilities

A "voter with print disabilities" is defined to refer to an individual who is unable to independently mark a paper ballot or ballot card due to blindness, low vision, or a physical disability that impairs manual dexterity (that is, the reliable use of their hands). (IC 3-5-2.1-107) **This does not include an individual who simply does not have a printer or whose printer is not currently functioning properly.**

A voter with a print disability may use e-mail, fax, or a web publication to request a voter registration application and absentee ballot application from the Indiana Election Division, county election board, or a county voter registration office. The office that receives the request for the application is required to send the voter registration or absentee ballot application to the voter with print disability not later than the end of the first business day after the office receives the request from the voter by e-mail if an e-mail is provided to the office. If the e-mail address is not provided by the voter with print disabilities or the e-mail address does not permit the office to send the application, then the application shall be sent by mail.

The Indiana Election Division, county election board, board of elections and registration, or county voter registration office shall ensure that the procedures used to receive a request for a voter registration or absentee ballot application and transmitting the application to the voter with print disabilities protects the security and integrity of the application request process, and the voter's identity and other personal data. Information about how to request a voter registration or absentee ballot application by e-mail or through a website shall be included with all informational and instruction materials that are sent with a voter registration application or an absentee ballot application to a voter with print disabilities.

The Secretary of State, with approval of the Indiana Election Division, developed a free access system that permits the voter with print disabilities to determine whether the voter's absentee ballot has been received by the appropriate county election board. The system (IndianaVoters.com) must contain reasonable procedures to protect the security of information and shall comply with Web Content Guidelines.

While a voter with print disabilities may continue to use a standard state or federal voter registration form or a standard state absentee form, they may also file a combined form (ABS-VPD). The combined form includes a voter registration component and an absentee application and is ongoing for one calendar year (January 1 to December 31). A voter with print disabilities may request an absentee ballot be sent by mail, fax, or email using the ABS-VPD form. Lastly, a voter with print disabilities would need to indicate their political party (or, if applicable, non-partisan for a public question only ballot) on the combined form and meet the filing deadline to receive an absentee ballot in the primary election. In many ways, these procedures will mirror processes used for military and overseas voters that file an FPCA.

Using the Combined Form to Request an Absentee Ballot

A voter with print disabilities can request and submit a combined voter registration and absentee application (ABS-VPD) using accessible technology developed for persons with print disabilities. Earlier in this *Manual*, the voter registration aspects of the combined form were discussed. However, the combined form also permits the voter to request an absentee ballot, which is ongoing for one calendar year (January 1 to December 31), much like military and overseas voters who file an FPCA or a person using the ABS-Attorney General Form. (IC 3-7-16-9.5; IC 3-11-4-5.8; IC 3-11-4-6)

If a voter with print disabilities files the ABS-VPD, counties will first want to confirm the voter is properly registered to vote at the address on the combined form. If not, then the county should treat the combined form as the officials would any other voter registration document. This means any update to an address outside of the voter's precinct may only be made using the ABS-VPD form if the application is received on or before the voter registration deadline. Once the voter's registration status is no longer pending, then the voter's absentee request may be processed. Alternatively, the voter may file the VRG 4/12 with their absentee ballot application for county officials to determine if the voter is eligible to vote one last time in their old precinct.

After the voter registration review, the county will follow review procedures for the absentee portion of the combined form the same as any absentee application filed in your office. To process a combined form for voters with print disabilities, the ABS-VPD must be received by county or state election officials not later than 11:59 pm (local prevailing time), twelve (12) days before Election Day.

As is currently the case with all registration information and absentee ballot applications, voters with print disabilities can monitor the status of their submitted combined form by accessing their record on IndianaVoters.gov, which will display one of the following business rule statuses currently in place: Provisional; Challenged; Cancelled; Approved; In process; Issued; or Rejected.

County voter registration officials will note the voter's print disability status in SVRS when an ABS-VPD form is filed in their office. However, this designation as a voter with print disabilities in SVRS expires January 1 of the calendar year after the year the individual submitted the absentee application indicating that status. (IC 3-11-4-6.2)

Voter Identification Requirements to Use the ABS-VPD Form

Voters who want to vote by any absentee method must provide voter identification information with their absentee ballot application, including the ABS-VPD form. The application gives voters two options to select from:

1) Provide the voter's Indiana driver's license or state ID card number OR the voter's unique ID found in the statewide voter registration system on the voter's registration record OR the voter's last four digits of their Social Security number.

2) Photocopy of the voter's ID that complies with the state's photo ID law. See the "Photo ID Law" section of the "Election Day" chapter of this Manual for more information.

If a voter selects option 1, county election officials will confirm the number provided on their absentee ballot application matches the voter's registration. If the provided voter ID number is not on the voter's registration record or does not match, then county officials will attempt to validate the provided voter ID number using the statewide voter registration system against records maintained by the Indiana Bureau of Motor Vehicles or the Social Security Administration. If the voter ID number is validated through this process, then the voter ID number will be added to the voter's registration record, and the bi-partisan review process will continue. If the voter ID number is not validated, then the absentee ballot application will be found defective or be rejected and the voter will be sent notice (ABS-24). Voters are encouraged to provide more than one of the required voter ID numbers.

If a voter selects option 2, county election officials will confirm the photocopy of the ID meets the state's voter ID law. If the ID complies with this statute (IC 3-5-2.1-84), then a bi-partisan team will continue the review of the application. If the supplied ID does not comply with the state's photo ID law, then the absentee ballot application will be found defective or be rejected and the voter will be sent notice (ABS-24). Because an absentee application can be transmitted over email, a voter can send a digital image or photograph of the voter's ID with their emailed absentee ballot application. A copy of the voter's valid photo ID must be provided each time an absentee application is submitted.

However, an absentee ballot application (ABS-VPD) submitted online through the Indiana Voter Portal (www.indianavoters.in.gov) must require the voter to provide the voter's driver's license number, Indiana identification card number, the unique identifying number assigned to the voter's voter registration record, or the last four digits of the voter's Social Security number to access the absentee application. The voter is only required to

provide one of these types of voter identification numbers but the voter ID number on the voter's registration must match the information entered by the voter.

If the numbers match, then the voter can access the online absentee application. If the numbers do not, then the voter can provide an Indiana driver's license or state ID card number or the last four digits of their Social Security number when prompted. The voter will conditionally submit their absentee ballot application. County officials will validate the voter's supplied ID number against BMV or SSA records. If the voter ID number is validated, it will be added to the voter's registration record, and the bi-partisan team will continue their review of the application. If the voter ID number cannot be validated, then the absentee ballot application will be found defective or rejected and the voter sent an ABS-24 notice. Note: Voters will not be able to upload a copy of an ID that complies with the state's photo ID law through the online portal. (IC 3-11-4-2; IC 3-11-4-3; IC 3-11-4-5.1; IC 3-11-4-17)

Voters using the online absentee application module on indianavoters.in.gov do not sign their absentee ballot application. The voter's signature on their voter registration record is applied to the application on the back end. Upon completion, the voter will receive a confirmation notice and can download a copy of their submitted application. Voters should not send this copy to county officials; the application is electronically submitted for county review in SVRS.

The identification number provided on the voter's absentee ballot application, or the photocopy of the identification document provided with the application is confidential. A county voter registration official is only required to redact the confidential information in responding to a public records request under IC 5-14-3. However, the identification number will become public record when it is added to the voter's registration record.

See "Absentee Ballot Application Defect Notice Process" later in the *Manual* for more information on the ABS-24 notice.

Proof of Residency Documentation (ABS-12) for Certain First Time Voters

Certain first-time voters who registered to vote using a paper state or federal voter registration application may be required to submit proof of residency for their absentee ballot to be counted, if the voter ID number (DLN, SSN4) provided on their registration form cannot be validated using SVRS or if the voter required to provide proof of residency has not already submitted the documentation to the county.

A copy of a valid Indiana driver's license or state ID card where the residence address on the ID matches the voter's registration is one of several acceptable residency documents, including a utility bill, paycheck stub, or school transcript. (IC 3-7-33-4.5; IC 3-11-8-25.2)

County election officials must provide the ABS-12 (Proof of Residency Documentation) form with the voter's absentee ballot and its packet contents that is sent to the voter. This documentation must be received by the county voter registration official not later than 6 p.m. on Election Day for the voter's absentee ballot to be counted. For voters with print disabilities, it may be necessary to attach the ABS-12 form to an email sent to the voter, if the voter requested their absentee ballot by email or fax.

See "Processing Absentee Applications" section in this *Manual* for more details.

Limitations on State or Political Subdivisions Mailing Any Absentee Ballot Application

An agency of the state or a political subdivision (meaning a county, city, town, township, school corporation, public

library, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, special taxing district, or other type of local governmental corporate entity) may only mail any type of absentee ballot application (ABS-Mail, ABS-Traveling Board, ABS-VPD, FPCA, etc.) to an individual who requests the application for themselves or their family members (meaning their spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece). However, these entities may email or hand-deliver absentee applications to any voter.

This limitation does not apply to any private individual, political party, or other entity providing an absentee ballot application to another individual. For example, a political party may mail any type of absentee ballot application to voters, even if the absentee ballot application is unsolicited. Additionally, government forms, like the absentee ballot application, must still be made available to an individual, political party, or other entity appearing in person to request copies of the form. However, any entity other than the Indiana Election Division or county election board mailing an absentee ballot application to a voter must comply with applicable disclaimer requirements. See the "Required Disclaimer for Mailings that Include an Absentee Ballot Application" section later in this Chapter for more information.

Returning an Absentee Ballot by Voters with Print Disabilities Using the ABS-VPD Form

Voters with print disabilities using the ABS-VPD form to request an absentee ballot be sent to them by fax or email must return their voted absentee ballot with the voluntary waiver to a secret ballot (ABS-25). A voter with print disabilities must be able to personally mark their own ballot, which would include the voter's personal use of adaptive technology to complete their ballot. The voter must be able to affix their signature or mark to the ballot secrecy waiver. The voter's signature can be affixed to the secrecy waiver using traditional methods like an indelible ink or pencil, or by using a computer mouse or finger on a touch sensitive device.

Voters with a print disability may return their absentee ballot using one of the following four methods:

Return by mail: The absentee ballot must be received by the county election board not later than 6 pm, prevailing local time, on Election Day.

Return in person: A voter may return their absentee ballot in person to their county election office not later than 6 pm, local prevailing time, on Election Day. Additionally, a member of the voter's household, a bonded courier, the voter's attorney-in-fact, or a family member (meaning a spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece) may hand deliver a completed absentee ballot to the county election board. These family members include persons related as the result of birth, marriage, or adoption. IC 3-11-10-24(e)) A person hand-delivering a completed absentee ballot must complete the ABS-19 form.

Return by email: Emailed absentee ballots must be received by 6 p.m., prevailing local time, on Election Day. Additionally, voters with print disabilities must file the secrecy waiver form (ABS-25) by this same deadline.

Return by fax: A voter may return their print disabled absentee ballot by fax. Faxed ballots must be received by 6 p.m., prevailing local time, on Election Day. Additionally, voters with print disabilities must file the secrecy waiver form (ABS-25) by this same deadline.

If a voter with print disabilities is unable to return their absentee ballot by the Election Day deadline, the voter can vote in person on Election Day at their designated polling site under IC 3-11.5-4-18, just as any other qualified absentee voter. Voting in person on Election Day will require the voter to surrender their absentee ballot that is sealed and signed to poll workers at the voting location or complete form PRE-5, attesting that the voter did not receive their requested absentee ballot.

Additionally, it is possible for a voter to surrender their absentee ballot before Election Day to vote absentee in-person, allowing for the use of accessible voting equipment. The voter would need to bring the voter's absentee ballot sealed in the secrecy envelope and signed by the voter (or, if sent by email or fax, the voter's ballot and signed secrecy waiver) and complete the ABS-5 form. The voter's original ballot will be marked as rejected, and the voter may then complete the absentee in-person (or "early voting") process prescribed in Indiana state law.

Alternatively, it is possible for the circuit court clerk to deliver the replacement absentee ballot by mail fax, or email, if the voter submitted a combined form for voters with print disabilities that permits the use of a faxed or emailed ballot.

If a voter makes an error on their absentee ballot or the county election board determines a ballot contained an error, then the voter can request a replacement absentee ballot using the ABS-5 form. Voters with print disabilities who have a combined form on file would receive their absentee ballot in the form requested – by mail, email, or fax.

Secrecy Waiver for Emailed or Faxed Ballots Used by Voters with Print Disabilities

All voters choosing to vote absentee by fax or email relinquish some degree of ballot security and secrecy as a result of not casting their ballot in person. In return for the convenience of receiving and delivering the voted ballot by fax or email, and consistent with IC 3-11-4-6, voters with print disabilities must relinquish ballot secrecy in the same way UOCAVA voters do by completing the Voluntary Waiver of Secret Ballot found on the ABS-25 form.

Further, if a voter does not return the secrecy waiver, then the county election board must reject the absentee ballot. (IC 3-11-4-6(h))

County election officials generate the ABS-25 form using SVRS, which is then provided to voters with print disabilities requesting an emailed or faxed ballot. Voters with print disabilities must be able to affix their signature or mark to the ballot secrecy waiver. The voter's signature can be affixed to the secrecy waiver using traditional methods like an indelible ink or pencil, or by using a computer mouse or finger on a touch sensitive device.

Storing & Remaking an Emailed or Faxed Ballot Used by Voters with Print Disabilities

When a faxed or emailed ballot is returned to the county election board, the absentee ballot is printed and stored in a ballot secrecy envelope (ABS-10B). Officials will indicate on the outside of the envelope that it contains a ballot returned by a qualified voter by email or fax. The ABS-25 secrecy waiver is attached to the ballot secrecy envelope (ABS-10B) along with the voter's ABS-VPD form for processing on Election Day, assuming the voter's signature is found to be genuine.

On Election Day, a bi-partisan remake team will remove the emailed or faxed absentee ballot from the ballot secrecy envelope and place a serial number on the printed document. The team will place the same serial number on an optical scan ballot card (often referred to as a paper ballot) used in the voter's assigned precinct and write the word "duplicate" on it. The serial numbers are important should a recount or contest action be filed in the election. The serial numbers on the printed paper document are used to find the optical scan ballot card used by the remake team to ensure the team correctly determined the voter's intent. (IC 3-12-3-5)

The team remakes the voter's choices on the ballot card, as the ballot card is designed to be read by the voting system's tabulating software. (The systems are not designed to read "normal" paper.) Remake teams are guided generally by IC 3-12-1 for determining the voter's intent.

The voter's remade ballot is scanned and tabulated and then stored with other ballots for the voter's precinct. The voter's original absentee ballot is stored with the remade ballot.

Please see the "Remaking an Absentee Ballot" section above under the "Election Day Absentee Counting Procedures" chapter.

Electronic Signatures

It is not permissible to affix an electronic copy of signature to voter registration forms, absentee applications, or combined forms such as the FPCA or ABS-VPD. However, a voter may use a mouse, finger, or other type of stylus to sign their name on the absentee application and, for voters with print disabilities using the ABS-VPD form, on the secrecy waiver (ABS-25) to be filed with a faxed or mailed ballot.

A voter using the online portal at IndianaVoters.com to submit a voter registration form, absentee application, or a combined form, if available. In these instances, the voter's signature on record with the Indiana Bureau of Motor Vehicles is affixed.

Attorney General's Address Confidentiality Program

Indiana law establishes an address confidentiality program for persons who are victims of domestic abuse, stalking or sexual assault. A person who applies to the Indiana Attorney General and qualifies under this program may designate an address provided by the Attorney General as his or her address for service of process and receipt of mail. **This confidentiality program does not apply automatically to every person who is granted a protective order by a court.**

The Attorney General's office will provide notice to the voter, who then must bring the notice to the county voter registration official to request their voter registration record be marked confidential. The voter must be registered to vote at the address where the person currently resides, but the mailing address on the registration record must be the PO Box number secured for the voter by the Attorney General's office. The covered period for keeping the voter's registration record confidential is June 30 in the fourth full year following enrollment in the program.

Like an absent uniformed services voter, a participant in this program is entitled to an absentee ballot in any election conducted during the year in which the applicant applied for an absentee ballot (ABS-Attorney General). The ongoing application is valid for one calendar year (January 1 to December 31). The absentee ballot application allows the program participant to provide the address designated by the Attorney General as the mailing address for receipt of the absentee ballot.

The name, address, telephone number, and any other identifying information relating to a program participant, as contained in a voting registration record, is confidential for purposes of Indiana's public records law. The county election board may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record except (1) to a law enforcement agency, upon written request, and (2) as directed by a court order. (IC 3-11-4-6; IC 5-26.5; IC 5-14-

3-4(a)(1))

More information about this program is available in the current edition of the *Indiana Voter Registration Guidebook* and on the Attorney General's website: www.in.gov/attorneygeneral.

Voter Identification Requirements to Use ABS-Attorney General Form

Voters who want to vote by any absentee method must provide voter identification information with their absentee ballot application, including the ABS-Attorney General form. The application gives voters two options to select from:

1) Provide the voter's Indiana driver's license or state ID card number OR the voter's unique ID found in the statewide voter registration system on the voter's registration record OR the voter's last four digits of their Social Security number.
2) Photocopy of the voter's ID that complies with the state's photo ID law. See the "Photo ID Law" section of the "Election Day" chapter of this Manual for more information.

If a voter selects option 1, county election officials will confirm the number provided on their absentee ballot application matches the voter's registration. If the provided voter ID number is not in the voter's registration record or does not match, then county officials will attempt to validate the provided voter ID number using the statewide voter registration system against records maintained by the Indiana Bureau of Motor Vehicles or the Social Security Administration. If the voter ID number is validated through this process, then the voter ID number will be added to the voter's registration record, and the bi-partisan review process will continue. If the voter ID number is not validated, then the absentee ballot application will be found defective or be rejected and the voter will be sent notice (ABS-24). Voters are encouraged to provide more than one of the required voter ID numbers.

If a voter selects option 2, county election officials will confirm the photocopy of the ID meets the state's voter ID law. If the ID complies with this statute (IC 3-5-2.1-84), then a bi-partisan team will continue the review of the application. If the supplied ID does not comply with the state's photo ID law, then the absentee ballot application will be found defective or be rejected and the voter will be sent notice (ABS-24). Because an absentee application can be transmitted over email, a voter can send a digital image or photograph of the voter's ID with their emailed absentee ballot application. A copy of the voter's valid photo ID must be provided each time an absentee application is submitted.

The identification number provided on the voter's absentee ballot application, or the photocopy of the identification document provided with the application is confidential. A county voter registration official is only required to redact the confidential information in responding to a public records request under IC 5-14-3. However, the identification number will become public record when it is added to the voter's registration record.

See "Absentee Ballot Application Defect Notice Process" in the *Manual* for more information on the ABS-24 notice.

Proof of Residency Documentation (ABS-12) for Certain First Time Voters

Certain first-time voters who registered to vote using a paper state or federal voter registration application may be required to submit proof of residency for their absentee ballot to be counted, if the voter ID number (DLN, SSN4) provided on their registration form cannot be validated using SVRS or if the voter required to provide proof of residency has not already submitted the documentation to the county.

A copy of a valid Indiana driver's license or state ID card where the residence address on the ID matches the voter's

registration is one of several acceptable residency documents, including a utility bill, paycheck stub, or public college or university school transcript. (IC 3-7-33-4.5; IC 3-11-8-25.2)

County election officials must provide the ABS-12 (Proof of Residency Documentation) form with the voter's absentee ballot and its packet contents that is sent to the voter. This documentation must be received by the county voter registration official not later than 6 p.m. on Election Day for the voter's absentee ballot to be counted.

See "Processing Absentee Applications" section in this *Manual* for more details.

Limitations on State or Political Subdivisions Mailing Any Absentee Ballot Application

An agency of the state or a political subdivision (meaning a county, city, town, township, school corporation, public library, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, special taxing district, or other type of local governmental corporate entity) may only mail any type of absentee ballot application (ABS-Mail, ABS-Traveling Board, ABS-VPD, FPCA, ABS-Attorney General etc.) to an individual who requests the application for themselves or their family members (meaning their spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece). However, these entities may email or hand-deliver absentee applications to any voter.

This limitation does not apply to any private individual, political party, or other entity providing an absentee ballot application to another individual. For example, a political party may mail any type of absentee ballot application to voters, even if the absentee ballot application is unsolicited. Additionally, government forms, like the absentee ballot application, must still be made available to an individual, political party, or other entity appearing in person to request copies of the form. However, any entity other than the Indiana Election Division or county election board mailing an absentee ballot application to a voter must comply with applicable disclaimer requirements. See the "Required Disclaimer for Mailings that Include an Absentee Ballot Application" section later in this Chapter for more information.

Electioneering & Absentee Ballots

The crime of "electioneering" (a Class A misdemeanor) may not be committed in the presence of a voter known to possess the voter's absentee ballot. However, the voter's spouse, the guardian of an incapacitated voter, or a member of the voter's household is not prohibited in engaging in electioneering in the presence of the absentee voter.
A bi-partisan traveling board team may not engage in electioneering when interacting with a voter. (IC 3-14-3-16)

Individuals voting absentee in-person at the clerk's office, early voting vote center, or satellite site may bring in materials to aid them with completing the ballot, similar to the experience of an Election Day voter. However, a person "voting early" may not make a verbal statement, or display a written statement, or wear anything expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another individual. (IC 3-14-3-16)

The polls may not be located in a building where any display, that is visible to a voter, of political preference or party allegiance. But this does include any pictures, photographs, or other likenesses of any currently elected federal, state, county, or local official, **unless they are located in the area of the chute or the room where voting is taking place**. A picture, photograph, or other likeness of the official can be covered on Election Day, rather than being removed from that location. (IC 3-11-8-6.3)

"Electioneering" does not include material mailed to a voter, or a telephone or an electronic communication to a voter expressing support or opposition to a candidate or a political party or expressing approval or disapproval of a public question. Additionally, a voter may bring any material into the voting booth with them to assist with completing their ballot. Absentee voter boards should monitor the voting booths and throw away items that may be left behind by voters. (IC 3-11-8-18.5)

See "Early Voting at the Clerk's Office (In-Person Absentee Voting)" section above for information about establishing a "chute" at early voting locations.

Power Of Attorney & Assistance to Voters with Disabilities

A voter's power of attorney is not permitted to request an absentee ballot on behalf of the voter without the voter's consent. A voter must sign the voter's own absentee ballot application, except for certain voters with disabilities. If a disabled voter cannot sign the application, then the voter's power of attorney may sign the absentee application for the voter. A copy of the power of attorney must be attached to the application. Additionally, the voter may designate an individual eligible to assist the voter under IC 3-11-9-2(a) (that is, anyone other than the voter's employer or union representative) to sign the application on behalf of the voter. In either case, the person providing assistance must complete the affidavit of voter assistance found on the absentee application. (IC 3-11-4-2)

Further, only a voter may personally mark their absentee-by-mail ballot; an attorney in fact ***may not*** mark the ballot for the voter. (IC 3-11-4-21). Should a voter be unable to make a voting mark on the absentee ballot, then a bi-partisan travelling board MUST be requested to allow the voter to vote absentee. (IC 3-11-10-24) Alternatively, a voter with a disability may vote absentee in-person at the clerk's office, though a PRE-3 affidavit of voter assistance must be completed before an individual or the absentee voter board may be brought into the voting booth to assist the voter. However, the individual designated may not be the person's employer or union representative. (IC 3-11-9-3)

For absentee-by-mail voting, only the voter may sign or affix their mark to the affidavit found on the ABS-6 secrecy envelope, but a POA may attest to the voter's signature or mark. (IC 3-11.5-4-13(b)(c)). Additionally, any individual except the voter's employer or union representative may assist a voter with disabilities with enclosing the ballot in the secrecy envelope and sealing the envelope. The person providing this assistance must complete the affidavit of voter assistance found on the outside of the ABS-6 envelope. (IC 3-11-4-21)

Voters with disabilities who vote absentee by traveling board or in-person in the Clerk's office or satellite "early voting" location will have their signatures attested to by the bi-partisan absentee voter board members. (IC 3-11-10-29)

Finally, voters with print disabilities may use adaptive technology to assist the individual with completing their ballot. Please see the "Voters with Print Disabilities" in the "Absentee Voting" section of this *Manual* for more information.

Death of an Absentee Voter

If proof is given to the absentee ballot counters that an absentee voter marked and forwarded an absentee ballot, but died before Election Day, the ballot of the deceased voter is rejected by the absentee ballot counters. (IC 3-11.5-4-17; IC 3-11.5-4-13)

If a voter casts an absentee ballot on an electronic voting system (DRE), the ballot will be assigned a unique identifier number. Should the voter die before Election Day the county clerk must use the unique identifier assigned to the

voter's ballot to cancel the voter's ballot and so that it is not counted on Election Day. (IC 3-11-10-26.2)

If a deceased voter cast an absentee ballot on an optical scan ballot card, then the process to handle the rejected ballot card depends on whether the voting system includes a ballot retraction feature certified by the IEC. If the optical scan voting system has a retraction feature AND the county election board scanned the deceased voter's absentee ballot card before Election Day using the procedures outlined in (IC 3-11.5-4-11.5), then the unique identifier assigned to the voter's ballot must be used by the county election board to retract an absentee ballot card of a voter who is later found disqualified or whose ballot may not be counted for any other reason under the election code. (IC 3-11.5-4-6(b))

If the optical scan voting system does NOT include a ballot retraction feature certified by the IEC or the county chooses not to use the feature, then each ballot not accepted or counted for any of the above listed reasons must, without being unfolded to disclose how it is marked, be endorsed with the words: "Rejected <insert reason>." All rejected absentee ballots are to be enclosed and securely sealed in an envelope labeled: "Defective Absentee Ballots." The defective absentee ballot envelope must also identify the precinct and the date of the election. Rejected absentee ballots are to be returned to the same officer and in the same manner for the return and preservation of official ballots cast and uncast at the election. (IC 3-11.5-4-14)

The casting of an absentee ballot by a deceased voter does not invalidate an election. (IC 3-11.5-4-17(b))

Electronic Signatures on ABS Applications

It is not permissible to affix an electronic copy of a voter's signature to voter registration forms, absentee applications, or combined forms like the FPCA used by military and overseas voters or an ABS-VPD form for voters with print disabilities. (For example, copying and pasting a signature onto the form or using a service to affix an electronic signature that was not made by the person's own hand.) However, a voter may use a mouse, finger, or other type of stylus to sign their name on the absentee application and, for voters with print disabilities using the combined form, on the secrecy waiver to be filed with a faxed or emailed ballot. Alternatively, a voter using the online portal at IndianaVoters.com to submit a voter registration form, absentee application, or a combined form, if available. In these instances, the voter's signature on record with the Indiana Bureau of Motor Vehicles is affixed.

Online Absentee Ballot Status & Application Tool

An online absentee ballot status tool is available to all Indiana voters on www.indianavoters.gov. Voters may click the "Get Absentee Ballot Information" icon on the main landing page, which will prompt the individual to enter their county, first and last name, and date of birth as captured on their voter registration record. If a match is found, the voter can determine if the county has received and processed the voter's absentee ballot application, view the date the absentee ballot was mailed, and whether the ballot was received.

An absentee ballot application submitted online through the Indiana Voter Portal (www.indianavoters.in.gov) must require the voter to provide the voter's driver's license number, Indiana identification card number, the unique identifying number assigned to the voter's voter registration record, or the last four digits of the voter's Social Security number to access the absentee application. The voter is only required to provide one of these types of voter identification numbers but the voter ID number on the voter's registration must match the information entered by the voter.

If the numbers match, then the voter can access the online absentee application. If the numbers do not, then the voter can provide an Indiana driver's license or state ID card number or the last four digits of their Social Security number when prompted. The voter will be able to conditionally submit the voter's absentee ballot application. County officials will validate the voter's supplied ID number against BMV or SSA records. If the voter ID number is validated, it will be added to the voter's registration record, and the bi-partisan team will continue their review of the application. If the voter ID number cannot be validated, then the absentee ballot application will be found defective or rejected and the voter sent an ABS-24 notice. Note: Voters will not be able to upload a copy of an ID that complies with the state's photo ID law through the online portal. (IC 3-11-4-2; IC 3-11-4-3; IC 3-11-4-5.1; IC 3-11-4-17)

Voters using the online absentee application module on indianavoters.in.gov do not sign their absentee ballot application. The voter's signature on their voter registration record is applied to the application in SVRS. Upon completion, the voter will receive a confirmation notice and can download a copy of their submitted application. Voters should not send this copy to county officials; the application is electronically submitted for county review.

Please note: an electronic application to receive an absentee ballot by mail or by traveling board or filing an ABS-VPD form submitted through the Indiana Voter Portal (www.indianavoters.gov) must include a telephone number to allow the voter to submit the application for review by the county election board or their designee or an absentee voter board. An applicant may provide an optional e-mail address to permit the county to contact the applicant but the failure to provide an e-mail address on the application is not a reason for denying the applicant's absentee ballot application. The telephone number and email remain optional on the ABS-Mail paper application and is not a reason for denying the applicant's absentee ballot application. (IC 3-11-4-5.1)

Public Records Requests for Absentee Voting Reports

In a non-vote center county, the county election board must establish a plan setting forth the method and timing for providing absentee reports to a person entitled under state law to receive the report, such as a county party chair, without unreasonable delay. (IC 3-6-5-17.3)

However, each county election board must provide absentee activity reports produced by SVRS not later than 10 a.m., noon, 2 p.m., and 4 p.m. local time on Election Day, unless the county election board adopts a policy by unanimous vote of the county election board to provide the reports at alternative times on election day (IC 3-7-27-6.5).

ELECTION DAY

Legal Notice of Election (CAN-9 & CAN-39)

Before a primary, general, municipal, or special election, the county election board, through the county clerk (or the Lake or Porter County Election Director) must provide legal notice to the voters of the upcoming election.

For a primary election, legal notice must be provided by completing the CAN-9 and publishing it with a newspaper in the county not later than twenty-one (21) days before the election. A copy of the notice must then be filed with the election division inserted in the minutes of a county election board meeting not later than ten (10) days before the primary election. However, an election is not invalidated by the failure of the board to perform this duty. (IC 3-8-2-19; IC 5-3-1-2)

Each county clerk must include on the CAN-9 the names of each candidate who filed and has been certified to appear on the primary ballot, the text of each public question that will be voted on by the voters during the primary and in 2028, the names of presidential candidates who have been certified by the Indiana Election Division to appear on the political party's primary ballot. Additionally, the CAN-9 notice must include the date and times the polls are open on Election Day, and the dates, times, and locations of in-person absentee voting will occur at the clerk's office and additional satellite locations. (IC 3-8-2-19)

State law no longer permits any candidate's address to be printed on the Legal Notice of Primary Election (CAN-9).

For a general, municipal, or special election, the county election board, through the county clerk (or the Lake or Porter County Election Director) must provide legal notice of an election by using the CAN-39. The CAN-39 must include the name of all offices and the text of all public questions that will appear on the general, municipal, or special election ballot. Including the names of candidates on the ballot is optional; however, it is no longer permissible to print candidate addresses on the CAN-39. (IC 3-10-8-4) Additionally, the notice must include the date and times the polls are open on Election Day, and the dates, times, and locations of in-person absentee voting will occur at the clerk's office and additional satellite locations. (IC 3-10-2-2)

The CAN-39 must be published in a newspaper in the county not later than twenty-one (21) days before the election. The notice must also be filed with the Indiana Election Division and inserted into the minutes of a county election board meeting not later than ten (10) days before the election. However, an election is not invalidated by the failure of the board to perform this duty. (IC 3-10-2-2)

County SVRS users can run a report in the statewide voter registration system that includes the statutorily required elements of the CAN-9 and CAN-39, after the county sets up the election and enters candidate filing information in the proper module of SVRS.

Election Day Polling Locations & Vote Centers

Legal requirements for polling locations in vote center and non-vote center counties are largely the same. (Note: the term "poll" or "polling location" or "vote center" is a reference to Election Day voting location under definitions found in IC 3-5-2.1.) Some important distinctions are noted in the specific categories below.

An election may not be held in a room in which alcoholic beverages are kept or sold. (IC 3-11-8-5) Polling locations must be accessible and secure, and a county must consider the relevant factors to ensure the security of the location set forth in guidance provided by the secretary of state. (IC 3-11-8-6)

The polls may not be located in a structure on or in which is affixed any display visible to a voter of political preference or party allegiance. The location of the polls is not prohibited in a structure that includes any pictures, photographs, or other likenesses of any currently elected federal, state, county, or local official. However, the polls may not be located in a structure in which the voting area or chute contains any display visible to the voter of political preference or party allegiance, including any pictures, photographs, or other likenesses of any currently elected federal, state, county, or local official. (IC 3-11-8-6.3)

In preparing the polls for an election, the county election board must:

1) have placed within the room a railing separating the part of the room to be occupied by the precinct election board from that part of the room to be occupied by the optical scan ballot card voting systems, direct record electronic (DRE) voting systems, and the three (3) or more booths or compartments for marking paper ballots, whenever either or two (2) of these voting systems are used;
2) ensure that the portion of the room set apart for the precinct election board includes a designated area before the voter approaches the precinct election board at which each voter appears for challenge; and
3) provide a method or material for designating the boundaries of the chute, such as a railing, rope, or wire on each side, beginning a distance equal to the length of the chute (as defined in IC 3-5-2.1-21) away from and leading to the door entering the room in which the election is held. (IC 3-11-8-7)

Vote center counties will include many of these items in their vote center plan under IC 3-11-18.1-4.

Each polling place or vote center must be located in an accessible facility for elderly voters and voters with disabilities. The polling place must comply with state and federal standards concerning parking areas, paths to the facility where voting occurs, the entrance to the facility, passages within the facility, and the room or area within the facility where voting occurs. (IC 3-11-8-1.2) More information about accessibility requirements is found below.

Selecting Election Day Polling Locations

Polling places are in a wide variety of locations, including government buildings, schools, churches, fire stations and even garages in private homes. In recent years, standards regarding the accessibility of polling places for disabled voters have reduced the number of potential polling place sites in some communities. Many counties made significant improvements by complying with the requirement that all polling places be accessible.

Non-Vote Center Counties

Except in a county where vote centers are used, the polls for each precinct may be located in only one (1) place and are designated by the county commissioners of each county. The county commissioners (or in Marion County, the Mayor of Indianapolis as "county executive") must designate polling places **not less than twenty-nine (29) days** before Election Day. Precinct polling places are permanent and remain unchanged until the board of county commissioners or county executive orders otherwise. As a result, county commissioners or the county executive is only ***required*** to designate polling places if there is a ***change.*** (IC 3-11-8-3.1)

However, each precinct does not necessarily have to have its own polling place. If a county election board adopts an order by the unanimous vote of the entire election board, the polls for a precinct may be located with the polls in an adjoining precinct so that both precincts vote before the same precinct election board. (IC 3-11-8-4.3) **In these cases, however, the poll workers must maintain separate poll books for each precinct and keep ballots separate so**

that each precinct has its own vote totals for candidates when the canvass is conducted. There are special procedures for combining polling places in municipal elections and special elections. (IC 3-10-6-11; IC 3-10-8-6)

If there is no accessible facility to use as a polling place in the precinct, then the polls may be located in a building in an adjoining precinct if the building is not more than five (5) miles from the closest boundary of the precinct OR anywhere within the same township if no other accessible place for disabled voters is available. This mileage restriction does not apply if a county election board adopts an order by unanimous vote to locate the polls for the precinct at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct. (IC 3-11-8-3)

If the county election board unanimously determines that there is still not an accessible facility available, then the most convenient accessible facility ***anywhere in the county*** may be chosen. With the unanimous consent of both county election boards, it is even possible to locate an accessible polling place in a bordering county. This might occur when an accessible facility is located on the other side of a county line road, for example. (IC 3-11-8-3)

Generally, no polling location change in a non-vote center county can be made within two (2) days of an election. However, **if a county election board unanimously agrees that using a designated polling place would be dangerous or impossible, the county election board can designate a new polling place for the precinct during the final two (2) days before an election. The board must give the best possible notice of the change.** (IC 3-11-8-3.2)

NOTE: Please see "Absentee Voting: In-Person at the Clerk's Office" for more information about site requirements for early voting.

Vote Center Counties

Counties may be designated as a vote center county if the requirements under IC 3-11-18.1-3 are met. A county election board must first draft its vote center plan, which must include all the requirements under IC 3-11-18.1-4 and hold a public hearing to present it. After this presentation, the board must accept written public comments on the draft plan. A second public hearing is then held at least thirty (30) days after the initial hearing and the county election must consider the draft plan, any written comments, and any other public comment that the board may permit.

Once the board has considered the draft plan and comments, then the board may unanimously agree to adopt an order approving the draft plan or ament the draft plan and adopt an order approving the amended draft plan. All members of the board must sign the order adopting the plan. The order and adopted plan along with a resolution adopted by the county executive and a resolution adopted by the county council approving the designation of the county as a vote center county must be filed with the Indiana Election Division. A voter center plan is not effective until it is filed with the election division. (IC 3-11-18.1-3; IC 3-11-18.1-8)

An order and initial plan filed with the election division during the final sixty (60) days before an election becomes effective on the day following the election. The designation of a county as a vote center county remains in effect until the county election board, by unanimous vote of its entire member rescinds the order designating the county as a vote center county and files a copy of the document rescinding the order with the election division. (IC 3-11-18.1-8)

Vote center counties with at least 25,000 active voters (as defined in IC 3-11-18.1-2) must provide for at least one (1) Election Day vote center for each 10,000 active voters and one vote center for any fraction of 10,000 active voters. Counties with fewer than 25,000 active voters must have at least one Election Day vote center. (IC 3-11-18.1-6)

Requirements for special elections or certain municipal elections may alter this rule. (IC 3-11-18.1-5; IC 3-11-18.1-6)

Unlike a non-vote center county, the county commissioners do not determine the locations of vote centers. Instead, the county election board selects the locations as part of its original plan or any amendment. While a vote center location may be changed at any time before the election, the amendment must be filed with the Indiana Election Division before it is effective. (IC 3-11-18.1-15) Amendments to the initial vote center plan must be passed by a unanimous vote of the county election board or the Lake, Porter, or Tippecanoe County Board of Elections and Registration. All members must sign the amended plan, and it must be filed with the Indiana Election Division before it becomes effective. (IC 3-11-18.1-15)

Vote centers must follow the same accessibility and security requirements as a non-vote center county. The plan under IC 3-11-18.1-4 adopted or amended by a county election board must detail these requirements.

In 2027 and every four (4) years thereafter, a vote center plan may provide that a vote center will not be used in a municipal election conducted for some or all of the towns that are located within the county and is considered a "small" town with a population of less than three thousand five hundred (3,500). (IC 3-11-18.1-5(b)) Additionally, the county vote center plan does not apply to any town who establishes a town election board under IC 3-10-7-5.7 to conduct the town's election. (IC 3-11-18.1-5(c))

NOTE: Please see "Absentee Voting: In-Person at the Clerk's Office" for more information about site requirements for early voting.

Accessibility Standards for Polling Locations

Each polling place or vote center must be located in an accessible facility for elderly voters and voters with disabilities. The polling place must comply with state and federal standards concerning parking areas, paths to the facility where voting occurs, the entrance to the facility, passages within the facility, and the room or area within the facility where voting occurs. (IC 3-11-8-1.2)

Additionally, the Help America Vote Act (HAVA) is a federal law requiring each polling place to be accessible to elderly voters and voters with disabilities. Before Election Day, the persons recommending where polling places should be located must take care to designate sites that meet accessibility standards. (IC 3-11-8-6)

County election administrators may purchase additional equipment to aid a site in becoming compliant with the Americans with Disabilities Act (ADA). For example, portable wheelchair ramps may be used to help a wheelchair user bridge the surface of a parking lot to the elevated level of a sidewalk or door entrance. Portable "doorbells" may be placed outside the voting entrance for an individual to push and alert a poll worker inside the individual needs assistance opening the door. If voting occurs on the second floor or an elevated platform inside a polling location, please ensure any elevators or wheelchair lifts are operational before Election Day.

The accessible voting area must be on an accessible route and have adequate maneuvering space for voters who use wheelchairs or other mobility aids. Allow approximately five square feet for a wheelchair to navigate behind and around the machine. Blinds on windows behind check-in staff should be closed so voters who read lips can communicate with workers. Tables should have a clear knee space of at least 27 inches. (IC 3-11-8-1.2)

Each polling place must have at least one voting system equipped for individuals with disabilities, such as a direct record electronic (DRE) voting system or other ballot marking device. Poll workers must be trained on how to use the

accessible features of a voting system and create a welcoming environment for all voters.

The U.S. Department of Justice Civil Rights Division includes an ADA checklist for polling place locations on its website: https://www.ada.gov/votingck.htm

Legal Notice of Election Day Polling Locations

The county election board **must** publish a legal notice stating the location of each polling place for each precinct in non-vote center counties. The county election board must publish this list at least once and at least twenty-one (21) days before the election. If it is necessary to make a change after publication, notice of the change must be provided in the same manner. The legal notice must indicate that the polls for each precinct are located in an accessible facility. (IC 3-11-8-3.2)

The same legal notice for polling locations is required for counties that use vote center and a recent change in state law requires the county election board to publish the notice required under IC 3-11-8-3.2. (IC 3-11-18.1-9) But, if there is a change in a vote center location after publication, before providing notice of the change, the county election board must amend the vote center plan to reflect the change in locations and file that amendment with the Indiana Election Division. (IC 3-11-18.1-15)

Compensation for Using Site as Election Day Polling Place or Vote Center

School buildings, fire stations, and other public buildings must be made available for use as a polling place or vote center without charge to the county. A county cannot be required to sign an agreement to assume liability as a condition for using the public building as a polling place. But a school building that is used as a polling place on Election Day may:

1) conduct a virtual instruction day for students who attend school in the school building; or
2) conduct in-person instruction to students who attend school in the school building if access to the polling place is secured from access to other areas of the school building, public parking access is maintained, and
3) ensure that access to the polling place and parking is in compliance with Americans with Disabilities Act. (IC 3-11-8-4)

Voting System Delivery

State law requires the county election board to have all necessary voting systems and furniture required for a voter to cast a ballot delivered to the precinct not later than 6:00 p.m., prevailing local time, the day before Election Day. The county executive is required to provide transportation, if requested by the county election board. [(IC 3-11-13-6(c) (optical scan ballot system); IC 3-11-14-14 (DRE)]

State law has strengthened voting system and ePollbook delivery procedures and standards **to and from** election day voting locations. Please review the "Voting Systems & ePollbooks" section of this *Manual* for more information.

Election Day Polling Location Set-Up

At least one (1) hour before the polls open on Election Day, the precinct election officers are to meet at the polls. The inspector then directs the boundaries of the chute designated; sample ballots, instruction cards, and other materials posted; and everything put in readiness for the commencement of voting. (IC 3-11-13-27; IC 3-11-14-17)

Instruction cards must direct voters how to obtain a ballot, prepare a ballot, and obtain a new ballot, should the ballot be spoiled. (IC 3-11-3-23) **The instruction cards must also include in underlined type that:**

1) it is a crime to violate Indiana election laws;
2) the voter should examine the ballot to determine if it contains the initials of the poll clerks in ink on the back of the paper or optical scan paper ballot, (does not apply to DRE electronic voting systems);
3) the voter should examine the ballot to determine if the paper or optical scan paper ballot has any other marks on it (does not apply to DRE electronic voting systems);
4) the voter should not make any mark on the ballot except a voting mark in the appropriate space on the ballot, because a mark other than a voting mark could void the ballot (does not apply to DRE electronic voting systems); and
5) the voter should return to the poll clerks and request another ballot if one of these provisions has been violated (does not apply to DRE electronic voting systems).

In addition, the county election board must supply each polling place with instruction cards that explain the voting procedure to voters and the procedure for write-in voting. A precinct that employs a voting system that does not permit write-in voting on the system must post instruction cards directing the voter to request a paper ballot from a precinct election officer. (IC 3-11-3-22)

One instruction card must be posted in each voting booth. One instruction card must be posted at the end of the voting chute. At least three instruction cards must be posted in and about the polling location. (IC 3-11-3-24)

NOTE: Voting instructions for polling places must be printed in at least 14-point type on cards in English, Braille, and any other language that the board considers necessary. Precinct election boards are also required to furnish a magnifier to a voter upon request. (IC 3-11-3-22)

Precinct election officers will also be provided with other materials to post in the polling location including the Voter's Bill of Rights in English and Spanish, a warning not to "electioneer" beyond a certain point, a notice that a voter must provide photo identification to cast a regular ballot, and a sample ballot for the precinct. These materials must be set up before the polls open on Election Day. Usually this can be done the evening before the election when the voting system being used at the polls is delivered or when the precinct election officers meet at 5 a.m. on Election Day.

Voter's Bill of Rights

All Election Day voting locations must hang the "Voter's Bill of Rights" poster in a prominent location to comply with federal and state law. (IC 3-5-8-3) The Secretary of State and Indiana Election Division revise the poster in each election cycle and provide printed copies at no cost to county election boards. (IC 3-5-8-1; IC 3-5-8-2) The state's HAVA Administrator generally informs counties when publications are available at the end of each year.

Sample Ballots

In **Non-Vote Center** counties, a sample ballot for each precinct must be hung near the entrance of the polls by the poll workers on Election Day. (IC 3-11-13-10; IC 3-11-14-18)

In **Vote Center** counties, not later Election Day, the county election board (rather than precinct election board members) shall do both of the following:

1) Make the comparison between the sample ballots, regular official ballots, and provisional ballots.
2) Certify that the ballots are in agreement on the CEB-40 form.

A copy of the certification shall be entered into the minutes of the county election board. The county election board shall have copies of each sample ballot for each precinct available for inspection by a voter at each vote center and post a notice in the vote center stating that sample ballots are available for inspection upon request by the voter. (IC 3-11-11-1.9; IC 3-11-13-27; IC 3-11-14-17)

Additionally, a county election board may use an electronic device (other than an electronic poll book) to display a sample ballot. An electronic device, whose only function is to display a sample ballot, is not considered a voting system or part of a voting system and is not required to be certified as part of a voting system. Further, a "decommissioned" electronic pollbook may be used as the electronic device to display the sample ballot. (See "County Disposal of Voting Systems and Electronic Pollbooks" in the Voting Systems & ePollbooks chapter of this *Manual.*

In a precinct where voting is by paper ballot, optical scan ballot card, or direct record electronic voting systems, the county election board must provide either an adequate number of sample ballots for the precinct or an electronic display of the sample ballot using as electronic device.

Sample ballots or the electronic device that will display the sample ballots are to be provided by the county election board to the inspector of each polling location or vote center as part of the materials given to the inspector on the second or third day before election day.

If sample paper ballots, optical scan ballot cards, or direct record electronic voting systems are used, the inspector must post a copy of the sample ballot near the entrance to the chute and make the sample ballot available to voters throughout election day. If a sample ballot is displayed by using an electronic device, the inspector must post a notice in the same location announcing that the sample ballot is available for review. In a vote center county, the same notices are to be provided regarding the availability to view sample ballots for each precinct in the county.

Displaying a sample ballot is not a crime under the law prohibiting the printing or circulation of an imitation ballot of forging the official endorsement of a ballot. (IC 3-11-3-11; IC 3-11-3-25; IC 3-11-11-1.3; IC 3-11-11-1.7; IC 3-11-11-1.9; IC 3-11-11-2; IC 3-11-13-9; IC 3-11-13-10; IC 3-11-13-10.5; IC 3-11-13-27; IC 3-11-14-7; IC 3-11-14-18; IC 3-11-14-18.5; IC 3-11-15-59; IC 3-14-2-19)

Chute

The "chute" is defined in IC 3-5-2.1-21: "'Chute' means the area or pathway that extends fifty (50) feet in length, measured from the entrance to the polls used on Election Day. If the property line of the polling place is less than fifty (50) feet from the door or entrance to the polling place, the chute is measured from the exterior door or entrance to the polling place to one-half the distance to the property line of the polling place nearest to the entrance to the polls. Whenever there are two (2) or more doors or entrances to the polls, the inspector of the precinct shall designate one (1) door or entrance as the door for voters to enter for the purposes of voting."

After poll workers determine the end of the chute, a "No Electioneering Beyond This Point" sign is to be posted, alerting voters and others outside the polling place that no partisan activity is permissible from that point forward.

NOTE: Please see the "Early Voting" section of this *Manual* for electioneering limitations for early voting sites.

Election Day Materials

In addition to the topics raised below, please read the "Election Material Pick-Up & Post-Election Return" section below for more information.

Paper Poll Book & ePollbooks

The poll book is a list of voters in a precinct produced to confirm and track which voters cast a ballot on Election Day. There are two different forms of poll books, the traditional paper list printed for each precinct in the county, and an electronic pollbook.

In counties that use the **traditional paper pollbook**, the book for each precinct is printed by the county voter registration official not later than ten (10) days before an election. The book must contain:

1) The full name of the voter.
2) The address of the voter.
3) The assigned voter identification number.
4) Whether the voter is required to provide additional identification before voting either in person or by absentee ballot.
5) The date of birth of the voter, including an indication whether the voter is less than eighteen (18) years of age for a poll list used in a primary election.
6) The scanned signature of the voter.
7) Whether the voter is required to provide an affirmation of the voter's residence.
8) A bar code that allows the county voter registration office to efficiently record whether the voter has signed the poll list.
9) For a poll list used in a primary election, a letter abbreviation of the name of the major political party whose ballot the voter has requested.
10) A space for a poll clerk to indicate when a voter has cast an absentee ballot.
11) A space for a poll clerk to indicate when a voter has cast a provisional ballot.
12) For a voter required to submit additional residence documentation required under IC 3-7-33-4.5, a space for a poll clerk to insert letters serving as an abbreviation for the type of residence documentation provided by the voter.

A warning must also be printed at the top of each page of the pollbook stating that anyone who knowingly makes a false statement concerning the individual's name, voter identification number, or residence address, or by signing the pollbook commits a Level 6 felony. (IC 3-7-29-1)

All Indiana counties have access to and use **electronic pollbooks (ePollbooks),** which are electronic devices and software containing the county voter registration list that are approved for use in Indiana by the Secretary of State. (IC 3-11-18.1-12) The system provides the same information that is provided on a traditional paper pollbook. The system must also meet certain criteria and be able to execute functions found in IC 3-11-8-10.3. More information about ePollbooks can be found in the "Voting Systems & ePollbooks" section of this *Manual.*

While counties now almost exclusively use an ePollbook, the functionality remains in SVRS to create a paper poll list. Counties are encouraged to save the electronic file of the paper poll list in case of emergency needs on Election Day. If practicable, ePollbooks counties might consider printing at least one hard copy to expedite delivery or copying on Election Day if paper poll lists are needed in an emergency situation.

Note on Voter Identification Number: Federal law and state law require an individual applying to register to vote to provide a "voter identification number." This number is an Indiana driver's license number or (as referenced in the state voter registration application form, a state identification card number) as issued by the Indiana Bureau of Motor Vehicles (BMV). If an individual does not have an Indiana BMV-issued driver's license or identification card, the individual must provide the last four digits of his or her social security number as a voter identification number. (IC 3-7-13-13) If an individual does not have either a BMV driver's license or identification card number, or a social security number, the statewide voter registration system will assign a voter identification number to this individual.

During an election, a precinct election poll clerk shall explain the voter identification number to each voter and request that each voter provide (or update) the voter's identification number on the poll book. However, the poll clerk must also explain that a voter is ***not required*** to provide a voter identification number at the polls to vote. (IC 3-11-8-25.1) If a voter does give a voter's identification number, then the county voter registration office shall update the voter's registration to include that information. (IC 3-7-13-13)

Party Selection on ePollbook during a Primary Election

At a primary election polling location or early voting location that uses an electronic pollbook, the voter, instead of the poll clerks or any other person, must select on the electronic pollbook which political party primary ballot the voter wants to vote. (IC 3-10-1-24; IC 3-11-8-10.3)

Forms & Envelopes

In addition to ballots and poll book, the county election board must provide additional election materials to poll workers to complete and return after the polls close. Generally, the "PRE" and "PRO" series of forms are used for Election Day work, but there are few forms outside this series that should be provided to poll workers. Current versions of the forms must be used (unless the Election Division has grandfathered a previous version). Counties should consult the "Forms Master List" provided by the Indiana Election Division at the most recent election administrator conference (and subsequent Election Division orders) to determine which revision(s) of a form is acceptable.

Note: When a county election board is distributing ballots and supplies for an election, and the law requires the use of a strong or stout paper envelope or bag, the county election board may, by unanimous vote of its entire membership, use bound materials instead. The bound materials may not contain provisional ballot materials. (IC 3-11-3-12.5)

Forms to be provided to precinct election officials in all elections include:

Form Number	Form Name	Form Number	Form Name
PRE-1	Precinct or Vote Center Oath Book	PRE-16 (DRE Counties Only)	Inspector and Judge's Report of Total Votes Cast on Electronic Voting Systems…
PRE-2	Statement of Expenses of Precinct Election Officers	PRE-19	Affidavit of a Public Safety Officer or Member of the Military Returning to the Polls to Vote After Responding to an Emergency
PRE-3	Affidavits of Voter Assistance	VRG-4/12	Affidavit of Request to Update Voter Registration at the Time of Requesting a Ballot
PRE-5	Voter's Affidavit Requesting to Vote in Person at the Polls After Failing to Receive Mailed Absentee Ballot	VRG-11	Indiana County Voter Registration Application (English & Spanish)
PRE-8	Appointment of Replacement Precinct Election Officer	CEB-1B	Certificate of Return of Precinct or Vote Center Materials by Inspector and Judge
PRE-10	Inspector's Affidavit for Return of Ballots and Supplies	CEB-1C	Certificate of Return of Voting Systems from Precinct or Vote Center
PRE-9	Affidavit of Inspector and Judges Concerning Casting a Voter's Ballot	CEB-1D	Certificate of Return of ePollbooks from Precinct or Vote Center
PRE-13	Grand Jury Affidavits Envelope	PRE-15	Miscellaneous Forms Envelope

Note: The CEB-1C and CEB-1D may not necessarily be used by poll workers unless the county election board uses a bi-partisan team of Election Day poll workers to return ePollbooks or voting systems.

Note: Provisional ballot voting requires additional forms and materials to be provided to precinct election officers, and those materials are to be provided in every election. See the "Provisional Ballot Voting" section of this Manual *for more information.*

The following forms are specific to an election type (primary, general, municipal, or special) and only used by precinct election officers during the identified election:

Election	Form Number	Form Name
Primary	PRE-6	Affidavit to Challenge a Person at a **Primary** Election Due to Party Affiliation
Primary	PRE-17	**Primary** Election Certificate and Memoranda of Total Votes Cast in a Precinct
General	PRE-11	**General** Election Certificate and Memoranda of Total Votes Cast in a Precinct
Municipal	PRE-18	**Municipal** Election Certificate & Memoranda of Totals Votes Cast in a Precinct

Counties must also provide envelopes to secure specific types of elections materials, including but not limited to:

Envelope for Precinct Materials	Form Number or IN Code Cite	Purpose
Provisional Ballot Outer Envelope*	PRO-4	Secures PRE-4/PRO-2 provisional ballot envelopes received on Election Day
Provisional Ballot Security Envelope with Affidavits*	PRE-4/PRO-2	Secures the uncounted provisional ballot issued to the voter; includes the affidavit to be completed by the challenger and voter (PRE-4) and the voter's affidavit after securing the ballot in the envelope (PRO-2)
Provisional Ballot Envelope for Ballots Issued After Regular Poll Closing Hours*	PRO-5	If a court order extends voting beyond 6:00 p.m. local prevailing time, voters must use a provisional ballot, and this universe of provisional ballot envelopes are to be secured in this envelope instead of the PRO-4 envelope
Provisional Ballot Envelope for Spoiled Provisional Ballots*	PRO-6	If a voter spoils a provisional ballot, it should be placed in this envelope rather than the spoiled ballot envelope for "regular" ballots
Voter Registration Affidavit Envelope	PRE-12	
Grand Jury Affidavits Envelope	PRE-13	
Miscellaneous Forms Envelope	PRE-15	
Zero Tape Envelope		Secures voting system "zero" tape, which is printed before the polls open and signed by precinct election board
Results (Totals) Tape Envelope		Secures vote totals generated from voting system unit after the polls close and signed by precinct election board
Spoiled Absentee Ballot Carrier Envelope		Secures absentee ballot
Voted Ballot Bag		Stores all voted ballots, by precinct
Unvoted Ballot Bag		Stores all unvoted ballots or blank ballot card stock
Spoiled Ballot Envelope		Stores all ballots that were spoiled by a voter, except for spoiled provisional ballots (see PRO-6 above)

**Please see "Provisional Ballot Voting" section of this Manual for more detailed information concerning provisional ballot materials.*

For those envelopes where there is an Indiana Code citation, please review those sections carefully for specific advice on what information should be printed on the envelope, if any. **NOTE:** Please see the "Retention of Election Records" section of this *Manual* for the retention schedule for specific kinds of election materials.

Affidavits of Voter Assistance (PRE-3)

Before entering the voting booth, certain voters may request assistance if the voter 1) has a disability (permanent or temporary), or 2) is unable to read or write the English language. The following individuals may assist a voter, if requested to do so:

- The voter may designate a person to assist them, including a relative or friend. However, a voter may not designate the voter's employer, an officer of the voter's union, or a union representative.
- If the voter requests assistance, but does not designate someone else to help them, BOTH precinct election judges must accompany the voter into the voting booth to assist the voter.

A person providing assistance to a voter, including the precinct election judges, must complete the Affidavit of Voter Assistance (PRE-3) **before** entering the voting booth to assist a voter.

NOTE: precinct election officials may not leave the polling place with election materials to permit a voter to vote in the street or from an automobile. The voter MUST enter the polling place to cast a ballot.

In other words, **"curbside" voting is NOT allowed in Indiana.**

Election Day Ballots

For counties using an optical scan ballot card voting system, state law prescribes the number of ballots that are to be provided to each voting location, including blank ballot cards that may be used by a ballot on demand printer or those used with a ballot marking device. This information is covered in the "Ballot Information" section of this *Manual* in detail. The ballots are to be enclosed in a sturdy, sealed container and provided to the Inspector not earlier that the Saturday or Sunday before Election Day, when the Inspector is required to pick-up their materials pursuant to state law. (IC 3-11-3-10; IC 3-11-3-11) Voted and unvoted ballots must be returned to the county election board after the polls closed in a sealed sturdy container or bag. (IC 3-10-1-31.1)

All counties, regardless of the type of voting system used on Election Day, must have provisional ballots available to voters. Provisional ballots **cannot** be cast on a direct record electronic (DRE) voting system. Instead, the county will have printed provisional ballots on ballot cards or as traditional hand-counted paper ballots. (IC 3-11.7-1-1) There is no specific formula to determine how many provisional ballots are to be sent to each precinct or voting location. (IC 3-11.7-1-4)

For counties using a DRE voting system only on Election Day, state law recommends but does not require back-up paper ballots to be provided to poll workers in the event of equipment failure. (IC 3-11-3-11)

Regardless of the voting system used by the county, county election boards are encouraged to consider how to deliver ballot cards or paper ballots, or, for ePollbook counties, paper poll lists to poll workers should it be necessary to do so in an emergency or natural disaster.

Except for Marion County, all voted ballots (those cast on Election Day, and all absentees tabulated at the central county) must be sorted and stored by precinct. (IC 3-11.5-6-5)

Poll Clerk Initials on Election Day Ballots Before Issuing to Voter

Except as noted below, the two (2) poll clerks of each precinct (or the poll worker designated the clerks' responsibilities in a vote center plan) shall place their initials in ink on the back of each ballot card at the time the card is issued to a voter; or in the case of a ballot marked by a marking device for an optical scan ballot, before the ballot is placed into the tabulating device. (IC 3-11-13-28.1(b)) The initials must be in the poll clerks' ordinary handwriting or printing and without a distinguishing mark of any kind. For polling locations where a ballot marking device is not used for a voter to mark their ballot, as each successive voter signs the poll list and received the ballot

initialed by each poll clerk, the inspector shall then give to the poll clerks a new ballot to be initialed. (IC 3-11.13-28.5)

In a county using an electronic poll list and a printer separate from the electronic poll list, the printed initials of the poll clerks captured through the electronic signature pad or tablet at the time the poll clerks log into the electronic poll book system may be printed by a printer separate from the electronic poll list on the back of each ballot card immediately before the ballot card is delivered to the voter. (IC 3-11-13-28.1(c))

In a vote center county using an electronic poll book and a printer separatee from the electronic poll book, the printed initials of the poll clerks captured through the electronic signature pad or tablet at the time the poll clerks log onto the electronic poll book system may be printed by a printer separate from the electronic poll book on the back of each ballot card immediately before the ballot card is delivered to the voter. (IC 3-11-13-28.2)

Except as provided in IC 3-12-1-12, a ballot card is not valid unless, immediately before the ballot card is delivered to the voter, the ballot card is initialed by both poll clerks or the initials of both poll clerks are printed on the back of the ballot card. (IC 3-11-13-28.1; IC 3-11-13-28.2; IC 3-11-13-28.5)

Precinct Election Officers (Poll Workers)

Each precinct polling place or vote center has at least one precinct election board, consisting of the inspector and the two precinct judges. Poll clerks, assistant poll clerks and sheriffs assist the precinct election board with their duties; however, in a county using vote centers, the vote center plan may designate poll workers with different titles who carry out some or all of the duties assigned by state law to the inspector, judge, poll clerk, assistant poll clerk, or sheriff. Other partisan persons are often present in polling places for political parties and candidates, including challengers, watchers, and poll book holders. (IC 3-6-6-1; IC 3-6-6-2; IC 3-6-6-5.5)

In some special circumstances, such as nonpartisan special elections, only one judge or one poll clerk may be present at the precinct. The county election board may also provide that more than one precinct in which the special election will be conducted will be administered by the same precinct election board. (IC 3-10-8-6)

See the current edition of the *Election Day Handbook*, published by the Indiana Election Division, for more information regarding poll worker rights and duties.

A county using **vote centers** may use other titles to designate precinct election officers and specify which precinct officers are to perform a duty required under election law to be performed by a precinct election officer (IC 3-6-6-5.5). However, a vote center must have at least one precinct election board – Inspector, two Judges – assigned, in addition to other precinct election officers.

In **non-vote center** counties, generally, each precinct can have up to nine (9) precinct election officers appointed to administer the election at the polling location. These positions, by rank, are the following:

1) One inspector.
2) Two judges of opposite political parties.
3) Two poll clerks of opposite political parties.
4) Two assistant poll clerks of opposite political parties, if the county election board determines they are needed in a specific precinct.
5) Two election sheriffs of opposite political parties.

A county election board may adopt a resolution by unanimous vote of the entire membership of the board, to provide that one individual may serve as inspector for more than one precinct located at the same location. (IC 3-6-6-38.5).

Indiana Code 3-6-6-38 states that the county election board may adopt a resolution omitting sheriffs or poll clerks and providing that other election officials of each precinct shall perform the duties of the election poll clerks or sheriffs. This resolution, if adopted, applies to each voting precinct named in the resolution (or to all precincts in the county if so provided in the resolution). This resolution expires December 31 of each year and must be readopted to remain effective. Currently, most Indiana counties have eliminated the election sheriff positions.

If a vacancy exists in the office of precinct sheriff and the county election board has not adopted a resolution to omit appointing precinct sheriffs and designate another precinct election officer (inspector, judge, or clerk) to perform the duties of sheriff, or the vote center plan adopted by the county election board does not specify which precinct election officer is to perform the duties of the sheriff, then the precinct judge of the appropriate political party performs the duties of the precinct sheriff of that party until the vacancy is filled by the county election board. (IC 3-6-6-38)

A polling place may employ assistant poll clerks, if needed. The county election board may appoint two assistant poll clerks who must be registered voters of the county and of opposite political parties. A person may serve as an assistant poll clerk and not be a registered voter of the county if the person is at least 16 and no more than 17 years of age and a resident of the county. (IC 3-6-6-3) If assistant poll clerks are to be appointed, the county election board must designate, in writing, which precinct will have assistant poll clerks. A copy of this notice must be filed with the circuit court clerk. Copies must be mailed to the county chairmen of each major political party. (IC 3-6-6-4)

A county election board may, by unanimous vote of its entire membership, remove a precinct election officer if the board finds that the officer has knowingly, recklessly, or negligently fails to perform a duty required under the election laws. (IC 3-6-5-35)

Precinct Election Officer Duties

Each precinct election officer has unique duties to perform on Election Day. The precinct election board (consisting of one inspector and the two judges) manages the precinct and determines all questions of challenge and other matters that come before the board, subject to state law. When necessary, the precinct election board assists the poll clerks and sheriffs in the performance of their duties.

In general, the following list contains the duties of each precinct election official (IC 3-6-6-30; IC 3-6-6-32; IC 3-6-6-33; IC 3-6-6-34; IC 3-6-6-35):

PRECINCT OFFICER	DUTIES
INSPECTOR	Overall, in charge of the precinct. Receives election materials from the county election board. Sets up the polling place. Inspects the ballots. Performs initial processing of absentee ballot certifications. Tabulates ballots and returns election materials to the county election board. Requests Photo Identification from voters.
JUDGES	Judge of opposite political party to the inspector acts as check and balance to the inspector. Assists inspection of the ballots. Oversees deposit of ballots into the ballot boxes. Assists in the tabulation of the votes. Judge of opposite party accompanies precinct inspector when returning election materials. Requests Photo Identification from voters.
POLL CLERKS POLL CLERKS	Verifies the registration status of voters. Oversees poll lists or books. Requests and explains voter identification number to voters. Assists in vote tabulation. Compares voter's signature on poll list with registration signature, if available at polls. Requests Photo Identification from voters.
SHERIFFS	Monitors the polling location. Assists others in their duties. Maintains order at the polls. Upon direction from a precinct election officer, request assistance from a law enforcement officer if a violation of law or a breach of the peace within the polls or the chute has occurred or appears imminent. May leave polls to request assistance from a law enforcement officer if violation of law occurs or appears imminent. Requests Photo Identification from voters.

Requirements to Serve as Precinct Election Officer

While judges, poll clerks, assistant poll clerks and sheriffs may be represented in each precinct by both political parties, each precinct inspector will be a member of the same political party throughout the county. Each inspector is nominated by the political party whose candidate received the most votes in the county at the last election held for secretary of state. (IC 3-6-6-8)

The county chairmen of both major political parties nominate registered voters of the county for each of the remaining precinct election offices. (IC 3-6-6-9) The county chairmen make these nominations, including inspector, by filing written notice with the circuit court clerk **not later than noon, prevailing local time, twenty-one (21) days** before

each election. (IC 3-6-6-10)

The county election board **must** appoint those voters who are nominated by the county chairmen on or before the noon, twenty-one (21) day deadline. (IC 3-6-6-11) If a Democratic or Republican County chairman does not fill a precinct election officer position, the county election board, by majority vote of the board, may fill the vacant officer position by appointing an individual who would be eligible to serve in the office if nominated by the county chairman. (IC 3-6-6-13) Before Election Day, the county election board may fill vacancies in any precinct election office upon nomination by the appropriate county chairman.

A person must meet the following requirements in order to serve as a precinct election officer (IC 3-6-6-7):

1) Is able to read, write and speak the English language.
2) Does not have any property bet or wagered on the result of the election.
3) Is not a candidate to be voted for at the election in that precinct, except as an unopposed candidate for a precinct committeeman or state convention delegate.**
4) Is not the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew or niece of a candidate who is a candidate to be voted for in that precinct.
5) Is not the chairman or treasurer of the committee of a candidate whose name appears on the ballot. (*This only applies to the position of Inspector*)
6) Has attended the training required by state law to serve as an inspector, and, if a county requires training for other precinct election officers, has attended the training required by the county.

** A county election board may adopt a resolution, by unanimous vote of the entire board, to permit an individual who is an opposed candidate for precinct committeemen or state convention delegates (or their relatives who would ordinarily be ineligible to serve as a poll worker in those precincts where the relative's name appears on the ballot) to serve as a poll worker in any precinct, even if their name appears on the ballot, if the county election board finds that not enough individuals are otherwise available to serve as a poll worker. If the county election board adopts this resolution, the resolution expires on December 31 of the same year the resolution was adopted.

A relationship identified above that results from birth, marriage, or adoption (adopted child, for example) disqualifies a person who is the relative of an opposed candidate from working as a precinct election officer. **However, this restriction on relatives DOES NOT APPLY if the candidate is UNOPPOSED.** (IC 3-6-6-7) In a primary election, a candidate is considered "unopposed" if no other candidate is running for nomination to the same office within the same party's primary, **even if another person is running for nomination to the same office, but in the other party's primary.**

An opposed candidate or family member (as noted above) of an opposed candidate may serve as a poll worker in a precinct where the candidate's name does not appear on the ballot. In a county where all precincts are assigned to a vote center on Election Day, an opposed candidate or family member (as noted above) may not serve as a precinct election officer since all precincts are present and, therefore, the candidate's name would appear on a ballot at the vote center. See note above for the exception for opposed candidates for precinct committeeman or state convention delegate, which requires the county election board to unanimously agree to a resolution to permit the opposed candidate for party office and their family members to serve.

> **Example One:** In a non-vote center county, Bob Williams is a candidate in the general election for the office of Rural Township Trustee and is opposed by Jim Miller. Bob cannot serve as a precinct election officer in Rural Township. However, since his name is not on the ballot in nearby Urban Township, and if he

is otherwise qualified to do so, Bob Williams can serve as an inspector in a precinct in Urban Township. However, if this was a vote center county, Bob would not be able to serve as a poll worker.

Example Two: Trevor Trent is an unopposed candidate in the general election for the office of County Assessor. Even though he is unopposed, his name will be on the ballot everywhere in the county, and so he cannot serve as a precinct election officer anywhere in the county, regardless of the county's vote center status.

Example Three: Geraldine Adams is an unopposed candidate for Republican Party precinct committeeman in Rural Township Precinct 2. If otherwise qualified, Geraldine may serve as a precinct inspector in Rural Township Precinct 2 in a non-vote center county or at any vote center in a vote center county.

Example Four: Charlie Adams is the husband of Geraldine Adams, an unopposed candidate for Republican Party precinct committeeman. If otherwise qualified, he can serve as a judge in Rural Township Precinct 2.

Example Five: Mary Jones is the only candidate for County Coroner running in the Democratic Party primary. Susan Miller is the only candidate running for County Coroner in the Republican Party primary. In this case, both Mary Jones and Susan Miller are "unopposed candidates" at the May primary election. An otherwise qualified relative of Mary Jones or Susan Miller may serve as a precinct election officer at the primary election in the county, whether the county is a vote center county or not.

However, in the General Election in November, Mary Jones and Susan Miller are now opposing each other for election to the office of County Coroner. As a result, a relative who was eligible, and served as a precinct election officer at the primary may not be eligible to serve as a precinct election officer at the general election.

Example Six: Frank Smith is an opposed candidate for state convention delegate in the Democratic Party primary. If the county election board unanimously agrees to a resolution to permit opposed candidates for party office (that is, precinct committeeman or state convention delegate), then Frank and his family members can serve as a poll worker, whether the county is a vote center county or not. If the county election board does not adopt such a resolution, then Frank and his family members cannot be a poll worker in the precinct(s) where his name appears on the ballot in a non-vote center county. If Frank and his family members lived in a vote center county, then no one in his family could be a poll worker.

College Students and High School/Home Schooled Students as Poll Workers

If the appropriate county chairman makes no nomination for a precinct election office by the deadline for doing so, the county election board may, by unanimous vote of its entire membership, appoint a college student who is a registered voter of the county to serve as a nonpartisan precinct election officer. (IC 3-6-6-13(c))

The county election board, by unanimous vote of its entire membership, may permit an individual who is 16 or 17 years of age to serve as any precinct election officer other than inspector, or to assist any precinct election officer, including the inspector, if the individual:

1) is a U.S. citizen;
2) is a resident of the county;
3) is a student with a grade point average of at least 3.0 out of 4.0;
4) has the written approval of the principal of the school the student attends at the time of the appointment or the approval of the individual responsible for the student's education if the student is home schooled.

However, if school is not in session on election day, then written approval from the principal is not required;
5) has the approval of the student's parent or guardian;
6) has satisfactorily completed any training required by the board; and
7) would otherwise be eligible to serve as a precinct election worker under Indiana law.

This includes being appointed to fill a vacant precinct election officer position (other than inspector) to results from the county party chair not nominating enough voters by the noon, twenty-one (21) days before the election deadline. (IC 3-6-6-13(d)) The 16- or 17-year-old is not required to be a registered voter to be a poll worker. (IC 3-6-6-39)

Precinct Election Official Training

The county election board must conduct a training and educational meeting for precinct election officers. The county election board must require inspectors to attend this meeting and may require other precinct election officers to do so. The meeting must include information relating to the voting systems used in the county, and to making polling places and voting systems accessible to elderly voters and disabled voters. The county election board must maintain a record of the attendance of each individual at the county training meeting.

If an individual is appointed to a precinct election office after the required instructional meeting, or was appointed before the meeting was held, but can demonstrate to the county election board that the individual could not attend the meeting due to good cause, then the county election board can authorize that individual to serve as a precinct election officer if the county election board determines that there is not enough time to conduct the required training. (IC 3-6-6-40)

Election Material Pick-Up & Post-Election Return

The inspector of each precinct, or another member of the precinct election board authorized in writing by the inspector, shall appear at the office of the county election board on the second or third day before Election Day to receive ballots and other supplies. (IC 3-11-3-10)

Supplies include sample ballots, all poll lists, registration lists, forms, envelopes, and other supplies considered necessary to conduct the election; ballots; twenty (20) ink pens; copies of the Voter's Bill of Rights in English and Spanish; copies of instructions to the provisional ballot voters; and blank voter registration applications. As stated here, ballots may be hand-counted paper ballots, optical scan ballot cards, emergency ballots for use in counties with direct record electronic (DRE) systems, and provisional ballots and information concerning the provisional ballot process to provide to a voter who cast a provisional ballot at the polls on Election Day. (IC 3-11-3-11)

For counties using ePollbooks, the county election board delivers the necessary hardware, firmware, and software necessary to use the ePollbooks to the inspector to be set up for use at the polling location. Before delivering **electronic poll books** to the inspector or the inspector's authorized representative, the county election board shall do the following:

1) affix tamper-proof numbered seals to each electronic poll book, or to a container which contains a single electronic poll book;
2) record the number of the seal affixed to each electronic poll book or container; and
3) provide a list to the inspector of each electronic poll book and the number of the seal affixed to each electronic poll book or container.

If a county uses tamper-proof numbered seals to secure electronic poll books, then before the polls are opened, the inspector and judge of the opposite party shall determine that each seal is intact, shows no evidence of tampering,

and bears the same number indicated in the list provided to the inspector by the county election board. If each electronic poll book seal complies with these requirements, then the inspector and judge certify compliance on a form prescribed by the Election Division (PRE-1). If any electronic poll book seal is not intact, shows signs of tampering, or does not match the number on the list provided to the inspector, the inspector or judge must immediately notify the county election board.

A county election board may adopt a resolution, by unanimous vote of the entire membership of the board, to use an alternative security protocol to deliver electronic poll books to polling places. The resolution must set forth the following:

1) the method to be used to ensure that the electronic poll books are not accessed, modified, or tampered with after the electronic poll book is transferred to the inspector or inspector's authorized representative for delivery to the polls; and
2) the method for a precinct election board or vote center officers to determine and document on behalf of the county election board that each electronic poll book was successfully secured against improper access, modification, or tampering before delivery to the polling place or vote center.

The resolution must be filed with the Election Division before electronic poll books are delivered to a polling location or vote center.

In these counties, an additional notice must be included in the election materials to note a person commits a level 6 felony, if the individual knowingly makes a false statement to a precinct election officer concerning the individual's name; the individual's voter identification number, or the individual's residence address. (IC 3-7-29-1(f)); IC 3-11-3-11(b))

Once the closing work is completed, the inspector and the judge of the opposite political party shall deliver election materials to the circuit court clerk immediately upon tabulation of the votes. (IC 3-12-2-9) Upon delivery of the election materials, the inspector must take and sign an oath stating the inspector: closed and sealed the election materials in the presence of the judges and poll clerks; securely kept the ballots and papers in the envelope, bag, or box; did not permit any person to open the container or otherwise touch or tamper with the ballots; and has no knowledge of any other person opening the container. (IC 3-12-2-10) (CEB-1B)

If the county election board requires a bi-partisan team of poll workers to deliver ePollbooks or voting systems to the county election board after the polls close, then the CEB-1C (Certificate of Return of Voting Systems from Precinct or Vote Center) and CEB-1D (Certificate of Return of ePollbooks from Precinct or Vote Center) must be completed and filed.

Please see "Voting Systems & ePollbooks" section of this *Manual* for more information related to the delivery to and from the polls.

Compensation and Meals

Except as provided below, each precinct election officer is entitled to compensation. All precinct election officers are to be paid a per diem fixed by the county executive (that is, the county commissioners in all counties or the Mayor of Indianapolis in Marion County). (IC 3-6-6-25) In addition, the inspector may be paid an additional amount for the inspector's services in picking up election supplies at the circuit court clerk's office. Inspectors and judges may be paid an additional amount for their duties in returning the precinct election supplies to the clerk's office. (IC 3-6-6-26)

Each inspector must make arrangements to provide meals for all precinct election officers throughout the day. The county council may adopt an ordinance providing for a meal allowance rather than an actual meal. Any such ordinance must state the amount of the meal allowance. (IC 3-6-6-31)

Each appointed precinct election office and poll worker, once they take the required oath under IC 3-6-6-21, becomes an independent contractor retained by the county election board to provided services to the board as provided by (IC 3-6-6-37) The appointment expires once the county election board completes canvassing the results under IC 3-12-4.

Applicability of Nepotism Laws on Certain Appointed Election Positions

Working as a member of an absentee voter board, an absentee ballot counter, a provisional ballot counter, or an absentee ballot courier is not considered "employment" for purposes of the state nepotism law. (IC 36-1-20.2-3)

Paid Leave for Local Government Employees Working the Polls

A county, city, town, township, or school corporation employee is entitled to a day of paid leave from their employer, if the employee requests leave to serve as a precinct election officer (that is, a poll worker such as an inspector, clerk, or judge) on election day. An employee receiving this paid leave is also entitled to receive poll worker pay by the county for their work at the polls; however, the paid leave requirement does not apply to an employee who is performing public safety duties or duties necessary for election day operations. This does not apply to other election administrative positions such as absentee voter board members, absentee ballot counters, provisional ballot counters, party appointed watchers, challengers, and poll book holders. (IC 3-5-4-15)

Additional Persons Permitted Inside Polling Places

In addition to the precinct election officers, political parties often employ workers to assist the party on Election Day. These partisan workers include challengers, pollbook holders and watchers. Although these partisan workers are not a part of the precinct election board or official precinct election officers, they provide valuable service to political parties. **Each of these partisan workers has different rights and responsibilities but all must have credentials to confirm their status at the request of the precinct election board.**

Challengers act to ensure that only registered voters of the precinct vote at each polling place. Pollbook holders monitor which registered voters voted and which have not. Watchers act as a check to the precinct election officials to ensure that they are properly carrying out their duties. A watcher may be affiliated with a political party, a candidate, or the media.

State law authorizes who may be inside polling places and sets forth the requirements and credentialing procedures for those individuals who are not poll workers or voters. Unless state law permits a person to be present inside a polling location (and the person has proper credentials, if applicable), no individual should be allowed to enter or remain in the chute or polling location or observe voting activity inside the polling place. It is a crime for a person not authorized to enter a polling location to recklessly enter the polls or remain with the polls or chute in violation of IC 3-11-8-15 or IC 3-11-8-16. (IC 3-14-3-15)

Challengers and Pollbook Holders

All bona fide political parties (that is, Democratic, Libertarian, and Republican parties in Indiana) or independent candidate for a federal or state office may appoint challengers and pollbook holders for each precinct in which the political party or independent candidate is on the ballot.

If a public question is submitted to the electorate, a county election board may appoint challengers and pollbook holders if a petition requesting the appointment is filed with the board. The petition must be signed by the chairman of a political action committee organization under IC 3-9 to support or oppose the approval of the public question; and at least the number of voters equal to two (2%) percent of the votes cast in the last election for secretary of state in the county. (IC 3-6-7)

A challenger must be a registered voter of the county and at least eighteen (18) years of age to serve in this capacity. (IC 3-6-7-1.7; IC 3-6-7-1) A pollbook holder is not required to be a voter of the county or to be of any specific minimum age. However, an appointed Election Day poll clerk cannot serve as a pollbook holder on Election Day, though a poll clerk may maintain a "scratch" list for a political party.

No candidate (except an unopposed candidate for precinct committeeman or state convention delegate) may be appointed as a challenger or as a pollbook holder for any election. (IC 3-6-7-1.5)

A challenger or pollbook holder must possess an identification card. Each county chairman of a bona fide political party, independent candidate, or county election board (if applicable for public question) must issue the proper identification card for each challenger and pollbook holder appointed. There is no state prescribed form that the county chairman must use for this purpose, and the county chairman is not required to file a list of challengers or pollbook holders with the county election board. Instead, state law requires the issued identification card to state, in writing, the following information:

1) the status of the individual as a challenger or pollbook holder;
2) the name of the individual serving as a challenger or pollbook holder;
3) the name of the person who appointed the challenger or pollbook holder, and whether the person is a political party, an independent candidate, or a county election board; and
4) if the challenger or pollbook holder has been appointed by a political party, the name of that political party. (IC 3-6-7-1)

The challenger or pollbook holder must keep their identification card on their person whenever they are near a polling place and must produce their identification card whenever asked by a member of a precinct election board.

A challenger or pollbook holder can be assigned to multiple precincts. However, only one challenger or pollbook holder for each political party or independent candidate may be in a polling place at any one time during Election Day. (IC 3-6-7) In other words, if two or more challengers or pollbook holders of the same political party are assigned to the same precinct, both could not be in the same polling place at the same time. (IC 3-6-7-1)

A challenger or a pollbook holder is permitted inside of the polling place where the voters are voting. A challenger or pollbook holder may enter and leave the polls throughout the day and may arrive as early as thirty (30) minutes before the polls open. (IC 3-6-7-5) A pollbook holder is permitted to receive a list of voters who have cast a ballot from the poll clerk provided voting is not delayed and no electioneering occurs. (IC 3-11-8-10.5)

A voter must provide the voter's true and full name when requested by a challenger. (IC 3-11-8-19) If a voter is challenged, a challenger must complete the proper affidavit (PRE-4) succinctly stating the reasons for the challenge. (IC 3-11-8-19; IC 3-11-8-21) The challenged voter must complete the proper affidavit for a challenged voter (PRE-4) and the voter portion of the provisional ballot PRO-2 envelope. The PRE-4 affidavit is printed on the PRO-2 envelope. (IC 3-11-8-23; IC 3-11-8-23.5) In situations where a voter must complete a VRG-4/12 and is still challenged, the challenge voter is not required to complete their part of the PRE-4 affidavit. Instead, the VRG-4/12 would serve as

the affidavit and must be attached to the PRO-2 envelope after the challenged voter completes their provisional ballot. (IC 3-11-8-23(a))

In most cases a voter who is challenged cannot be given a regular ballot and must be given a provisional ballot to complete. The only exception is when a voter is challenged based on their party affiliation at the primary election. Should this occur the challenger and challenged voter must complete the PRE-6. If the challenged voter completes the PRE-6, confirming that either, at the last general election voted for a majority of the regular nominees of the political party for whose candidates the challenged person proposes to vote in the primary election and intends to vote for the regular nominees of the political party at the next general election, or because the challenged person did not vote at the last general election, intends to vote at the next general election for a majority of the regular nominees of the political party holding the primary election, then they must be given a regular ballot. (IC 3-10-1-9)

See the "Provisional Ballot Voting" section of this *Manual* for more information.

Political Party Watchers

The state chairman and county chairman of each bona fide political party (currently Democratic, Libertarian, and Republican parties in Indiana) or an independent candidate for a federal or state office (this does NOT include local offices) are entitled to appoint watchers at each precinct in which the political party or independent candidate is on the ballot. If both the state chairman and the county chairman of a political party have appointed watchers, the political party may have two watchers present at the polls of each precinct. The credentials of watchers appointed by the state chairman must be signed by the state chairman. (IC 3-6-8-1; IC 3-6-8-3)

If more than one precinct votes at the same polling place using the same precinct election board, each political party or independent candidate on the ballot is entitled to have one watcher for each precinct voting at the polling place. In a vote center county, each party or independent candidate may appoint one watcher for each electronic poll book station, or the number of poll book stations specified in the county's vote center plan, whichever is greater. (IC 3-6-7-1; IC 3-6-8-1)

A county election board may appoint watchers in an election concerning a public question if a petition requesting the appointment is filed with the board. The petition must be signed by the chairman of a political action committee organized under IC 3-9 to support or oppose the approval of the public question; and at least the number of voters equal to two percent (2%) of total votes cast for secretary of state in the county. (IC 3-6-8-1)

A watcher must be a registered voter of the county. (IC 3-6-8-2.5) No candidate (except as an unopposed candidate for precinct committeeman or state convention delegate) may be appointed as a watcher at any election. (IC 3-6-8-2)

A watcher must possess an identification card. The county chairman or state chairman of a bona fide political party, chairman of the independent candidate's committee, or county election board must issue the proper identification card for each watcher appointed. There is no state prescribed form that the county chairman must use for this purpose. Instead, the identification card must state, in writing, the following information:

1) the status of the individual as a watcher;
2) the name of the individual serving as a watcher;
3) the name of the person who appointed the watcher; and
4) if the watcher has been appointed by a political party, the name of that political party.

The card must be signed by the chairman and must be presented upon request by a member of the precinct election board. (IC 3-6-8-3)

A party watcher has clearly defined responsibilities. (IC 3-6-8-4) A party watcher is entitled to do the following:

1) Enter the polling place thirty minutes before it opens and remain there until after the votes have been tabulated.
2) Inspect ballot boxes and any of the voting equipment used in the precinct before any votes have been cast.
3) Inspect the work being done by any precinct election officer, but not interfere with their duties.
4) Enter, leave and reenter the polls at any time on Election Day.
5) Witness the calling and recording of the votes, the reading of the totals from the voting systems or any other proceedings of the precinct election officials in the performance of their official duties.
6) Receive a copy of the summary of the vote prepared under IC 3-12 and signed by the precinct election board.
7) Accompany the precinct inspector and judge of the opposite political party in delivering the tabulation and election returns to the county election board by the most direct route.
8) Be present when the inspector takes a receipt for the tabulation and election returns delivered to the county election board.
9) Obtain a list of voters who have voted from the poll clerk provided no voters are delayed and no electioneering occurs. (IC 3-11-8-10.5)

Please see the "Early Voting at the Clerk's Office" section of this *Manual* for more information on appointing watchers to an early voting location.

A political party watcher may no longer summon a law enforcement officer to the polls. Instead, the party watcher must report an election law violation to the inspector, county election board, or county prosecuting attorney. A watcher may not report to any other precinct election officer concerning an alleged violation of election laws unless the watcher has prior consent of the inspector.

A watcher who violates this requirement or engages in other disruptive action in the polls may be removed from the polls and have their watcher credentials revoked upon the unanimous vote of the entire membership of the county election board. (IC 3-6-8-4; IC 3-6-8-6; IC 3-6-9-13)

Candidate Watchers

AS A GENERAL RULE, A CANDIDATE IS NOT ENTITLED TO HAVE A WATCHER IN A POLLING PLACE.

There are some limited exceptions:

- ***In a primary election,*** while candidates may not be watchers for themselves, **a group of candidates** may appoint watchers to act on the candidate's behalf***.***
    - Watchers for candidates are appointed under the following conditions ***in primaries only:***
        - twenty-six percent (26%) or more of all candidates of a political party who are seeking nomination at a county or municipal election make the request to have watchers appointed in writing to the county election board. (IC 3-6-9-1)

- ***In a general election, a*****ny candidate or group of candidates for school board offices is entitled to candidate watchers.**

A watcher for a candidate or group of candidates must be a registered voter of the county and may not be a candidate

at the election, except as an unopposed candidate for precinct committeeman or state convention delegate. (IC 3-6-9-4)

The written statement requesting candidate watchers must name a person to act as attorney-in-fact for the group of candidates and the precincts where the watchers will serve. (IC 3-6-9-2) The attorney-in-fact then performs the duties on behalf of the group of candidates. The attorney-in-fact will file with the circuit court clerk the names of the appointed watchers. The circuit court clerk must then issue identification cards to the watchers. (IC 3-6-9-5)

Only one (1) watcher representing a candidate or group of candidates may be present in the polling place at any one time during Election Day, but watchers representing different groups may be present in the polling place at the same time. (IC 3-6-9-12)

If more than one precinct votes at the same polling place using the same precinct election board, each candidate or group of candidates is entitled to have one watcher for each precinct voting at the polling place. In a vote center county, each party or independent candidate may appoint one watcher for each electronic poll book station, or the number of poll book stations specified in the county's vote center plan, whichever is greater. (IC 3-6-9-12)

A watcher appointed for a group of primary candidates, or for a school board candidate, has the same rights and responsibilities as a watcher appointed by a political party chairman. (IC 3-6-9-13)

Appointing Election Day Watchers in a Primary or School Board Election

Two or more candidates for an elected office or precinct committeemen on the same political party ballot at the primary election, or any candidate running for election as a member of a school board at a general election, may appoint Election Day watchers by filing a written statement with the circuit court clerk. If two or more candidates of the same party at the primary election do not sign a statement indicating their desire for watchers, the county chairman may appoint a watcher in each precinct where the political party has a candidate on the ballot.

NOTE: This change does not otherwise impact how political party chairman (state or county, depending on the position) appoint watchers. Instead, it expands the universe of individuals who may appoint Election Day watchers in a primary or school board election. (IC 3-6-9-1; IC 3-6-9-1.5)

Protection and Advocacy Services Commission Access to Election Day Polls

An individual credentialed by the Indiana Protection and Advocacy Services Commission is entitled to be present in early voting locations or Election Day polling locations per IC 3-11-10-26.8 to conduct activities related to the voting access program authorized under federal law. An individual must carry an ID card detailing their status as an individual present in the polls or early voting locations who is credentialed by the Indiana Protection and Advocacy Services Commission. The credential must include the name of the person. (IC 3-11-8-15)

Media Watchers

The media may also appoint watchers to each precinct on Election Day. (IC 3-6-10-1) Media entitled to name watchers include:

1) each newspaper of general circulation in the county.
2) each news service operating in the county (for example, the Associated Press, Network Indiana).
3) each radio or television station operating in the county.

On the day before Election Day each corporation owning a news organization listed above must provide the circuit court clerk, the county election board, and the county chairmen of each political party (or independent candidate's committee), which has appointed watchers, with a list of persons appointed to serve as media watchers for the news organizations. An officer of the corporation must sign this list. A person appointed to act as a media watcher does not have to be a regular employee of the news organization. (IC 3-6-10-2; IC 3-6-10-3; IC 3-6-10-4) However, the news organization does not need to create a list under IC 3-6-10-2 or file a list under IC 3-6-10-3, if the individuals are employed by a newspaper, news service, radio stations or television station as their regular occupation. (IC 3-6-10-4)

The county election board must issue identification cards to media watchers. If an individual is named to act as a media watcher in more than one (1) county, the identification credential must be obtained from the Election Division. (Form IEC-5(b)) (IC 3-6-10-6) Generally, a media watcher has the same rights and responsibilities as a watcher appointed by a political party chairman. A media watcher may not call upon the election sheriffs to make arrests. (IC 3-6-10-5.5)

A member of the media may film or take photographs inside a polling location. However, **a media watcher may not photograph a voter if the voter objects or in a manner that would divulge how a voter cast their ballot. (IC 3-6-10-5)**

If more than one precinct votes at the same polling place using the same precinct election board, media entitled to appoint watchers may have one watcher for each precinct voting at the polling place. In a vote center county, each media entitled to appoint watchers may appoint one watcher for each electronic poll book station or the number of poll book stations specified in the county's vote center plan, whichever is greater. (IC 3-6-10-1)

Unauthorized Persons Inside Polling Places

It is a Class A misdemeanor for a person to recklessly enter the polls without authority to do so. (IC 3-14-3-15)

A person is <u>not</u> authorized to be inside the polling place *merely* because they are a precinct committeeman or other political party official, *unless* the person has been issued challenger, watcher or pollbook holder credentials.

Only the following individuals are allowed inside a polling place:

1) the inspector, judges, poll clerks, assistant poll clerks; or a student assistant to a precinct election officer;
2) deputy election commissioners;
3) challengers and pollbook holders;
4) watchers;
5) minor children accompanying voters;
6) a voter, for the purpose of voting;
7) a person assisting a voter under IC 3-11-9;
8) a member of a county election board, acting on behalf of the board;
9) a technician authorized to act on behalf of the county election board to repair a voting system, with credentials signed by each member of the county election board;
10) a county chairman or a county vice-chairman of a political party, if bearing credentials signed by the members of the county election board unless they are a candidate for elected office;
11) media watchers (IC 3-6-10-1); and
12) the secretary of state of Indiana, in some cases. (IC 3-11-8-15)

An individual present in the polling place on Election Day must be a U.S. citizen unless the individual is a minor child accompanying a parent who is a voter, is an individual designated to assist a voter who is disabled or who cannot read or write English, or who has been granted an exemption from this requirement by the Secretary of State. (IC 3-11-8-15)

A "service animal," such as a seeing-eye dog, is allowed inside a polling place and the voting booth if the voter needs the assistance of the animal. (IC 3-11-9-5)

Challengers, Pollbook Holders or Watcher Entry to Polls

A challenger, pollbook holder, or watcher for a political party or certain candidates may enter, leave, and reenter multiple polling places at any time on election day. (IC 3-6-7-5; IC 3-6-8-4; IC 3-6-8-5)

Voting Equipment Security Measures

ePollbook

Before delivering **electronic poll books** the county election board shall do the following:

1) affix tamper-proof numbered seals to each electronic poll book, or to a container which contains a single electronic poll book;
2) record the number of the seal affixed to each electronic poll book or container; and
3) provide a list to the inspector of each electronic poll book and the number of the seal affixed to each electronic poll book or container.

As an alternative, a county election board may adopt a resolution, by unanimous vote of the entire membership of the board, to use an alternative security protocol to deliver electronic poll books to polling places. The resolution must set forth the following:

1) the method to be used to ensure that the electronic poll books are not accessed, modified, or tampered with after the electronic poll book is transferred to the inspector or inspector's authorized representative for delivery to the polls; and
2) the method for a precinct election board or vote center officers to determine and document on behalf of the county election board that each electronic poll book was successfully secured against improper access, modification, or tampering before delivery to the polling place or vote center.

The resolution must be filed with the Election Division before electronic poll books are delivered to a polling location or vote center. (IC 3-11-3-10)

If a county uses tamper-proof numbered seals described above to secure electronic poll books, then before the polls are opened, the inspector and judge of the opposite party shall determine that each seal is intact, shows no evidence of tampering, and bears the same number indicated in the list provided to the inspector by the county election board. If each electronic poll book seal complies with these requirements, then the inspector and judge certify compliance on a form prescribed by the Election Division (PRE-1). If any electronic poll book seal is not intact, shows signs of tampering, or does not match the number on the list provided to the inspector, the inspector or judge must immediately notify the county election board. (IC 3-11-8-7.5)

The CEB-1D Certificate of Return is required to be executed when the electronic pollbooks are returned from the precinct or vote center after the polls close by a team of bi-partisan poll workers, by a commercial delivery driver, county election board, or other team of bi-partisan officials.

Voting Systems

The county election board, or a bi-partisan team, or a commercial delivery entity are required to deliver the voting systems to Election Day polling places before Election Day and return the voting systems to the county election board after the polls close. The CEB-1A is required to be executed after delivery and the CEB-1C is required to be executed after the voting systems return to the county election board.

Please see the "Voting System Delivery" section of this chapter for more details. Please see the "County Voting Equipment Access Policies" section for more details on securing voting systems before they are prepared for an election and after canvassing of the election results are complete.

Voter's Time in a Voting Booth

The time that a voter may remain in a voting booth to cast a ballot is five (5) minutes in a primary election, and four (4) minutes in a general, municipal, or special election. (IC 3-11-11-10.5; IC 3-11-13-32.5; IC 3-11-14-26; IC 3-11-14-27)

Spoiled Ballots

DRE Voting System

A direct record electronic (DRE) voting system must now include a voter verifiable paper audit trail (VVPAT); If a voter voting on a DRE voting system with a VVPAT determines by examining a VVPAT that the electronic voting system is not correctly setting forth the voter's ballot choices, then the voter has one opportunity to correct the error before completing and casting the ballot.

If the error shown on the VVPAT is due to a voting system *malfunction*, then the voter may continue to review the VVPAT until the malfunction has been corrected. Once the malfunction has been corrected, the voter then has one opportunity to correct the error before casting the ballot. Once the ballot is cast, then a ballot can no longer be spoiled.

If the voter is a voter with disabilities, the voter has as many opportunities as the voter needs to correct the error before completing the casting of the ballot. (IC 3-11-14-24.5)

Optical Scan Ballot Card

If a voter spoils or defaces a ballot card or marks it erroneously, then the voter shall return the card so as not to disclose any choices that the voter has made and receive a new ballot card. (IC 3-11-13-35) Poll workers must place all spoiled ballots in a carrier envelope for the precinct to return with their election materials. (IC 3-10-1-30) Once the ballot is cast, then a ballot can no longer be spoiled.

Election Day Remedies for Certain Absentee Voters

Hand-Delivery of Absentee Ballot

On Election Day if a voter has not yet returned their absentee ballot to the county election board, the voter can hand

deliver the completed absentee ballot sealed in the absentee ballot envelope to the county election board not later than 6 p.m. (prevailing local time) on Election Day. Alternatively, the voter may take their absentee ballot to their polling location, surrender it to the precinct inspector who marks the ballot "cancelled", and vote a regular ballot, if otherwise qualified. (IC 3-11-10-31; IC 3-11.5-4-18)

ABS-21 for Rejected Absentee Ballots

If a voter has marked and returned an absentee ballot, the voter may not vote in person unless their absentee ballot was rejected for a reason under IC 3-11.5-4-13. Absentee ballot counters or the county election board shall issue a certificate (ABS-21) to the voter whose absentee ballot was rejected to allow the voter to cast a ballot in person at the polls, if otherwise qualified to vote. The voter must appear in person before the county election board not later than 5 p.m. (local prevailing time) to receive the ABS-21. (IC 3-11.5-4-13; IC 3-11.5-4-21)

Previously, a voter could receive an ABS-21 if the voter's absentee ballot was not received by noon on Election Day. State law changed to permit a county to receive absentee ballots not later than 6 p.m. on Election Day, the same time the voting locations close, so this exception is no longer needed. The county election board is not required under law to notify a voter that their absentee ballot was rejected; however, an absentee ballot will be rejected if there is a missing or mismatched signature if the voter fails to timely cure the issue with the ABS-18A or ABS-18B form.

PRE-5 Affidavit for ABS-Mail Ballot that Did Not Arrive Timely to the Voter

The PRE-5 affidavit may only be used if a voter applies for an absentee ballot by mail but has not received the ballot and appears at the polls on Election Day. The voter may vote a regular ballot in person at the polls after completing the PRE-5 affidavit documenting that the person has not received the requested absentee ballot. (IC 3-11.5-4-18(c))

Failure to Provide Additional Residency Documentation

There is no remedy for this situation, as a voter who was required to provide additional residence documentation as part of the voter registration process failed to do so when the board previously mailed out the absentee ballot to the voter.

The ABS-12 form is transmitted to the absentee voter to return to the county election board providing the required information. If the county voter registration office advises the board that the voter has still not provided the required documentation, then the board must add a notation to the application and to the secrecy envelope in which the ballot is contained, alerting the central count counting team to check the poll list (or other county election board certification) on Election Day to determine if the voter has supplied the required residency documentation. (IC 3-11-10-4.5) If no indication is shown, the counter must process this absentee ballot as a provisional ballot. (IC 3-11.5-4-12; IC 3-11-10-16.5)

Voter Fails to Properly Finish Voting Process

Traditional Hand-Counted Paper Ballots

If a voter leaves a voting booth without depositing a traditional hand-counted paper ballot in the ballot box, then any poll worker can attempt to alert the voter to allow the voter to return to the booth to complete casting the ballot. If the voter has already left the polls, or declines to return to the booth, both judges shall retrieve the ballot and provide it to the inspector, and the inspector shall deposit the ballot in the ballot box. The judges and inspector shall complete and sign a form PRE-9 documenting their actions and provide information regarding the event, including the voter's name, if known. (IC 3-11-11-17)

Optical Scan Ballot Card

If a voter leaves a voting booth without casting an optical scan ballot card being scanned by the tabulator any poll worker can attempt to alert the voter and permit the voter to return to the booth to complete casting the ballot. If the voter has already left the polls, or declines to return to the booth, both judges shall enter the booth and retrieve the ballot and provide it to the inspector and the inspector shall deposit the ballot in the ballot box. The judges and inspector shall complete and sign a form PRE-9 documenting their actions and provide information regarding the event, including the voter's name, if known. (IC 3-11-13-33)

Direct Record Electronic Voting System (DRE)

If a voter leaves a voting booth without casting a ballot on an electronic voting system (DRE) any poll worker can attempt to alert the voter and permit the voter to return to the booth to complete casting the ballot. If the voter has already left the polls, or declines to return to the booth, the inspector shall direct both judges to enter the booth and complete the process of casting the voter's ballot. The judges and inspector shall complete and sign a form documenting their actions and provide information regarding the event, including the voter's name, if known. (IC 3-11-14-25)

Photo ID Law

State law requires that voters casting a vote in person (or an absentee ballot in person at the county election office) must provide government-issued photo ID before signing the poll list or casting the absentee ballot. For Election Day voting, only one (1) precinct election officer (inspector, judge, clerk, or sheriff) of each major political party is entitled to ask the voter to provide proof of identification. As an example, a Democratic Party inspector and a Republican Party judge could both ask the voter to provide proof of identification. (IC 3-11-8-25.1)

However, some voters are exempted from this requirement:

- voters who cast an absentee ballot by mail (or for military and overseas voters or voters with print disabilities, by email or fax) or before a traveling board; and
- voters who reside in a state licensed facility (such as a nursing home) that also serves as the polling place for their precinct, vote center, or satellite absentee facility. (IC 3-10-1-7.2; IC 3-11-8-25.1)

To qualify as "proof of identification," a photo ID must meet each of the following four requirements:

1) The ID must display the voter's photo;
2) The voter's name on the ID must conform to the name on the voter registration record;
3) The voter's ID must contain an expiration date, and either still be current or have expired sometime after the date of the most recent General Election (November 5, 2024); AND
4) The voter's ID must be issued by the State of Indiana, the U.S. government, or Native American Indian tribe or band recognized by the U.S. government. (IC 3-5-2.1-84)

Indiana's photo ID law no longer recognizes a document issued by an educational institution to serve as photo ID for purposes of voting. (IC 3-5-2.1-84(c))

Indiana law does not require a voter's ID to have an address matching their registration record. However, certain "first time" voters who registered to vote using a paper registration form regardless of delivery method will be required to provide additional residency documentation that DOES match their address on the voter registration record. This additional documentation may be a photo ID where the voter's name and address on the ID matches their registration record, but may also be a utility bill, paycheck stub, transcript, etc. (IC 3-7-33-4.5)

In most cases, an Indiana driver's license, Indiana photo ID card, Military or Veterans ID, or US passport is sufficient. A document issued by the U.S. Department of Defense, a branch of the uniformed services, the Merchant Marine, or the Indiana national guard, the U.S. Department of Veterans Affairs (or Veterans Administration) that otherwise complies with the requirements for "proof of identification"; but has no expiration date or states that the document has an "indefinite" expiration date, is sufficient proof of identification for a voter casting a ballot in person. (IC 3-5-2.1-84)

The definition of "proof of identification" for voting purposes includes Native American Indian tribal IDs issued by tribes or bands recognized by the United States Government, even if the document has no expiration date or states that the expiration date is indefinite, so long as the document satisfies all other requirements for an acceptable photo ID. (IC 3-5-2.1-84)

NO VOTER SHOULD BE TURNED AWAY FROM THE POLLS FOR FAILING TO PROVIDE PHOTO ID. If a voter is unable or unwilling to present an ID that meets these requirements, the voter may cast a provisional ballot after completing and signing a form requesting this ballot. Please see the "Provisional Ballot Voting" section of this *Manual* for more information.

If the voter is unable to obtain an ID because the voter is indigent or has a religious objection to being photographed, the voter may claim this exemption from the ID requirement by appearing in person before the clerk or county election board and affirming under penalties of perjury that the exemption applies. (Form PRO-10 or PRO-11 [in a municipal election])

If the voter does not already have a valid photo ID, the voter can obtain an Indiana photo ID card free of charge from any Bureau of Motor Vehicles license branch. BMV branches are open for extended hours on Election Day and the day before Election Day. BMV branches are required to give priority to issuing driver's licenses and photo ID cards for voting on Election Day when the BMV is open on Election Day. (IC 9-14.1-2-5) For more information, please contact the BMV at (317) 233-6000 or visit their website http://www.bmv.in.gov.

Electioneering

"Electioneering" means making a verbal statement, displaying a written statement indicating support or opposition to a candidate, political party, or public question appearing on the ballot, or wearing or displaying an article of clothing, sign, button, or placard that states:

1) the name of any political party or includes the name, picture, photograph, or other likeness of any candidate or currently elected federal, state, county, or local official; or
2) support for the approval or defeat of a public question.

The term does not include expressing support or opposition to a candidate or a political party or expressing approval or disapproval of a public question in material mailed to a voter or a telephone or an electronic communication with a voter.

No electioneering can occur inside the chute or within the room where voting occurs. (IC 3-5-2.1-21) The chute is an area that extends fifty (50) feet in radius from the entrance to the voting location (rather than just a "length" or pathway).

A person who knowingly does any electioneering:

1) on election day within the polls or the chute;

2) before election day within the office of the circuit court clerk or a satellite office of the circuit court clerk established under IC 3-11-10-26.3 used by an absentee voter board to permit an individual to cast an absentee ballot or fifty (50) feet of the entrance to the office of the circuit court clerk or satellite office; or
3) except for a voter who is the person's spouse; an incapacitated person (as defined in IC 29-3-1-7.5) for whom the person has been appointed the guardian (as defined in IC 29-3-1-6); or a member of the person's household;

in the presence of a voter whom the person knows possesses an absentee ballot provided to the voter in accordance with Indiana law commits a Class A misdemeanor. (IC 3-14-3-16)

Please see the "Chute" and "Early Voting" sections of this *Manual* for more information.

Election Day Post Office Visit by County Voter Registration Official

The county voter registration office is required to visit the appropriate post office on Election Day to determine if a first-time voter has mailed to the county the additional residence documentation the voter is required to provide under IC 3-7-33-4.7. Additionally, the circuit court clerk, or the clerk's agent, is required to visit the post office by 6 pm on Election Day to accept delivery of any absentee ballots. (IC 3-11-10-11; IC 3-11.5-4-7)

Required Election Day Reporting to Party Chairs

A county must provide absentee activity reports produced by the statewide voter registration system (SVRS) and other election day reports not later than 10 a.m., noon, 2 p.m., and 4 p.m. local time on election day. However, the county election board may adopt a policy by unanimous vote to provide the reports at alternative times on election day. (IC 3-7-27-6.5)

ePollbook Reports

A political party or independent candidate who is eligible to appoint a watcher to the polls in a county under IC 3-6-8 is entitled to receive reports that can be generated from the county's electronic pollbook system. The political party or independent candidate no longer needs to appoint a watcher to the polls in the county to receive those reports. (IC 3-11-8-10.3)

"Scratch Lists"

State law authorizes a poll clerk to record the names of individuals who have signed the poll list and to make that record available to a political party watcher or pollbook holder who requests the information. The poll clerk must ensure that:

1) no voter is delayed in casting a vote as a result of the poll clerk preparing this record or providing the information; and
2) that the poll clerk does not engage in "electioneering" when providing this information. (IC 3-11-8-10.5; IC 3-11-8-29)

It is a Class A misdemeanor for any person to knowingly engage in electioneering within the polls or within the chute.

Documentation of Voters Waiting in Line at the Polls on Election Day

The inspector is required to document, on a form provided by the Election Division (PRE-1), the number of individuals waiting to vote, but who have not yet signed the poll list, at the opening of the polls, 12:30 p.m., and at the close of the polls. (IC 3-11-8-9)

Extension of Voting Hours on Election Day

A county election board or a board of elections and registration ("board") does not have power to extend voting hours in a polling place or vote center. A county election board is the only person or entity with standing to file an action or petition with an Indiana court or other state governmental entity to request an extension of the hours for closing the polls and a board may only do so following the unanimous vote of its entire membership.

Before issuing an order to extend poll hours, an Indiana court or other state governmental entity must take evidence and make findings with regard to the following:

1) The polls were substantially delayed in opening at the time fixed by IC 3-11-8-8.
2) The specific precincts or vote centers in which substantial delays occurred.
3) If a poll closed at any time during the hours from 6 a.m. to 6 p.m., how long the polls were closed and in which precincts and vote centers the closing occurred.
4) Substantial evidence exists that voters were prevented from casting a ballot due to a delay or closure of the polls during the hours specified by IC 3-11-8-8.
5) The actual harm determined can only be ameliorated by the extension of polling hours.

If the court is unable to make the findings regarding a delay in opening or a subsequent closure of the polls described above, the court shall not issue an order extending the time for closing the polls. If the court or state governmental entity determines that an order extending the time for the closing of the polls is to be issued, the court or entity must:

1) limit the extension only to those polls whose opening was delayed, or which closed during the regular poll hours set forth in state law; and
2) extend the hours for the polls at the precinct or vote center for a period of time not more than the time that the polls were closed during the hours set forth in state law.

The court or entity considering a county election board request to extend the hours a polling location may be open on election day must take evidence and make a finding that the county election board filed written notice with the Indiana Secretary of State and the Indiana Election Division indicating that the county election board filed the action or petition with the court to extend the polling hours and received confirmation from the court of the receipt of the filing. (IC 3-11.7-7-3)

A county election board may appeal any denial of a request for an order to the Indiana Supreme Court. (IC 3-11-8-8, IC 3-11.7-7)

Voting System Ballot Tabulation

Generally, the specific choice a voter makes on the ballot is tabulated by the voting system. Exceptions to this rule concern straight party voting, which are noted below in the "General Election Ballot" section. For statutory descriptions of election results tabulation see IC 3-12-1.

It is also important to note a voter may undervote or overvote in one or more contests on the ballot. Not voting in a contest or selecting too many candidates in a race does not void a person's entire ballot. See "Overvote Feature" section in this *Manual* for more details.

Primary Election Ballot

In Indiana, voters must choose a Democratic or Republican Party ballot in the primary election, and each voter records this choice in the poll book. The choice between the parties is required because the voters affiliated with one major political party are deciding which candidates of their party to nominate for November's general or municipal election ballot. A voter may only participate in one partisan primary election. On occasion, there may be a special election held on the same day as the primary election. Should there be a non-partisan public question, then a separate "non-partisan" ballot is to be offered to voters who do not want to vote in a partisan primary. (IC 3-10-1-24)

Election administrators should pay close attention to the "Ballot Layout" chapter of this *Manual* as state law has additional formatting requirements for a primary election ballot. Voting is straightforward on the primary election ballot. Voters make individual selections, and the voting system will record those choices. While Indiana law permits "straight party" voting, this tabulation feature is only available in a general or municipal (November) election for most, but not all, offices. Write-in candidates are not permitted on the primary election ballot.

General Election Ballot

In a general or municipal (November) election, Indiana law permits voters to 1) use a straight party device and make individual selections or 2) ignore the straight party device and make individual selections.

In Indiana, the Democratic, Libertarian, and Republican parties currently qualify for "straight party" designation on a municipal or general election ballot. If a voter selects one of the three party devices, then candidates of the political party will receive the voter's vote without the need to make additional selections in partisan races. There are two exceptions to this rule:

1) In at-large partisan race where a voter votes for more than one candidate, state law requires the voter to make individual selections even when those candidates are aligned with a political party. (IC 3-11-7-4; IC 3-11-7.5-10)
2) School board elections, public questions, or judicial retention questions require a voter to make separate marks for those questions or contests, if they so desire. (IC 3-11-13-14; IC 3-11-14-23)

A voter does NOT need to use the straight party device when voting in the November election. It's simply a "shortcut" to support candidates of one political party without the need for making individual candidate selections in each partisan contest. Voters make skip over the straight party device, review each contest, and make individual selections in each race.

Sometimes a voter will use the straight party device and make individual selections in partisan races. Doing both – using straight party AND making individual choices – does not void a person's ballot, void an individual race (unless the voter overvoted by selecting more candidates than the instructions permit), or cast two votes for a candidate in a race where only one candidate can be selected. Instead, the voting system is programmed to follow IC 3-12-1-7, which essentially allows the specific individual choice in a race to override the straight party selection.

For instance, Sally uses the Democratic Party straight party device but also makes an individual mark in the dogcatcher race for the Republican candidate. All Democrat candidates in "vote for one" races will receive her vote as a result of her straight party choice except in the dogcatcher race where the Republican candidate will get her

vote.

Another common example: Roger uses the Republican straight party device and also votes for Republican candidates in all "vote for one" races. The voting system will ignore the straight party choice and cast a vote for all of the individual Republican candidates. (This example assumes he votes for all Republican candidates and does not skip a partisan "vote for one" contest.)

This nuanced tabulation is less obvious on ballot cards, as the optical scan ballot reader is designed to read a person's ballot and only provide an alert when a race is overvoted. On the other hand, a direct record electronic (DRE) voting system is required to show a voter which candidates are receiving a vote before the ballot is cast, and DRE systems are not permitted to allow an overvote to occur.

Closing Procedures, Generally

The *Election Day Handbook* published by the Indiana Election Division is a helpful resource to Election Day poll workers and county election officials for general procedures and duties during election. This includes general information about closing the polls at 6:00 pm on Election Day.

The inspector announces the close of the polls at 6:00 p.m. (prevailing local time), unless voting hours are extended by court order (see "Extension of Voting Hours on Election Day" in this *Manual* for more information). If there is a line of individuals waiting to vote when the polls close, then a precinct election official appointed by the county election board documents the names of the persons waiting to vote, stamps the hand of each voter in line, or stands immediately behind the last voter who may vote. These voters must be permitted to vote on a regular ballot, if otherwise qualified. (IC 3-11-8-11)

After the voting is completed, the inspector, with the help of the judges and poll clerks, must complete the following tasks before canvassing the votes cast:

- Lock up all voting systems and disassemble any voting equipment to prevent further voting.
- For counties using a direct electronic record (DRE) voting system or optical scan ballot card voting system, at least one (1) printout of the total votes cast for each candidate and on each public question must be printed out of the voting system (IC 3-12-3-2; IC 3-11-14-30)
    - Printouts for watchers or the news media may be provided on demand but before the system is closed. (IC 3-6-8-5; IC 3-12-3-2; IC 3-12-3-11; IC 3-12-3.5-3)
    - In a precinct or vote center that uses an electronic voting system, the precinct election board (poll workers) are not required to print out the VVPAT (or voter verifiable paper audit trail) when preparing and printing the certificate of vote totals from each electronic voting system used in the precinct.
- Take down the chute.
- Prepare to canvass the votes cast in the precinct (except in a county where optical scan ballot cards are tabulated at a central location).

When all votes have been counted, the precinct election board shall prepare a certificate stating the number of votes that each candidate received for each office and the number of votes cast on each public question. The number of votes that each candidate and public question received shall be written in words and numbers. The board shall also prepare a memorandum of the total vote cast for each candidate and ensure that each member of the board receives a copy of the memorandum. (IC 3-12-2-6; IC 3-12-3-2; IC 3-12-3.5-3)

Poll workers in counties using traditional hand-counted paper ballots or optical scan voting systems should follow these procedures after the canvass is complete:

- Seal all counted optical scan ballot cards or traditional hand-counted ballots in a bag or envelope. During a primary election, separate bags or envelopes will be provided for the ballots of each party.
- Seal all challenged, uncounted and spoiled optical scan ballot cards or traditional hand-counted paper ballots in the appropriate bags or envelopes.
- Seal provisional ballots in a separate bag or envelope. (PRO-4 for voted provisional ballots and PRO-6 for spoiled provisional ballots)
- Place all unused ballots in a separate bag or envelope.
- Write the number of ballots contained within on the outside of each bag or envelope.
- Check each certificate of vote printout to make sure the certification is filled out and properly signed.
- Seal all tally sheets, poll lists, oaths and other election affidavits in the appropriate envelopes provided.
- Place all ballot cards or paper ballots in a transfer case. The transfer case must be sealed with the metal or plastic seal provided. The serial number of the transfer case seal must be recorded on the ballot report.

Poll workers in counties using the direct record electronic (DRE) voting system should follow these procedures after the machine votes have been tabulated, and if paper ballots were used in any way, such as for emergency paper back-up ballots and provisional ballots:

- Seal all challenged, uncounted and spoiled ballots in the appropriate bags or envelopes.
- Keep provisional ballots in a separate bag or envelope (PRO-4 for voted provisional ballots and PRO-6 for spoiled provisional ballots).
- Place all unused ballots in a separate bag or envelope.
- Write the number of ballots contained within on the outside of each bag or envelope.
- Check each certificate of vote printout to make sure the certification is filled out and properly signed.
- Seal all tally sheets, poll lists, oaths and other election affidavits in the appropriate envelopes provided.

Additionally, following the closing of the polls in counties using a DRE voting system, the inspector shall announce the total votes cast on all voting systems within the precinct. If this number differs from the number of voters shown to have received a ballot, the inspector and judge of the opposite political party will report the discrepancy in writing to the county election board using form PRE-16. If the difference between votes cast and ballots received is equal to or greater than a certain “threshold number,” the county election board or Secretary of State may order an audit. (IC 3-12-3.5-8)

After the close of polls in a **vote center** county, the precinct election board must keep the ballots cast in each precinct separate from the ballots cast in any other precinct whose election is administered at the vote center, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined and included on the PRE-11 statement required by IC 3-12-4-9. (In non-vote center counties, where multiple adjourning precincts are located in one polling location and one precinct election board runs the polling location for all precincts, ballots must also be separated by precinct; see IC 3-11-8-4.3) Marion County is exempt from this requirement. (IC 3-11-18.1-14)

The precinct election board (inspector and two judges) shall also seal any challenges to the party affiliation of a voter (PRE-6) in a bag or envelope separate from the bag or envelope containing challenges to voters made on grounds other than party affiliation in a primary (PRE-4), such as residency of a voter, for example. Each precinct election board member shall endorse that member's name on the back of the bag or envelope containing challenges to voters made on grounds other than party affiliation. (IC 3-14-5-1; IC 3-14-5-2)

State law requires the inspector and the judge of the opposite political party in a precinct traditional hand-counted paper ballots, direct record electronic (DRE) voting systems, and optical scan voting systems to deliver election materials to the county election board immediately after the tabulation of the vote in order to be compensated for their work as poll workers. (IC 3-6-6-28; IC 3-12-3-10; IC 3-12-3.5-4). State law also requires specific procedures to be followed to return the ePollbook and voting systems after the polls close. Please see the "Voting Systems & ePollbooks" section of this *Manual* for more information.

PROVISIONAL BALLOT VOTING

Provisional voting is a fail-safe method of voting. No voter should be prevented from voting on Election Day or during in-person early voting in the clerk's office or satellite early voting location. However, certain voters may be required to complete a provisional ballot. Provisional ballots are sealed inside a security envelope attested by the challenger and challenged voter and kept separate from all other ballots. A provisional ballot CANNOT be cast on a direct record electronic (DRE) voting system and CANNOT be tabulated at a vote center or precinct polling location on Election Day. Instead, provisional ballots are submitted to a separate verification process managed by the county election board before they may be counted. (IC 3-11.7-2)

Provisional Ballots & Materials

Provisional Ballots

The county election board shall prepare provisional ballots for all offices on the ballot in the county in the number it considers necessary. The circuit court clerk shall estimate the number of provisional ballots that will be required in the county for the election not less than sixty (60) days before an election (or not more than three (3) days after the date a special election is ordered). (IC 3-11.7-1-4)

A provisional ballot must be in the same form as an absentee ballot, containing the offices appropriate for the election and precinct to which the ballot pertains, but must indicate that the ballot is a provisional ballot and not an absentee ballot. (IC 3-11.7-1-2) Each provisional ballot shall bear the clerk's signature and seal. (IC 3-11.7-1-7) NOTE: if the county clerk is on the ballot for any elected office, then the clerk's signature must not be included on the provisional ballot, and a generic county seal must be used. The generic seal is found on the INSVRS County Portal in the IED Postings section in the county-specific folder. This does not apply if the county clerk is only running for a party office (that is, state convention delegate or precinct committeeman).

Provisional ballots must be prepared by the county election board and delivered to each circuit court clerk (or the Lake County or Porter County Director of the Board of Elections and Registration) separate from other ballots and not later than:

- fifty (50) days before a primary, general, special, or municipal election; or
- thirty-eight (38) days before a general election at which presidential electors are chosen. (IC 3-11.7-1-6)

The county election board shall have provisional ballots delivered in a package plainly marked or labeled with the words: "This package contains _____ (giving the number of ballots) provisional ballots." The Indiana Election Division created the Provisional Ballot Package Label (PRO-3) document for county election administrators to provide to a printer or use when creating the envelope in-house.

The county election board will deliver provisional ballots to the inspector in a tightly closed, securely fastened, strong and stout paper envelope or bag separate from the other ballots (PRO-3). The envelope or bag containing the provisional ballots shall be attested by the initials of the clerk or clerk's designee in the presence of the inspector or inspector's representative. The inspector shall sign a receipt for the provisional ballots.

The provisional ballot packages may not then be opened until they have been delivered to the precinct election board to which they are directed, and the precinct election board is fully organized and ready to receive votes. (IC 3-11.7-1)

Additionally, absentee ballots become provisional if the county election board (or absentee voter board) determines there is a missing or mismatched signature between the signature on the application and the security envelope, ePollbook, or affidavit used, depending on the type of absentee ballot completed by the voter. In this instance, the provisional ballot is not used, only the PRE-4/PRO-2 envelope as noted in an earlier chapter of this *Manual.* Please see the "Signature Mismatch or Missing Signature Absentee Procedures" chapter for more information.

Provisional Ballot Forms & Envelopes

The county election board shall provide each precinct election board with the proper forms and envelopes necessary to carry out provisional ballot voting. The chart below describes those materials (IC 3-11.7-1-6; IC 3-11.7-1-8; IC 3-11.7-1-9):

Form Name	Form Number	Purpose
Provisional Ballot Package Label	PRO-3	Slip or envelope containing the provisional ballots for a precinct
Provisional Ballot Outer Envelope	PRO-4	Secures uncounted provisional ballot envelopes (PRE-4/PRO-2) received on Election Day
Provisional Ballot Security Envelope with attached Affidavits	PRE-4/PRO-2	Combined challenger and challenged voter affidavit and ballot security envelope used to execute provisional ballot voting
Provisional Ballot Envelope for Ballots Issued After Regular Poll Closing Hours	PRO-5	If a court order extends voting beyond 6:00 p.m. local prevailing time, voters must use a provisional ballot, and this universe of provisional ballot envelopes are to be secured in this envelope instead of the PRO-4 envelope
Provisional Ballot Envelope for Spoiled Provisional Ballots	PRO-6	If a voter spoils a provisional ballot, it should be placed in this envelope rather than the spoiled ballot envelope for "regular" ballots
Provisional Ballot Envelope for Rejected Provisional Ballots	PRO-7	If a voter's provisional ballot is rejected (a deceased individual, for example), it should be placed in this envelope rather than the spoiled ballot envelope for "regular" ballots.
Instructions to Provisional Voter	PRO-9	Required document for precinct election officials to provide a provisional ballot voter notifying them of their rights and how to track the provisional ballot

NOTE: State law REQUIRES the PRE-4 affidavit to be printed directly on the PRO-2 Security Envelope containing the voted provisional ballot so that the PRE-4 affidavit will not be separated from the ballot.

Confidentiality of Provisional Ballot Information

The county election board must restrict access to the information available regarding the provisional ballot to the individual who cast the ballot. This includes but is not limited to forms, affidavits, and reports created in SVRS. Further, the county election board may not refer to the provisional ballot voter by name at the provisional ballot hearing. (IC 3-11.7-6-3)

The same confidentiality restrictions that apply to other provisional ballots also apply to signature mismatch or missing signature absentee ballots under the cure procedures noted. Please see the "Signature Mismatch or Missing Signature Absentee Procedures" earlier in this *Manual*. (IC 3-11.5-4-13.5; IC 3-11.5-4-13.6)

However, after the election is certified and the deadline for a recount or contest action has passed, all provisional balloting materials are considered public information except for those provisional ballots that were counted, or those provisional ballots sealed in the PRE-4/PRO-2 envelope. In other words, the affidavits found on the PRE-4 and PRO-2 are subject to public inspection following the recount and contest deadlines; the unvoted ballots sealed inside the envelope or those voted provisional ballots remain confidential. Counted provisional ballots are filed with all the counted ballots stored by precinct and subject to the retention and security procedures outlined in IC 3-10-1-31.1.

Note: Unless the PRE-4/PRO-2 affidavit includes information concerning a voter enrolled in the Attorney General's Confidentiality program or includes the voter's full 9-digit Social Security number, the challenger and challenged voter information and the outcome determined by the Board found on the affidavit is public after the recount and contest deadline has passed and should not be redacted.

Issuing a Provisional Ballot on Election Day

1) Confirm Certain Fail-Safes Do Not Apply to the Voter Before Issuing a Provisional Ballot

Whether a provisional ballot or a regular official ballot is issued to a voter depends upon whether the voter's name does or does not appear on the poll list and depends on whether the voter has been challenged as not eligible to vote in the precinct.

Before issuing a provisional ballot, it is imperative a poll worker determine if a certificate of error is to be issued to allow the voter to cast a regular ballot, or if the voter qualified for a fail-safe that would permit them to vote a regular ballot.

The following examples describe some situations that may arise where a voter may cast a regular ballot rather than a provisional ballot (see "Fail Safe Procedures" in the current version of the *Indiana Voter Registration Guidebook* for more details):

1) A person's name does not appear on the poll list, but the county voter registration official issues a certificate of error noting a mistake was made by the county voter registration office. Voter votes a regular official ballot. However, if the voter is then challenged (PRE-4), the voter casts a provisional ballot.

2) A person's name does not appear on the poll list because the voter's registration record is cancelled. The voter must affirm that the person has continuously resided at an address shown as the voter's former residence on the voter registration record before being issued a regular official ballot. However, if the voter is then challenged (PRE-4), the voter casts a provisional ballot.

3) A person whose name does not appear on the poll list, but who produces a registration receipt from a license branch or full service agency executed during the open registration period and the county voter registration office advises the precinct election board that the office received and approved the application or has no record of either approving or rejecting the application. Voter votes a regular official ballot. The voter must complete a voter registration application and provide the completed application to the precinct election board before voting if the county voter registration office has no record of either approving or rejecting the application. However, if the voter is then challenged (PRE-4), the voter casts a provisional ballot.

4) A person whose name does not appear on the poll list, who is not described in (1) through (3) above and is challenged as ineligible to vote in the precinct (PRE-4) votes a provisional ballot.

In other cases where certain voter registration fail-safes may apply:

- A person whose name appears on the poll list and no longer resides in the precinct but claims the right to vote in the precinct where they formerly resided under a fail-safe provision in current law (VRG-4/12 or VRG-15). In this case, the voter votes a regular official ballot. However, if the voter is challenged using the PRE-4, then the voter casts a provisional ballot.

- A person whose name does appear on the poll list but has moved within the precinct. In this case, the voter votes a regular official ballot. However, if the voter is then challenged using the PRE-4, then the voter casts a provisional ballot.

A voter who is challenged and executes the challenged voter affidavit to vote a provisional ballot is required to sign the poll book (IC 3-11-8-25.1; IC 3-11.7-2-2)

2) Complete the PRE-4 Challenger Affidavit

Assuming the voter does not qualify for a certificate of error or a voter registration fail-safe, the PRE-4 Affidavit provides precinct election officials or a challenger a list of reasons that a voter may be issued a provisional ballot:

1) This voter's name is not included on the poll list and is NOT entitled to vote by using a "Fail Safe" procedure.
2) This voter's name is included on the poll list, but this voter does not currently reside in the precinct and is NOT entitled to vote in this precinct by completing a VRG-4/12 form or a VRG-15 form, or other "Fail Safe" procedure.
3) This voter was unable or declined to present proof of identification when required by law to do so.
4) This voter is identified on the poll list as required to present an additional document that confirms the voter's identity and current residence address but has not done so.
5) This voter is not a U.S. citizen.
6) This voter will not be 18 years of age or older at the general (November) election.
7) This voter's signature on the poll list does not match the signature on the voter's registration record.
8) This voter's signature on the absentee ballot security envelope affidavit is missing or does not match the signature on the voter's absentee ballot application, electronic poll book, or registration record maintained in the statewide voter registration system.
9) Other.

NOTE: If a court order extends the hours that the polls are open on Election Day, any person not already in line to vote before the polls close and votes during this extended period must cast a provisional ballot. Poll workers are encouraged to use the "other" reason and note a ballot was cast after the polls closed but during the extending period the polls were open pursuant to court order. These provisional ballots are placed inside and sealed in the PRO-2

envelope, but later all the provisional ballots cast during the extending voting period are sealed in the PRO-5 carrier envelope to return to the county election board.

The precinct election officer or challenger must complete and sign the upper portion of the PRE-4 affidavit. Before the provisional ballot is issued, the voter must sign the poll book and complete and sign the "Affidavit of a Challenged Voter" portion, unless as specifically set forth below. (IC 3-11-8-22.1; IC 3-11.7-2-1; IC 3-11.7-2-2)

If a person has already made an affirmation or executed an affidavit permitted under current law to vote pursuant to a fail-safe procedure, or a person has voted by absentee ballot and completed the affidavit on the outside of the absentee ballot envelope, and is then challenged, then the person is not required to complete and sign the "Affidavit of a Challenged Voter" portion of State Form PRE-4. (IC 3-11-8-23; IC 3-11.5-4-16)

This can occur when the following situations arise:

1) To vote a regular official ballot, a person who is not on the poll list may make an oral or written affirmation to a precinct election board that the person either:
    a. has continuously resided in the precinct, and the voter's name has been removed from the registration list by mistake; or
    b. produces a receipt indicating that the person applied to register to vote at a license branch or other "full service" voter registration agency while registration was open and signs a voter registration application.

    If the eligibility of a person to vote in either of these situations is challenged before the voter votes a regular official ballot, the person is provided with a provisional ballot (rather than a regular official ballot). The person challenged in this situation is not required to execute the "Affidavit of a Challenged Voter" portion of Challenge Affidavit (PRE-4) if the person has already satisfied the requirements set forth in (a) and (b) above. (IC 3-7-48-7.5)

2) To vote a regular official ballot, a person who is on the poll list, but who has moved out of the precinct may execute an affidavit under the current law permitting the person to return their former precinct to vote either:
    a. for president only in a presidential election because the person moved out of Indiana less than 30 days before an election (VRG-15); or
    b. because the person moved to another precinct within Indiana less than 30 days before an election (VRG- 4/12).

    If the eligibility of the person to vote is challenged before the voter votes a regular official ballot, the person is provided with a provisional ballot. The person challenged in this situation is not required to execute the "Affidavit of a Challenged Voter" portion of State Form PRE-4 if the person has already satisfied the requirements set forth in (a) or (b) above. (IC 3-10-10-9, 3-10-11-4.5)

3) To vote a regular official ballot, a person who is on the poll list but who has moved to another precinct within the same county and the same congressional district may make an oral or written affirmation (State Form VRG-4/12) under the current law permitting a person who formerly resided in a precinct, but no longer resides there, to return their former precinct to vote. If the eligibility of the person to vote is challenged before the voter votes a regular official ballot, the person is provided with a provisional ballot. The person challenged in this situation is not required to execute the "Affidavit of a Challenged Voter" portion of Challenge Affidavit (PRE-4) if the person has already made the oral or written affirmation required under current law. (IC 3-10-12-5)

4) If an absentee ballot voter is challenged for the reason the challenger believes the absentee voter is not a qualified voter of the precinct, then the challenged voter's section of the PRE-4 does not need to be completed. Instead, the absentee application serves as the sworn testimony of the voter. It is recommended poll workers write "absentee voter" in the lower section of the PRE-4 and on the PRO-2 to alert county election officials that the absentee ballot application may be sealed inside the PRE-4/PRO-2 envelope. (IC 3-11.5-4-15; IC 3-11.5-4-16)

In addition, a person who:

1) registered to vote by mail and is required to provide certain additional residency documents to the county voter registration office, but has not yet done so when the voter appears at the polls to cast a ballot, and does not do so while at the polls; or
2) votes under a court order extending the hours that the polls are open on Election Day;

must cast a provisional ballot but is not required to execute the separate challenged voter's affidavit described above. (IC 3-11-8-27.5)

Challenge to Party Affiliation at Primary Election (PRE-6)

A voter of any precinct in the county may challenge another voter in the same polling location or vote center, alleging the voter is not qualified to vote in the party primary the voter requests to vote. (IC 3-10-1-9)

If a person is challenged at a primary election on the basis of party affiliation, the person is allowed to vote a regular official ballot listing candidates of that party upon completion of an affidavit stating that the person is affiliated with the political party whose ballot the person is requesting. (PRE-6) The voter is then allowed to cast that party's primary ballot and is not required to cast a provisional ballot. (IC 3-10-1-10.5) The PRE-6 affidavits are to be stored in the PRE-13 envelope.

Note: Precinct election officials and absentee board members may serve as a notary to witness the challenger or challenged voter affix their signature to the PRE-4/PRO-2 affidavit when serving in their official capacity during early voting or on Election Day. (IC 33-42-9-7(a)(10))

3) Finish the Provisional Ballot Process

Once the PRE-4 affidavit has been completed, the voter is issued a provisional ballot. Unless otherwise specified, the procedures that apply to paper ballots apply to provisional ballots, including the need for two sets of clerks' initials. After the provisional ballot is completed, the provisional voter shall seal the ballot in the PRO-2 security envelope, which is the "flip side" of the envelope where the PRE-4 affidavit is printed, in front of the precinct election officials. The voter MUST sign their name in the space provided on the PRO-2 affidavit. Before the voter leaves the polling place, poll workers should review the PRE-4 challenge affidavit and the affidavit on the PRO-2 side of the envelope for completeness. **It is critically important the PRE-4 and PRO-2 forms be completed by both the voter and the poll workers to provide the facts and evidence to aid the county election board in determining whether the provisional ballot may be counted.**

In addition, a member of the precinct election board MUST provide the provisional voter the PRO-9, Instructions to the Provisional Voter, and provide oral instructions about what actions the voter must take to have the provisional ballot counted. This document describes the provisional ballot process and provides contact information for the county election board so the voter may inquire about the status of their provisional ballot. It also reminds an individual who cast a provisional ballot due to failure to provide photo ID that the person may, before the county election board no

later than noon, prevailing local time, ten (10) days after the election, complete the PRO-10 (Affidavit of Challenged Voter Concerning Proof of Identification Requirement) or PRO-11 (Affidavit of Challenged Voter Concerning Proof of Identification Requirement in a Municipal Election). On this affidavit, the voter must either present proper ID and execute the form, or attest under penalties of perjury the voter is indigent or has a religious objection to securing an ID. (IC 3-11.7-2-2)

At the close of the polls, the precinct election board shall seal all the provisional ballots in the PRO-4 carrier envelope, any provisional ballots received after 6:00 p.m., local prevailing time, but on or before the poll closing time extended by court order in the PRO-5 carrier envelope, and any spoiled provisional ballots in the PRO-6 carrier envelope. In a primary election, the PRE-6 affidavits are to be delivered in the PRE-13 grand jury affidavits envelope. Poll workers should complete the paperwork found on the outside of each envelope, which requires a count of provisional ballots found sealed inside and signatures of certain precinct election officials. The inspector shall return all provisional ballot materials to the circuit court clerk. (IC 3-11.7-2-4)

The county election board may use a module in SVRS that populates provisional ballot information onto a voter's page on Indianavoters.com (Indiana Voter Portal) to comply with the requirement to establish a free access system for provisional ballot voters to see if their ballot was counted and the reason if the ballot was not counted. The county election board is required to input into SVRS the name and address of each voter that completes a provisional ballot, the day and time the county election board will meet to determine the validity of the provisional ballot, whether the voter's provisional ballot was counted, and if the voter's provisional ballot is not counted, the reason the provisional ballot was not counted.

The name and address of each voter that complete a provisional ballot, and the day and time the county election board will meet to determine the validity of the provisional ballot must be entered into SVRS and be added to the voter's profile on Indianavoters.gov not later than twenty-four (24) hours before the county election board meeting to determine the validity of the provisional ballots or three (3) days after the election, whichever occurs first.

Once the county election board makes a determination if the voter's provisional ballot can be counted or not counted, and not later than the deadline for the county election board to certify the election results of the county under IC 3-12-4-9, information on whether the voter's provisional ballot was counted or not, and reason(s) the voter's provisional ballot was not counted must be added to SVRS and populate the voter's profile on Indianavoters.com. (IC 3-11-8-25.2; IC 3-11-10-26; IC 3-11.7-2-2; IC 3-11.7-6-3)

Issuing a Provisional Ballot during Early Voting

Generally, a county will follow the above procedures for issuing a provisional ballot during early voting; however, provisional ballots have limited use during in-person absentee voting. A provisional ballot is to be issued to a voter who does not provide a valid photo ID.

If a voter has moved within the same precinct or has a name change, then the absentee application can be used to update a voter's registration. (For counties using ePollbooks, the VRG 4/12 would be used to capture this information for a move within the precinct.) The voter would be issued a regular ballot, if otherwise qualified.

If a voter has moved outside the precinct, then the absentee voter boards should review the fail-safe options to determine whether the individual can vote in their old precinct one last time. (See the *Voter Registration Guidebook* for more information on fail-safe procedures.) If it is determined that the voter does qualify to vote one last time in

their old precinct, then the voter must complete the VRG 4/12 and then may be issued a regular absentee ballot for their old precinct.

If it is determined that the voter does not qualify for a fail-safe under state law, then the absentee application would be rejected, and the voter would not be permitted to vote on a regular absentee ballot.

The other difference to the procedures noted above is the individuals making the challenge would be the absentee voter boards or election staff instead of Election Day poll workers.

Note: Absentee board members may serve as a notary to witness the challenger or challenged voter affix their signature to the PRE-4/PRO-2 affidavit when serving in their official capacity during early voting. (IC 33-42-9-7(a)(10))

Provisional Ballot Hearing

After Election Day, the county election board must meet and hold a public hearing to determine whether each provisional ballot is to be counted. The meeting should be conducted after the notice required under the Open Door Law is given ,like any public meeting held by the county election board and is subject to other requirements of the Open Door Law.

The location for counting provisional ballot is to be treated the same as a precinct polling place, and provisional ballot counters treated the same as a precinct election officer. In addition, political parties, independent candidates, or the media may appoint watchers and a candidate entitled to appoint a watcher under IC 3-6-9 may also appoint a watcher. (IC 3-11.7-4-1; IC 3-11.7-4-2; IC 3-11.7-4-3; IC 3-11.7-4-4) The county election board must decide whether to count (or not count) all provisional ballots not later than 3:00 p.m., prevailing local time, ten (10) days following an election. (IC 3-11.7-5-1(b))

A county election board may have a provisional ballot hearing before Election Day to adjudicate absentee ballots that were made provisional due to mismatched or missing signatures, for example. Further, a county election board is not limited to holding a provisional ballot hearing to only one day. However, if the hearing is continued, the board must announce the date, time, and location before recessing. Alternatively, the board can separately schedule and notice each date the provisional ballot hearings will be conducted.

The requirement that all ballots and election materials returned to the county election board after the polls close on election day be sealed by the circuit court clerk does not otherwise prohibit county election officials, such as the county election board or provisional ballot counters, from accessing those election records to the extent necessary to conduct the provisional ballot review and counting duties authorized under IC 3-11.7. (IC 3-10-1-31.1)

Provisional Ballot Counters

Each county election board shall appoint teams of provisional ballot counters consisting of two (2) voters of the county, one from each of the major political parties. A provisional ballot counter must have the same qualifications as a member of an absentee voter board.

The county election board shall notify the Democratic and Republican Party County chairs of the need for provisional counter appointments ten (10) days before Election Day. The county chair shall recommend provisional ballot counter appointees in writing not later than noon, prevailing local time, three (3) days before Election Day, and the county

election board shall appoint the provisional ballot counters recommended. If the county chairman fails to make any recommendations, the county election board may appoint any voters of the county. A person can serve as both an absentee ballot counter and a provisional ballot counter. (IC 3-11.7-3)

A provisional ballot counter is entitled to a per diem at a rate set by the county fiscal body. (IC 3-11.7-3-7) The positions of absentee ballot counter and provisional ballot counter are not considered "lucrative offices," which would prohibit a person holding an office from also serving in either of these positions. (IC 3-11.7-3-8)

Rules for Counting Provisional Ballots

Unless a provisional ballot has been rejected based on evidence of fraud, tampering, or misconduct affecting the integrity of the ballot under the requirement that the poll clerks must initial each provisional ballot (IC 3-11.7-5-5), a provisional ballot may be counted if the county election determines all of the following apply (IC 3-11.7-5-2(a)):

1) The PRE-4 affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed;
2) The provisional voter is a qualified voter of the precinct and has provided proof of identification, if required;
3) The provisional voter registered to vote at a registration agency on a date within the registration period based on all the information available to the county election board, including:
    a. Information provided by the provisional voter,
    b. Information contained in the county's voter registration records, and
    c. Information contained in the statewide voter registration file;

    that the voter registered to vote at a voter registration agency on a date within the registration period.

If a provisional ballot is cast by a voter whose name *does not* appear on the poll list but who indicates that the voter applied to register at the BMV or other full service voter registration agency while registration was open, then the county election board shall accept or reject the provisional ballot depending on the information, or lack of information, the board receives about the voter's registration application. The BMV or full service voter registration agency where the voter registered to vote must, by noon (prevailing local time), of the first Friday after the election, respond to the county election board's inquiry and indicate whether the agency's records contain any information about the voter's registration application. If the BMV or full service voter registration agency does not respond to the county election board's inquiry by the noon (prevailing local time), Friday deadline, or responds that the agency has no record of the alleged registration application, the board rejects the provisional ballot, and the ballot cannot be counted. (IC 3-11.7-5-2(b))

If a provisional ballot is cast by a voter after the voter was challenged solely due to the voter's failure to provide the additional residency documentation required because the voter was a first time voter in Indiana who registered by mail, and the county election board determines that the voter filed the documentation required with the county voter registration office not later than the closing of polls on Election Day, then the provisional ballot must be counted. (IC 3-11.7-5-2(c))

If an absentee ballot is made provisional due to a signature mismatch or missing signature between the absentee balloting materials, then the absentee ballot may be counted if the voter submits the ABS-18A (unsigned) or ABS-18B (mismatch) by email, fax, hand-delivery, or mail to the county election board not later than noon, eight (8) days following the election and the county election board determines the signatures match. (IC 3-11.5-4-13.6)

State law sets forth rules that apply to the counting of provisional ballots cast when a voter fails to provide photo identification:

1) If a provisional ballot is cast by a voter after the voter was challenged solely due to the voter being unable or declining to provide proof of identification, and the voter provides a photo ID to the county election board and executes the PRO-10 affidavit (PRO-11 for municipal elections) before the noon, prevailing local time, ten (10) day deadline after Election Day, then the provisional ballot must be counted. (IC 3-11.7-5-1.5(e); 3-11.7-5-2.5(b))

2) If a provisional ballot is cast by a voter after the voter was challenged solely due to the voter being unable or declining to provide a proof of identification, and the voter executes and delivers to the county election board the PRO-10 affidavit (PRO-11 for municipal elections) claiming that the voter is indigent and unable to obtain proof of identification without the payment of a fee before the noon, prevailing local time, ten (10) day deadline after Election Day, then the provisional ballot must be counted. (IC 3-11.7-5-2.5(c) and (d))

3) If a provisional ballot is cast by a voter after the voter was challenged solely due to the voter being unable or declining to provide a proof of identification, and the voter executes and delivers to the county election board the PRO-10 affidavits (PRO-11 for municipal elections) claiming that the voter has a religious objection to being photographed and does so before the noon, prevailing local time, ten (10) day deadline after Election Day, then the provisional ballot must be counted. (IC 3-11.7-5-2.5(c) and (d))

If a provisional ballot is cast by a voter after the voter was challenged for inability or declination to provide proof of identification, **and** the voter does not appear before the county election board to either 1) provide proof of identification and execute the PRO-10 (PRO-11 for municipal elections) affidavit, or 2) execute the PRO-10 (PRO-11 for municipal elections) affidavit to claim an exemption from this requirement as indigent or having a religious objection to being photographed by noon, prevailing local time, ten (10) days after the election, then the county election board must find the voter's provisional ballot invalid, and the ballot cannot be counted. (IC 3-11.7-5-2.5(f))

Finally, if a provisional ballot is cast by a voter under a court order extending the hours that the polls are open, the ballot must be counted unless the court order extending polling place hours is overturned by another court. The court may provide guidance concerning how these provisional ballots shall be processed.

In a situation other than those specified above, the county election board must decide whether a provisional ballot is valid, based on the evidence presented to the board concerning that provisional ballot. In the following situations:

1) The provisional ballot was cast by the voter under a court order extending the hours that the polls were open.
2) The provisional ballot was cast by a voter who is not on the poll list who indicates that the voter applied to register at a voter registration agency.
3) The provisional ballot was cast by the voter after the voter was challenged solely due to the voter being unable or declining to provide proof of identification.
4) The provisional ballot was cast by the voter after the voter was challenged solely due to the voter's failure to provide additional documentation;

In other situations not listed in 1) through 4), if the only evidence before the county election board on the question of counting of the provisional ballot cast by the voter is the affidavit of the voter who cast the provisional ballot and the affidavit of a challenger challenging the voter who cast the provisional ballot, then the provisional ballot shall be counted if the individual is a registered voter of that precinct. (IC 3-11.7-5-1.7)

If a county election board determines, by majority vote of its members and in accordance with the election laws, that the provisional ballot was marked by the voter in compliance with election laws, but because of an error caused by an election officer the ballot cannot be counted, then the sealed envelope containing that provisional ballot must be

opened and the provisional ballot counted unless there is evidence of fraud, tampering, or misconduct demonstrated regarding the integrity of this ballot. The error by an election officer is not, by itself, evidence of fraud, tampering, or misconduct affecting the integrity of the ballot. (IC 3-11.7-5-1.5(a) and (c))

However, if the county election board, by a majority vote of its members, determines that evidence presented to the board demonstrates that the individual who cast the provisional ballot was ineligible to cast a regular ballot in that precinct or evidence demonstrates any other reason set forth in HAVA or Indiana election laws that the provisional ballot cannot be counted, then the provisional ballot cannot be counted. (IC 3-11.7-5-1.5(d))

The evidence presented to the county election board concerning fraud, tampering, or misconduct affecting the integrity of a provisional ballot will allow the board to determine whether a provisional ballot that does not comply with IC 3-11.7-5-5(a) should be counted. This law states that "if any ballot cast by a provisional voter does not contain the initials of the poll clerks, the ballot shall, without being unfolded to disclose how the ballot is marked, be endorsed with the word 'Rejected'."

Absentee Ballots Treated as Provisional Ballots

If an absentee voter is challenged for not being a legal voter of the precinct, the challenged voter's absentee ballot must be treated as a provisional ballot. The absentee voter's application becomes the voter's sworn statement for purposes of determining whether the ballot is to be counted. (IC 3-11.5-4-16)

A voter who wants to vote on an in-person absentee ballot but fails to provide proof of identification must instead cast a provisional ballot. The absentee voter board, both orally and in writing on a form prescribed by the Indiana Election Division (PRO-9), must provide the voter an explanation of the actions that the voter must take for the provisional ballot to be counted, and to be given an additional notice, prescribed by the Indiana Election Division, from the circuit court clerk by U.S. mail regarding the provisional ballot process and contact information for the county election board. (IC 3-11-10-26) However, an absentee voter need not meet the photo ID requirement if the absentee ballot was cast by mail or before a traveling board.

An absentee ballot voter who is a first-time voter who registered to vote and did not provide proof of residency must submit their proof not later than the close of polls on Election Day. When processing the absentee ballot on Election Day, if an absentee voter required to file proof of residency (ABS-12) is determined to not have filed the documentation by the time the absentee ballot is being processed by the absentee ballot counters, then the absentee ballot becomes a provisional ballot. The absentee voter's ballot cannot be counted if proof of residency documentation is received after 6 PM (prevailing local time) on Election Day. (IC 3-11.5-4-12)

An absentee ballot with a signature mismatch or a missing signature must be treated as a provisional ballot so that the absentee voter can cure the defect by filing an affidavit – either the ABS-18A (unsigned) or ABS-18B (mismatch) with the county election board not later than noon (local prevailing time), eight (8) days after Election Day. On the signature mismatch affidavit, the voter would swear that the signature on the absentee ballot security envelope affidavit is in fact that of the voter and sign the affidavit. On the affidavit of unsigned ballot, the voter would swear that the voter requested and returned an absentee ballot and that they are the voter whose name appears on the absentee ballot envelope and sign the affidavit.

During the provisional ballot hearing, the county election board shall compare the voter's signature on the signature mismatch affidavit (ABS-18A), or the unsigned ballot affidavit (ABS-18B) returned by the voter with the signature on the absentee ballot affidavit envelope. If those signatures match, the board shall open the envelope and count the

provisional ballot, assuming that there are no other issues regarding the validity of the provisional ballot. However, if the county election board, during the provisional ballot hearing, finds that the affidavit signature does not match the signature on the absentee ballot security envelope affidavit, the provisional ballot shall be rejected. (IC 3-11.5-4-13.5; IC 3-11.5-4-13.6)

See the "Absentee Voting" section in this *Manual* for more information on absentee signature review and mismatched or missing signatures.

Provisional Ballot Voter (PRO-9) Notice

A voter who registers to vote in Indiana for the first time using a paper voter registration form and either does not provide an Indiana driver's license number or the last four digits of their Social Security number or who does provide one of these two numbers but it cannot be verified must provide proof of Indiana residency before casting a regular early voting or Election Day ballot.

If a voter with the proof of residency flag on their record has not filed the proof of residency with the county voter registration official or cannot provide it to the absentee voter board or Election Day poll worker, then the voter is required to cast a provisional ballot. The voter must be advised by a member of the precinct election board (or absentee voter board), both orally and in writing, that the voter may file a copy of the documentation with the county voter registration office to permit the voter's provisional ballot to be counted. The written notice is prescribed by the Indiana Election Division with information explaining the requirement and the procedures to enable the voter's provisional ballot to be counted. This is found on the PRO-9 form. (IC 3-11-8-25.2; IC 3-11.-2-2)

If a voter is challenged because the voter's name does not appear on the poll list or the voter's name appears, but the voter is challenged as not being qualified to vote in the precinct, then the voter must be advised by a member of the precinct election board (or absentee voter board), both orally and in writing, what actions the voter must take to have the provisional ballot counted. The notice is prescribed by the Indiana Election Division with information explaining the requirement and the procedures to enable the voter's provisional ballot to be counted. This is found on the PRO-9 form. (IC 3-11-8-25.2; IC 3-11.7-2-2)

Provisional Ballot Information Entered into SVRS

As required by federal law, a county election board shall establish a free access system such as a toll-free telephone number or an Internet web site that enables a provisional voter to determine whether the individual's provisional ballot was counted; and if the provisional ballot was not counted, the reason for the provisional ballot not being counted. (IC 3-11.7-6-3)

A county election board may use a module within SVRS to comply with this legal requirement. However, the county election board shall enter the following into the SVRS module:

1) The name of the individual;
2) The address of the individual;
3) The day and time the county election board will meet to determine the validity of a provisional ballot under IC 3-11.7-5;
4) Whether the individual's provisional ballot was counted; and
5) If the individual's provisional ballot was not counted, the reason for the provisional ballot not being counted.

For numbers 1-3 above, this information must be entered into SVRS not later than 24 hours before the date the provisional ballot hearing is to be conducted by the county election board or three (3) days after the election,

whichever comes first. For numbers 4 and 5 above, the information must be entered not later than the date the county election board certifies the election results under IC 3-12-4-9.

Finally, federal law requires that the county election board establish and maintain reasonable procedures to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used on the free access system established by the board under state law.

An individual who casts a provisional ballot may access the information described above by going to indianavoters.com and logging in to view their "my voter portal" page. There is a portal part labeled "Provisional Ballots" that allows the user to view their provisional balloting information, if applicable, for any election stored in the system.

Processing, Securing and Counting Provisional Ballots

After being processed, all provisional ballots must be classified as either: (1) Valid; (2) Invalid; or (3) Rejected. A county election board decides, based on the state laws discussed above, and the evidence presented to the board, whether a ballot is valid or invalid.

State law may require that a provisional ballot be "rejected" without any further determination by the county election board. For example, a provisional ballot is "rejected" as the result of a lack of any evidence of a registration application being submitted to a full service voter registration agency, or as the result of a court order extending polling place hours being overturned. All rejected provisional ballots shall be enclosed and securely sealed in an envelope marked "Rejected Provisional Ballots (PRO-7)." (IC 3-11.7-5-5(b))

If the board determines that:

1) the provisional voter affidavit has not been properly executed;
2) the provisional voter is not a qualified voter of the precinct;
3) the provisional voter failed to provide photo ID, if required; **or**
4) the provisional voter did not register to vote at a registration agency on a date within the registration period,

then the county election board must find that the provisional ballot is invalid and may not be counted; **and the envelope containing the provisional ballot may not be opened.** The provisional ballot envelope shall be marked with the notation: "Provisional ballot determined invalid." (IC 3-11.7-5-3(b))

In counting the provisional ballots, each ballot shall be laid upon a table in the order in which the ballots were opened, and a provisional ballot counter shall read the name of the candidates voted on from the ballot while a member of the county election board (or the member's representative) that is not of the same party as the provisional ballot counter views the ballot as the names are read.

During the counting of provisional ballots, a provisional ballot counter or a member of the county election board (or a member's representative) may protest the counting of any ballot or any part of a ballot. If the provisional ballot counters cannot agree on whether to count a ballot after this protest, then the question shall be referred to the county election board for decision. Following the decision by the provisional ballot counters or the county election board the counters shall sign each protested ballot and mark on the back of the protested ballot the word "counted" or "not counted", as appropriate. (IC 3-11.7-5-7; IC 3-11.7-5-8; IC 3-11.7-5-9; IC 3-11.7-5-10; IC 3-11.7-5-11; IC 3-11.7-5-12)
A provisional ballot counter may not count provisional ballots for one precinct while counting provisional ballots for another precinct. If a county has appointed more than one set of provisional ballot counters, then a set of counters

may count provisional ballots in one precinct while another set of counters count provisional ballots in another precinct. (IC 3-11.7-5-13; IC 3-11.7-5-14)

When the provisional ballots have been counted, the counters shall prepare a certificate stating the number of votes each candidate received for each office and cast on each public question and deliver the certificates and tally papers to the county election board immediately upon the tabulation of the precinct's vote. The counters shall make and sign a similar certificate for the news media and deliver it to the circuit court clerk, who shall deliver it to any person designated to receive the certificate before the closing of the polls. The counters shall prepare a memorandum of the total votes cast for each candidate and on each public question and ensure that each member of the county election board receives a copy of the memorandum.

The counters, in the presence of the county election board, shall:

1) place all provisional ballots whether voted, spoiled, determined invalid or rejected, including all executed affidavits related to the provisional ballots and all tally papers, in a strong paper envelope or bag;
2) securely seal the envelope or bag;
3) initial the envelope or bag;
4) mark on the outside of the envelope or bag in ink the precinct in which the provisional ballots were cast; and
5) deliver the envelope or bag to the circuit court clerk and notify the clerk of the number of ballots placed in the envelope or bag. (IC 3-11.7-5-16; IC 3-11.7-5-17; IC 3-11.7-5-18; IC 3-11.7-5-19)

Upon delivery of the envelope or bag to the circuit court clerk, each counter shall sign an oath (PRO-8) before the clerk that the counter:

1) kept the ballots and papers in the envelope or bag secure;
2) did not permit any person to open the envelope or bag or otherwise touch or tamper with the ballots; and
3) has no knowledge of any other person opening the envelope or bag.

The circuit court clerk shall then place the envelope or bag in a receptacle provided by the county executive with two different locks, lock the receptacle, retain one key to the lock, and give one key to the lock to the member of the county election board who is not a member of the same political party as the clerk. The receptacle shall be preserved and disposed of in the same manner as other election materials kept under seal. (IC 3-11.7-5-20; IC 3-11.7-5-21; IC 3-11.7-5-22; IC 3-11.7-5-23; IC 3-11.7-5-24; IC 3-11.7-5-25)

Miscellaneous Provisional Ballot Procedures

The board must establish reasonable procedures to protect the security, confidentiality, and integrity of the personal information collected, stored, or used to provide this information. The board must restrict access to the information available regarding the provisional ballot to the individual who cast the ballot. (IC 3-11.7-6-3)

1. Remove the original PRE-4 affidavit, which is printed on the PRO-2 provisional ballot envelope, and PRE-6 party challenge affidavit (used only in the primary election) from the sealed bag or envelope and make three (3) copies of each affidavit. The board then places the affidavits in the larger envelope or bag and keeps them secure according to IC 3-10-1-31.1, and does the following with the copies after the expiration of the recount or contest period:
    a. Mail one copy of each affidavit to the Secretary of State;
    b. Send one copy of each affidavit to the prosecuting attorney; and
    c. Retain one copy with the county election board to fulfill public record requests under IC 3-10-1-31.1

2. The county election board may remove the original affidavits from the bag or envelope during a board meeting or hearing when the affidavits are reviewed by the board under Title 3. The bag or envelope containing the original PRE-6 and PRE-4 affidavits must be immediately resealed after the county election board determines which provisional ballots can be counted and not counted under IC 3-11.7. Each county election board member must sign the back of the seal bag or envelope. The clerk must preserve the resealed bag of voter challenge affidavits according to IC 3-10-1-31.

If an original affidavit is requested and delivered to the prosecuting attorney or a grand jury, the prosecuting attorney must preserve the original affidavits and envelopes according to requirements for clerks under IC 3-10-1-31.1 and ensure that no one can access a provisional ballot that was not counted by the county election board by opening the PRE-4/PRO-2 envelope. The prosecuting attorney or grand jury has to return the affidavit and envelope to the circuit court clerk after the completion of any proceeding resulting from an investigation of the affidavit or envelope. (IC 3-10-1-31.1; IC 3-14-5-2)

If a county election board determines that a voter who cast a provisional ballot in that county is registered to vote in another Indiana county, then the county election board must notify the election board of the other county regarding the provisional ballot and transmit the copy of the challenge affidavit executed by the voter who cast the provisional ballot to the other county. (IC 3-11.7-5-30)

POST-ELECTION PROCEDURES

After the ballots have been tabulated, county election administrators must certify the results of the election to the Indiana Election Division not later than noon (Indianapolis time) the second Monday following Election Day. (IC 3-12-5-1) The CEB-9 Section I that contains more details about the election, including the certified precinct level results reporting, is due not later than noon, the second Tuesday following Election Day.

The CEB-9 Section II collects detailed information required after the November election held in a general election year such as 2026 and 2028. For all other elections, counties are only asked to complete the wait time information found on the CEB-9, Section II. This information is pulled from the PRE-1 Oath Book returned by poll workers on Election Day.

During the period after Election Day and before the certification deadline, a county election board has several responsibilities to finalize election results. After certification, and assuming a recount or contest action has not been filed, oaths of office are filed, certificates of elections are sent, and election materials are preserved and stored, among other duties.

As a reminder, after the election, all documents and materials (paper and electronic) are "sealed" and should be secured for further inspection and examination, if ordered by a court or state Recount Commission as a result of litigation. Voting machines are subject to access control policies articulated in state law and should be locked, tagged, and secured. (IC 3-10-1-31.1)

County election boards do not have the discretion to open sealed materials or voting systems unless otherwise stated in Title 3 or ordered by a court to do so, meaning it is not permissible for a circuit court clerk, county election director, county election board, or any other election administrator to access any voter system unit containing voted ballot information from election day, voted ballot cards, or other sealed records and document either upon request of an individual or on their own initiative. The State of Indiana does not have a forensic audit law and no such demand or request for such an audit can ever be granted. However, the county prosecuting attorney or law enforcement may conduct a criminal investigation if an election law violation has occurred.

More information about access control policies can be found in the "Voting Systems & ePollbooks" section in this *Manual.* More information about record retention and public access to those records can be found in the "Record Retention & Public Access" section of this *Manual.*

Election Results

When Ballot Tabulation May Occur on Optical Scan Voting Systems

Absentee paper ballots or optical scan ballot cards are to remain sealed and tabulated using an optical scan voting system at the Election Day central count location, unless the county has adopted procedures under IC 3-11.5-4-11.5 to begin the processing of ballots in preparation for counting. (See "Central Count of Absentee Ballots" in the "Absentee Voting" section of this *Manual* for more information.)

Optical scan voting system vendors may seek, but are not required, to certify a ballot retraction feature on their voting systems in Indiana. A ballot retraction number CANNOT include: (1) the voter's name; (2) their residence or mailing address; (3) telephone number; (4) Social Security number; (5) date of birth; (6) date the voter registered; or (7) the Indiana driver's license number or state identification number assigned by BMV. (IC 3-11-15-26)

Once certified by the Indiana Election Commission, counties using the optical scan voting system with such a feature may scan their absentee ballots before Election Day, if the county election board has adopted procedures under IC 3-11.5-4-11.5 to start the central count up to three days before Election Day. Should a central count team or county election board find the absentee ballot is to be rejected under state law or found later not to be a qualified voter of the precinct, the ballot retraction method must be used to remove the ballot from any image file and remove the voter's choices from the precinct vote totals. (IC 3-11.5-4-6)

No absentee ballot may be cast on a tabulator during early voting! Instead, the voter must enclose their ballot card (or paper ballot) in the ballot secrecy envelope, seal the envelope, and then sign their name on the affidavit before the absentee voter board. Then the absentee voter board signs their part of the affidavit. Only if the county election board adopts the policy to start the central count before election day may the absentee ballot cards be scanned if the voting system has a certified ballot retraction feature. (IC 3-11.5-4-11.5)

The county election board may not release any election results, including any scanned absentee ballot cards, until 6:00 PM prevailing local time or after the polls close, if extended by court order. (IC 3-14-4-10) Releasing this information early is an election crime. (IC 3-14-4-10)

When Ballot Tabulation May Occur on Direct Record Electronic (DRE) Voting Systems

Counties using DRE systems for in-person early voting or traveling board may upload the precinct results to the election management system before the polls close on Election Day but may not release any election results until 6:00 PM prevailing local time or after the polls close, if extended by court order. (IC 3-14-4-10) Releasing this information early is an election crime. (IC 3-14-4-10)

Note: Votes cast on the DRE system before election day may be challenged. If the voter is found not to be a qualified voter of the precinct, then a ballot retraction number must be used to remove the electronically cast ballot from the voting system unit. (IC 3-11-15-26; IC 3-11.5-8-1)

Tabulation, generally

After the polls have closed and precinct election officials or vote center officials have returned results from the precinct, the next step is for the county election board to ascertain the results of the election. Some ballot counting procedures and rules apply uniformly to all elections, regardless of the type of voting equipment being utilized. The next few paragraphs provide insight on how a voting system tabulates results, though the same rules apply should a county use traditional, hand-counted paper ballots or if a judge issues an order to conduct a recount using a local recount commission.

First and foremost, and subject to laws to prevent election fraud, the intent of the voter is the primary factor in determining the validity of any vote. (IC 3-12-1-1) However, if it is impossible to determine how a voter intended to vote for a particular office or on a particular question, then only that office or question may not be counted. The entire ballot is not invalidated if it is impossible to determine the intent of the voter on only a portion of the ballot.

The entire ballot is void if a distinguishing or identifying mark of any kind appears on the ballot. Anytime a voter has marked or mutilated their ballot in such a way as to enable a person to be able to determine who cast the ballot, then the entire ballot is voided. However, an erasure does not constitute a distinguishing mark, unless it is made with the intent of enabling a person to determine who cast the ballot. (IC 3-12-1-3; IC 3-12-1-4)

Each type of voting system must be able to distinguish between straight parties, individual, crossover votes, under

votes and over-votes. A person who casts a straight party vote and votes for individual candidates of the same party has not over voted. The straight party votes must be counted, and the individual votes are not counted. (IC 3-12-1-7(a)) If a voter has cast a straight party vote and has also voted for the individual candidates of a different political party or individual independent candidates, the individual candidate votes take precedence over the straight party votes and are counted. The straight party votes are counted for all other offices. This rule applies whenever only one (1) person may be elected to the office being voted upon. (IC 3-12-1-7(b))

However, a straight party vote no longer counts in multi-member at large districts on a county council, township board, city council, or town council when more than one (1) person may be elected to an at-large seat on the council or board. Instead, a voter must vote for individual candidates for those offices on the ballot for the vote to be counted. (IC 3-11-7-4; IC 3-11-7.5-10; IC 3-12-1-7 (d) and (e))

If a voter casts a ballot for more than one straight party ticket, the whole ballot is void for candidates of a political party, but an otherwise valid vote for school board candidate or on a public question is counted. (IC 3-12-1-7(f))

A straight party vote does not count for any candidate for a school board office. (IC 3-12-1-7.1).

Reporting Unofficial Election Results

On election day and during the canvassing period, counties are to report unofficial results. (IC 3-12-5-1) Many counties will report results to the media, political party leaders, and candidates and publish those unofficial results on the county's website, if available.

State law requires that each county election board begin entering unofficial results into the statewide voter registration system at 8 pm (local prevailing time) on election day, and to do so at least every two (2) hours until midnight, then resume entering unofficial election results at 9 am, local prevailing time, the day following election day, at least once an hour, until the unofficial results are published on the state's election results website, which is: indianavoters.in.gov/electionresults. (IC 3-12-4-6.3) The state's website helps to collate unofficial results for statewide, Congressional, and state legislative races, and highlights countywide offices like judge and prosecuting attorney who file declarations of candidacy with the Election Division.

Election results are not public information until the polls close, even if the county's absentee ballots are tabulated well before the polls close. County election board members and staff must not release results before the polls close to any person since a violation of that law is a Level 6 felony. (IC 3-14-4-10) It is also helpful to remind the public results are unofficial until the county election board certifies the final results to the Indiana Election Division.

Certifying Election Results

Election results are considered unofficial until the county election board completes a canvass of election results and tallies all ballots, including eligible provisional ballots and "late-arriving" overseas voter ballots. "Late-arriving" overseas voter absentee ballots are to be counted by county election officials if the absentee ballot envelope is postmarked on or before the date of the election and received not later than noon, prevailing local time, ten (10) days after the election. (IC 3-12-1-17)

Not later than noon (Indianapolis time), the second Monday after a primary, general, or municipal election, the circuit court clerk must prepare a statement identifying all votes cast at the election. **A county must use the statewide voter registration system (SVRS) to certify the final results of the elections conducted in that county unless the election division authorizes the use of an alternative method for transmission of the results.** (IC 3-12-5-

1.5) Included in this electronic filing requirement is the County Election Report (CEB-9) Section I, which provides a snapshot of the total voters, including absentee and provisional, cost of the election, and any significant issues, in every election. However, the deadline to finalize the CEB-9 in SVRS is noon, fourteen (14) days after a primary, general, or municipal election. (IC 3-6-5-17; IC 3-6-5-17.5)

The CEB-9 Section II is only used to report detailed information regarding election information following the November general election (that is, held in 2026 and 2028). The Indiana Election Division will communicate a deadline for Section II to be returned by the county. This information is then used to complete the Election Administration and Voting Survey request from the U.S. Election Assistance Commission, which is compiled in a report to Congress. Otherwise, the county is expected to complete the wait time section of the CEB-9 Section II after every election. This information is to be completed by poll workers on Election Day and recorded in the PRE-1 Oath Book.

The precinct election results are to be attached to the electronically filed CEB-9 form or manually entered into the SVRS. Alternatively, precinct election results may be uploaded to SVRS after mapping the voting system's precinct level results text file to SVRS. (IC 3-6-5-17; IC 3-6-5-17.5)

There is no requirement for a circuit court clerk to certify results in a statewide, congressional, or state legislative race to any other county. These results are ONLY certified to the Election Division. (IC 3-12-5-1) Once the state receives the county's election results, the results are collated and reported on its election night reporting website.

The only case in which a circuit court clerk certifies election results to another county is after an election for a school board, city, or town office where the election district is located in more than one county. In that case, each clerk certifies the results to the clerk of the county in which the largest part of the population of the election district is located. That clerk (and county election board) conducts the canvass for that cross-county office. This procedure also applies to a local public question on the ballot in more than one (1) county. (IC 3-12-5-2(b))

If a town election board is conducting an election in a small town under IC 3-10-7, the town election board shall, immediately upon completion of the canvass, file the poll lists, ballots, tally sheets, and other election forms with the circuit court clerk of the county containing the greatest percentage of population of the town for preservation and voter list maintenance. (IC 3-10-7-33(b))

Additional Election Reporting Procedures Following a Primary Election

The candidate of a political party who receives the highest number of votes for an office in a primary is the nominee of that party for that office. (IC 3-8-7-1) In addition, the county election board must declare the candidate receiving the highest number of votes for each political party office such as precinct committeeman or state convention delegate to be elected. The county election board must also declare a local public question approved or rejected. (IC 3-12-4-9)

NOTE: Should a candidate die before a primary election, please read the section below ("Death of a Candidate before a Primary, General, or Municipal Election") to better understand the impacts on certifying election results.

In addition, not later than noon, prevailing local time, of the second Monday following the primary election in even-numbered years, the circuit court clerk must provide the Election Division with a list of:

- all names and addresses of candidates nominated in the primary; and

- all names and addresses of state convention delegates elected in the primary along with the congressional district in which the delegate resides. (IC 3-8-7-5)

NOTE: While precinct committeemen are elected at a primary election, results of the election are not required to be certified to the state election division as it is considered a party office not an elected office under Indiana election law. In other words, results of the precinct committeeman races are certified in the county's official results but there is no need to provide the election division with the names and addresses of elected precinct committeemen. The list of those nominated and state convention delegates selected should be filed on Form CEB-23 for the Democratic Party primary, and Form CEB-24 for the Republican Party primary.

At the county level, the county election board must furnish each political party chairman (upon request) a copy of the certified primary election results for candidates for local offices, political party candidates (precinct committeemen and state convention delegate), and public questions canvassed by the county election board by the deadline. (IC 3-12-4-12)

The county election board does not issue certificates of nomination to candidates from a primary election. However, they may issue certificates of election to any precinct committeeman or state convention delegate elected at the primary (formerly were the paper versions of the CEB-14 or CEB-15), which can be printed using a module within SVRS. The county political party organization also may issue certificates of nomination to local candidates selected at the primary if the party wishes to do so.

At the state level, the Secretary of State is responsible for certifying the list of elected state convention delegates to each state party chair not later than noon (prevailing local time), ten (10) days after the county's deadline to certify election results to the election division. (IC 3-8-7-6.5)

Not later than noon (prevailing local time), seventeen (17) days after the primary or seven (7) days after the completion of a primary recount, whichever occurs later, the Election Division must canvass the vote for all candidates on the primary ballot that filed declaration of candidacy (CAN-2) with the election division. (IC 3-10-1-34) Not later than noon (prevailing local time), twenty-seven (27) days after the primary, the election division certifies the canvass of election results, including the names and addresses of candidates, to the Secretary of State. The Secretary then certifies the list of candidates nominated at the primary election to the respective state party chairmen. (IC 3-8-7-6)

In a general election year (that is, an election held in an even-numbered year), the election division will send the general election ballot certification to counties not later than noon (prevailing local time), seventy-four (74) days before the date of the general election. This certification includes (IC 3-8-7-16):

- candidates who are required to file with the Election Division (federal, statewide, state legislative offices, judges and prosecuting attorneys);
- any Indiana Supreme Court, Court of Appeals, or Tax Court judicial retention questions;
- any statewide public question or local judicial public retention question; and
- any political party device filed with the Election Division.

Many candidates are nominated for ballot placement through the primary process. However, some candidates are nominated by state or county conventions and a petition of nomination containing signatures of registered voters may nominate other candidates. Candidates nominated at a state political party convention must be certified by the chairman and secretary of the state convention by noon (prevailing local time), July 15, and candidates nominated by petition of nomination must file their petitions of nomination and candidate consent by noon (prevailing local time),

July 15, before the General Election. (IC 3-8-6-10; IC 3-8-7-8)

Candidates nominated by petition (except for school board candidates), must file their petitions of nomination with the appropriate county voter registration office for verification of signatures by noon (prevailing local time), June 30, and must file the petitions accompanied by the candidate's consent to become a candidate form with either the Election Division or the county election board by noon (prevailing local time), July 15 before the General Election. During some years, these specific June and July dates are transferred to a later date if the date specified in the statute falls on a Saturday, Sunday, or other state holiday (IC 3-8-6-10(c))

The Libertarian Party may nominate many local candidates by county convention (county offices, township offices, city offices and towns with a population greater than 3,500). In addition, in towns smaller than 3,500 that have not opted to conduct a primary, Democratic, Libertarian and Republican Parties may nominate candidates by a town convention if there is a contest for nomination within that party. Please consult the *Indiana Election Calendar (Administrator's Edition)* published by the Indiana Election Division, for the specific dates by which these nominated candidates must be certified.

In addition to the general election ballot certification, the election division will send each county a list of write-in candidates for federal, statewide, state legislative, or judicial office, including prosecutor, if any, not later than noon (prevailing local time), seventy-four (74) days before the general election. **(Write-in candidates are NOT to be printed on the ballot!)** In a presidential election year (such as 2028), a second ballot certification of Presidential and Vice-Presidential candidates may be sent to the counties, if necessary, not later than the second Thursday in September before the general election, depending upon when the national conventions of the major political parties are conducted.

If a candidate challenge concerning a candidate nominated to fill a major party ballot vacancy is pending before the Election Commission at the time of any certification, the certification will indicate that the candidate's name shall not be printed on the ballot until the challenge is resolved by the Commission or a court with jurisdiction in the matter. (IC 3-13-1-16) The ruling of the Commission on any candidate challenge will be communicated to the counties immediately with further instructions about the placement of the challenged candidate on the ballot. Special procedures and restrictions apply to challenges to a candidate for legislative office or statewide office (other than a justice or judge). (IC 3-8-8)

Additional Reporting Requirements after a General or Municipal (November) Election

After the November general or municipal election, the circuit court clerk must prepare a statement to be submitted to the Election Division that identifies the number of votes received by each candidate for federal offices; statewide offices and questions; legislative offices; judge of the circuit court, superior court, probate court, or small claims court; local judicial retention questions; prosecuting attorney; circuit court clerk; county recorder; county auditor; county treasurer; county sheriff; county coroner; and county surveyor.

NOTE: If a candidate dies before a general or municipal election or in the period between being elected to office and inauguration day, please read the section below ("Death of a Candidate before a Primary, General, or Municipal Election") to better understand the impacts on certifying election results.

These statements, which formerly were the paper CEB-10, CEB-11, CEB-12, and CEB-13 forms, must be sent to the election division in paperless form by using the statewide voter registration system (SVRS) to the election division not later than noon (Indianapolis time) the second Monday after Election Day. (IC 3-12-5-1; IC 3-12-5-6) In addition,

the County Election Report (CEB-9) and official precinct election results must be filed using SVRS. (IC 3-6-5-17; IC 3-6-5-17.5)

After the election division tabulates the results of certain races, the secretary of state must certify to the governor the candidates receiving the highest number of votes. (IC 3-12-5-7) If no errors are found by the deadline for filing for an election recount or contest, the governor must prepare a commission to each candidate elected by noon the first Tuesday of December. The election division, no later than the second Tuesday of December, mails a commission to the candidate at the most recent address provided to the election division. (IC 3-12-5-8)

Local officeholders commissioned by the governor include Superior, Circuit, Small Claims, and Probate Court judge, prosecuting attorney, sheriff, circuit court clerk, auditor, recorder, treasurer, coroner, surveyor, and city and town court judge. **There is no need for the county clerk or election board to issue a certificate of election to this group of Constitutional officeholders.** For all other local offices, the circuit court clerk issues a certificate of election to a candidate upon demand. (IC 3-12-5-2)

NOTE: A certificate of election may not be issued earlier than the deadline for filing a recount or contest after the election. (IC 3-12-5-16) This seventeen-day period allows the county election board to discover and correct errors in the tabulation of the vote. If an error is discovered within this period, the county election board must correct this mistake. (IC 3-12-5-14)

The circuit court clerk may issue a certificate of election to any of the following local or political offices at the request of the successful candidate. See forms CEB-7 (County Commissioner, CEB-8 (County Council Member), CEB-16 (County Assessor), CEB-17 (Township Trustee), CEB-18 (Township Board Member), CEB-19 (Township Assessor), CEB-20 (Marion County Small Claims Court Constable), CEB-21 (School Board Member), CEB-27 (Mayor), CEB-28 (City Common Council Member), CEB-29 (Indianapolis City-County Council Member), CEB-30 (City Clerk) CEB-31 (City Clerk-Treasurer), CEB-32 (Town Clerk-Treasurer); and CEB-33 (Town Council Member).

The county election board must also declare a local public question approved or rejected or certify a statement of votes on a statewide public question to the election division. (IC 3-12-4-9) For a local question, the circuit court clerk issues a certificate declaring the questions approved or rejected, upon demand of a voter entitled to ask for a recount of the public question. If a local office has an election district in more than one county, the circuit court clerk of the county with the greatest percentage of population of the election district issues a certificate of election at the request of the successful candidate. (IC 3-12-5-2(b))

Certifying Results of a Public Question

State law permits certain types of referendum elections to only be conducted on the same date as the November general election (such as November 2026, November 2028). It is possible for a public question to be held on a May primary election day or in a municipal election year, though not questions for school corporation controlled projects or tax levies. In addition, a special election may be called in the "off-year" between a presidential and non-presidential election (for example, 2029 is an "off-year") for some rarely used public question referendums.

Results of certain public questions must be certified as follows:

- For a local public question that appears on the ballot only in one county, the county election board must tabulate the results and declare the public question approved or rejected not later than noon, prevailing local time, the second Monday after the date of a primary, general, municipal, or special election. (IC 3-12-4-9(b))

Results are certified using the Statement of the Votes Cast for School Board Offices and on Local Public Questions (CEB-25) in SVRS.

For a local public question that appears on a ballot in more than one county, the CEB-25 must be filed not later than noon, prevailing local time, the second Monday after the date of a primary, general, municipal, or special election. (IC 3-12-4-9(b))

- For a statewide public question, the county election board must tabulate the votes cast for and against and certify the results to the election division not later than noon, prevailing local time, the second Monday after the date of a primary, general, municipal, or special election. Results are certified using the Statement of the Circuit Court Clerk of the Votes Cast For or Against the Ratification of a State Constitutional Amendment or the Retention of a Justice of the Supreme Court or a Judge of the Appellate Court (CEB-12) through SVRS. (IC 3-12-4-9(c) & (d))

Becoming a Former Candidate before Primary, General, or Municipal Election is Held

The procedures that are followed when the candidate becomes a former candidate occur before the May primary election are slightly different than the procedures for a general or municipal (November) election.

A "former candidate" refers to an individual who was a candidate for an election and satisfies any of the following:

1) The individual has died before the election, including a candidate certified as deceased under IC 3-8-7-1.
2) The individual has withdrawn as a candidate before the election.
3) The individual has been disqualified as a candidate under IC 3-8-1-5.
4) The individual has been disqualified as a candidate under a court order issued under IC 3-8-7-29(d).

During the primary election if a candidate becomes a former candidate and the county election board finds, by a unanimous of the entire board, there is good cause to believe the candidate is a former candidate before the ballots are printed, then the county election board shall not include that former candidate's name on the primary ballot. But, if a candidate becomes a "former candidate" after a county has printed ballots with the former candidate's name included on the ballot, the candidate's name will remain on the primary ballot. If a former candidate receives the most votes for a political party's nomination in a primary, a candidate vacancy is created which the political party may fill for the general or municipal election ballot. (IC 3-11-3-29.3; IC 3-11-3-29.4) A voter who has cast an absentee ballot with the name of a "former candidate" on it is entitled to request a replacement ballot under IC 3-11.5-4-2.

If a candidate become a former candidate before a general or municipal election and a new candidate is selected to fill the ballot vacancy after the printing of the ballot but before the election, then the county election board must reprint the ballots to include the new candidate's name on the ballot. (IC 3-11-3-29) The county election board shall also print new ballots to remove the name of a former candidate if: (1) the candidate's party fills the vacancy by noon (prevailing local time), five (5) days before the election; and (2) the election board votes unanimously to find that there is good cause to believe that the candidate has died. (IC 3-11-3-29.5)

If a candidate vacancy (due to death or disqualification) is filled after noon (prevailing local time), five (5) days before the election, then the county election board is not required to print new ballots, whether the political party fills the resulting ballot vacancy. (IC 3-11-3-29.5(d))

When there is a vacancy on a general or municipal ballot, the county election board may order new ballots be printed

that omit the name of the former candidate that created the vacancy and substitute it with the name of the candidate selected to fill the ballot vacancy or with the words "NO CANDIDATE" or "CANDIDATE DECEASED". (IC 3-11-3-29.5(c)) However, reprinting ballots must be done when the political party fills the vacancy not later than five (5) days before the election. (IC 3-11-3-29.5(b))

As a general rule, a straight party vote cast for a former candidate who is replaced by a successor candidate is counted as a vote for the successor candidate. (IC 3-12-1-15(b) and (c)) However, since a straight party vote does not apply to an at large-seat on a county council, city common council, town council, or township board, or to a school board candidate, a voter must vote for individual candidates for those office. A vote cast specifically for a former candidate, such as a candidate for an at-large office where more than one candidate can be elected, cannot be counted as a vote for a successor candidate. (IC 3-12-1-14(b))

However, when a ballot is reprinted to omit the name of a former candidate and the candidate vacancy is filled following the reprinting of the ballot, then a vote cast on the ballot for "NO CANDIDATE" or "CANDIDATE DECEASED." (IC 3-12-1-16)

Canvassing & Audit Procedures

Canvassing Election Results

On election night after the polls close, the county election board begins canvassing the vote to certify the election results. The county election board may employ clerical assistants, as needed, to assist in the tabulation of the vote. (IC 3-12-4-1; IC 3-12-4-4) These clerical assistants must meet the same qualifications as the person serving as a precinct election official. (IC 3-6-6-7)

The number of assistants employed must be equally represented by the Democratic and Republican political parties of the state. However, the county election board may, by unanimous vote of its entire membership, also employ a college student to assist the board in a nonpartisan manner, if the student is a registered voter of the county. (IC 3-12-4-4(d))

The canvassing must be performed in public pursuant to IC 5-14-1.5; however, the room where the canvassing is conducted may be organized in a way to prevent observers from physically handling any election materials or interfering with the canvassing process. (IC 3-12-4-6) The canvassing responsibilities of the county election board include the following (IC 3-12-4-8):

- Careful examination and comparison of all certificates, poll lists and tally sheets.
- Tabulation of all votes cast for all offices and on all public questions.

If an automatic tabulating machine breaks down during canvassing, the county election board may authorize emergency procedures to count the ballot cards. (IC 3-12-3-5(d))

Counties that employ an optical scan ballot card voting system are required to appoint the bipartisan "write-in" teams the county election board considers necessary to examine and count write-in votes. The county chairmen of each of the two major political parties must designate one (1) member for each write-in team appointed. Members of a write-in team are considered employees of the county election board and must meet the same qualifications as the clerical assistants. (IC 3-12-4-4)

Members of the election board gather and inspect records from all vote sources, including tally cards, ballot cards, or

paper ballots; tally printouts from the individual voting system units and election management system (EMS) printouts; absentee ballots; tally of voter signatures at check-in (if paper poll lists are utilized) or printouts from electronic poll books used for the precinct at voter check-in; or VVPAT printouts from direct record electronic voting system units. It is recommended that this information be entered into a spreadsheet and members of the election board check the information for accuracy. The number of rejected and spoiled ballots (if any) should be tallied, recorded, and placed into the spreadsheet if one is used.

The county election board must appoint a number of two (2) members write-in teams that are necessary to examine and count write-in votes cast on optical scan ballot cards during the canvassing of election results on election night. The Democratic and Republican county chairs shall designate one person to serve on each write-in counting team. The write-in teams are considered employees of the county canvassing board (county election board) and must meet the qualifications of canvassing board employees. (IC 3-12-4-4(b))

The write-in counting teams must follow these general rules for counting write-in votes:

1. Only votes cast for declared write-in candidates shall be counted and certified.
2. The name of a candidate, written on the space reserved for write-in voting, is not considered a distinguishing mark that would invalidate a ballot under IC 3-12-1-3. However, the name or office of a candidate written in a place on the ballot other than the place reserved for write-in voting may not be counted for that office.
3. A write-in vote for an office is void if the voter attempts to cast the vote by a means other than printing the name of the candidate in ink or lead pencil. The use of stickers, labels, rubber stamps, or other similar devices is not permitted.
4. An abbreviation, a misspelling, or other minor variation in the form of the name of a candidate or an office must be disregarded in determining the validity of the ballot if the intention of the voter can be ascertained.
5. Write-in votes for each write-in candidate shall be counted separately using the tally sheets provided by the county election board.
6. When a voter writes in a candidate for:
    a. an individual who is a candidate for President of the United States;
    b. an individual who is a candidate for Vice President of the United States; or
    c. both individuals who are candidates for President of the United States and Vice President of the United States.

    a ballot cast as described here is considered to be cast for the presidential electors and alternate presidential electors pledged to support the ticket of candidates for President and Vice President printed on the regular official ballot.
7. When a voter writes in a candidate for:
    a. an individual who is a candidate for governor;
    b. an individual who is a candidate for lieutenant governor; or
    c. both individuals who are candidates for governor and lieutenant governor.

    A ballot cast as described here is considered to be cast for both individuals who are candidates for governor and lieutenant governor of Indiana who are printed on the regular official ballot.
8. This does not apply to an office for which more than one (1) individual may be nominated or elected within the same election district. A write-in vote cast for an individual whose name appears on the ballot as a candidate for that office shall be counted as a vote for the candidate.

Suggested Pre-Election and Election Day Procedures:

- A number of measures can be taken to minimize occurrences of discrepancies in vote counts. These include the use of recording sheets that track various steps in the voting and reconciliation process. Each sheet

should include the signatures or initials of supervising authorities.

- Reporting sheets should provide complete information about each of the voting system units employed at the polling place. Information should include the serial number of the voting machine and the number of votes cast on each machine.
- Hourly or periodic tally updates during Election Day voting will facilitate reconciliation and can be useful in identifying the time of day when an anomaly might have been discovered or reported by a poll worker. Tally should never include actual election results or returns.
- Receiving Report on which the individuals at central count location verify that all memory cards and printed tally sheets have been returned from the polling location in appropriate envelopes.
- Verification and Uploading Report on which a bi-partisan team verifies that all memory cards for each unit at each polling location have been uploaded. After uploading is completed for each site, the memory cards are returned to the envelope, and another bi-partisan team verifies that all tally cards have been returned to the envelope in which they were delivered. The completed envelopes are then marked and secured in a container until the final verification that all memory cards have been uploaded.

Suggested Canvassing Procedures For All Voting Systems

As a best practice to ensure accuracy, during the canvass, the county election board should ensure that in each precinct using traditional hand-counted paper ballots, optical scan ballot cards, or DRE voting systems, the number of total ballots cast (V) should equal the number of voters who signed in and received a ballot on Election Day (ED) plus the number of voters who returned absentee (A) ballots minus the number of rejected and spoiled ballots (C). If V does not equal (ED + A) – C, a discrepancy has been confirmed. Continue the process to attempt to resolve the discrepancy.

Documentation secured at the polling place such as poll worker notes indicating problems or exceptions that occurred during the day, the paper poll list or ePollbook logs, and records maintained for the central count of absentee ballots should be consulted to determine if these additional factors explain when and how the discrepancy might have occurred. If the source of the discrepancy is discovered or the discrepancy is resolved, the Election Board shall proceed to correct the canvass if possible or determine what further action can be taken to prevent recurrence of the problem in future elections if correction of the canvass cannot resolve the discrepancy.

The county election board shall summarize its findings and report them with the certification of election results not later than twelve (12) days after the election and file the results with the Indiana Election Division using the CEB-9 submitted through SVRS.

Additional Voter Count Audit Procedures for Precincts Using Direct Record Electronic Voting Systems

State law includes procedures to use in precincts using direct record electronic voting systems (DREs) where the tally of votes cast differs from the number of voters who cast ballots on all DREs used in a precinct (or vote center) and the number of voters who have received a ballot by signing for it at the polls according to the poll lists in each precinct (or vote center). (IC 3-12-3.5-8)

On Election Day, after each electronic voting system (direct recording equipment or DRE systems) has been secured and the vote totals printed, the inspector and judge of the opposite party shall record the total number of:

1) votes cast on all electronic voting systems located within the precinct (or vote center in a vote center county); and

2) voters who have received a ballot by signing in at the polls according to the poll lists for each precinct (or vote center in a vote center county);

to determine if the total number of votes cast on the electronic voting systems differs from the number of voters who received a ballot according to the poll lists. The total number of votes cast, and number of voters who received a ballot according to the poll lists shall be recorded on State Form PRE-16. The form shall also indicate any discrepancy between the total number of votes cast on electronic systems and voters who received a ballot according to the poll lists, together with the reasons for the discrepancy, if known. The inspector and judge shall sign the form and deliver it to the county election board with other materials from the precinct.

The county election board shall compile the following information into a single document listing for each precinct (or vote center in a vote center county):

1) The number of votes cast on the electronic voting systems in the precinct (or vote center), as shown on the form returned from the precinct (or vote center).
2) The number of voters who received a ballot at the polls according to the poll lists as shown on the form returned from the precinct (or vote center).
3) The difference between the number in subdivision (1) and the number in subdivision (2).
4) The number of absentee ballots returned by voters of the precinct (or vote center).
5) The number of absentee ballots of the precinct (or vote center) that were counted.

Not later than noon (prevailing local time) on the second Friday following the election, the county election board shall discuss and publish the document described above at a public hearing and immediately make the document available for inspection and copying by any voter of the county.

If the difference between the number of votes cast on the electronic voting systems in a precinct (or vote center) and number of voters who received a ballot according to the poll lists is greater than or equal to the audit threshold number, then the county election board or the secretary of state may order an audit of all the votes cast in that precinct (or vote center). Before ordering an audit, the county election board shall recheck the computations reported on the form submitted to the board by the inspector and judge of the opposite party.

The "audit threshold number" refers to the following number:

1) One (1), if the total number of votes cast as recorded on the form returned by the inspector and judge from a precinct is not more than twenty (20).

2) Two (2), if the total number of votes cast, as determined under subsection (c), is:
    a. more than twenty (20); but
    b. not more than forty (40).

3) Three (3), if the total number of votes cast, as determined under subsection (c), is:
    a. more than forty (40); but
    b. not more than sixty (60).

4) Four (4), if the total number of votes cast, as determined under subsection (c), is:
    a. more than sixty (60); but
    b. not more than eighty (80).

5) Five percent (5%) of the total number of votes cast, rounded up to the nearest whole number, if the total number of votes cast, as determined under subsection (c), is:
    a. more than eighty (80); but
    b. not more than five hundred (500).

6) Twenty-five (25), if the total number of votes cast, as determined under subsection (c) is more than five hundred (500).

Public notice of the voter count audit must be given at least forty-eight (48) hours in advance and must be published once. However, if publication of notice will not allow the certification of results within thirty (30) days after the election then notice shall be given by posting at or near the office of the county election board.

The county election board shall certify the results of the audit not later than noon (prevailing local time), thirty (30) days after the election. The certification must be on the form prescribed by the Election Division. One (1) copy shall be filed with the election returns, and one (1) copy must be delivered to the Election Division.

Not later than ninety (90) days after each election in which an audit is conducted under this section, the secretary of state shall publish a report stating whether the results of each audit indicate that the discrepancy was the result of human error, intentional violations of election laws, unknown causes, or a combination of these factors.

PRE-6 & PRE-4/PRO-2 Affidavits Forwarded to the County Prosecuting Attorney

When the polls are closed the precinct election board (inspector and two judges) shall seal challenges to the party affiliation of a voter (PRE-6) in the PRE-13 bag or envelope separate from the bag or envelope containing challenges to voters made on grounds other than party affiliation in a primary (PRE-4), such as residency of a voter, for example. Each precinct election board member shall endorse that member's name on the back of the bag or envelope containing challenges to voters made on grounds other than party affiliation.

The county election board is required to:

1. Remove the original PRE-4 affidavit, which is printed on the PRO-2 provisional ballot envelope, and PRE-6 party challenge affidavit (used only in the primary election) from the sealed bag or envelope and make three (3) copies of each affidavit. The board then places the affidavits in the larger envelope or bag and keeps them secure according to IC 3-10-1-31.1, and does the following with the copies after the expiration of the recount or contest period:
    a. Mail one copy of each affidavit to the Secretary of State;
    b. Send one copy of each affidavit to the prosecuting attorney; and
    c. Retain one copy with the county election board to fulfill public record requests under IC 3-10-1-31.1
2. The county election board may remove the original affidavits from the bag or envelope during a board meeting or hearing when the affidavits are reviewed by the board under Title 3. The bag or envelope containing the original PRE-6 and PRE-4 affidavits must be immediately resealed after the county election board determines which provisional ballots can be counted and not counted under IC 3-11.7. Each county election board member must sign the back of the seal bag or envelope. The clerk must preserve the resealed bag of voter challenge affidavits according to IC 3-10-1-31.

If an original affidavit is requested and delivered to the prosecuting attorney or a grand jury, the prosecuting attorney must preserve the original affidavits and envelopes according to requirements for clerks under IC 3-10-1-31.1 and ensure that no one can access a provisional ballot that was not counted by the county election board by

opening the PRE-4/PRO-2 envelope. The prosecuting attorney or grand jury has to return the affidavit and envelope to the circuit court clerk after the completion of any proceeding resulting from an investigation of the affidavit or envelope. (IC 3-14-5-1; IC 3-14-5-2)

Post-Election and Procedure Audits

Post-Election Audits (formerly known as Risk Limiting Audits)

A post-election audit (formerly known as a risk-limiting audit or RLA) provides strong statistical evidence that the election outcome is correct and has a high probability of correcting a wrong outcome. A post-election audit (PEA) manually checks a sample of ballots, or voter-verifiable paper records, until there is sufficient evidence that the reported outcome is correct. A PEA could eventually lead to a full manual recount if there is not enough evidence to prove that the reported outcome is correct.

The Secretary of State may designate counties as PEA counties. For a county to be designated as a PEA county, the county election board must adopt a resolution requesting the Secretary of State to designate the county as a PEA county. The Secretary of State shall seek to designate a variety of counties based on the number of active voters within the county.

The Secretary of State shall adopt an order that determines the elections that are subject to a PEA and rules necessary to implement and administer PEA. In developing these rules, the Secretary of State shall consult statistical experts, equipment vendors, the Election Division, and county election officials and must consider best practices for conducting post-election audits. (IC 3-12-13-7)

All contested elections for elected office and on public questions are eligible for designation by the rules for a PEA. However, the Secretary of State may waive the requirement for conducting a PEA after receiving a written request by a county election board but only if the county election board shows that the technology in use by the county will not enable the county election board to satisfy the requirements for a PEA. (IC 3-12-13-5; IC 3-12-13-6)

The deadline to complete a post-election audit (otherwise known as a risk-limiting audit) in a county where a recount or contest has been filed that affects the county is extended to noon, sixty (60) days after the completion of the recount or contest.

A post-election audit is to be completed not later than the last Friday in June after a primary election; not later than December 20 after a general election; or not later than sixty (60) days after the completion of a recount or contest that affects the county. (IC 3-12-13-7)

The term “post-election audit” used for this chapter in state law does not mean that a county is legally authorized to perform any other type of election audit not authorized by state law. (IC 36-1-3-8(a)(12))

Procedure Audits

The Secretary of State, with consent of the co-directors of the election division, may require a procedure audit of an election to be conducted if there is (1) an investigation under IC 3-6 relating to the election; or (2) a recount for an office on the ballot during the election has been ordered. A procedure audit is a process by which the procedures of an election are reviewed to determine how well an election was conducted in accordance with Indiana law. The Secretary of State shall supervise a county election board conducting the procedure audit in their county. (IC 3-12-14-3; IC 3-12-14-4)

However, the secretary of state may conduct a procedure audit of a primary or general election after the election occurs without the consent of the co-directors of the election division. The secretary of state shall determine the number of counties; and select the counties subject to a procedure audit under IC 3-12-14-3(c).

The Secretary of State shall adopt an order to develop a procedure audit program that details the documents to be inspected, the procedures to be reviewed, and the process by which a procedure audit is conducted. The procedure audit may evaluate a number of factors under Indiana law. The Secretary of State may require the use of sampling and other statistically valid procedures for conducting a procedure audit. The Secretary of State may develop a training program for county election officials and staff to learn how to conduct a procedure audit. A county election board that conducts a procedure audit must provide results of the audit to the Secretary of State not later than thirty (30) days after completion of the audit. (IC 3-12-14-4; IC 3-12-14-5; IC 3-12-14-6; IC 3-12-14-7)

A procedure audit of the primary election shall be completed not later than August 31 of the same year as the primary election; for a general election, June 30 of the year following the general election. (IC 3-12-4-8) However, a procedure audit of the 2024 general election in counties determined by the Secretary of State must be completed not later than August 31, 2026. (IC 3-12-14-9)

Recount & Contest Actions

There are no automatic recount or contest actions in Indiana. Instead, specific individuals may petition the courts (local office) or state recount commission (statewide, state legislative, or federal offices) to request a recount. (IC 3-12-6; IC 3-12-11) A recount reviews the election materials and ballots already cast in an election and determines which candidate received the highest number of votes; a contest action may result in a new election being called for the specific race or contest.

Election Recount Procedures

A candidate seeking nomination or election to a judicial, local or school board office, or a candidate for election to the party office of precinct committeeman or state convention delegate may request that the votes cast for that office be recounted. (IC 3-12-6-1) Recount requests for federal, statewide, or state legislative offices are handled by the State Recount Commission; please see the "State Recount Commission" section below for those details. (IC 3-12-11-1)

A candidate requesting a recount must file a verified petition for recount in the circuit or superior court of the county not later than noon, prevailing local time, fourteen (14) days after the election. If the candidate does not do so, the candidate's political county chairman may file a recount petition not later than noon, prevailing local time, seventeen (17) days after the election. (IC 3-12-6-2) A cross-petition for a recount may be filed not later than noon, prevailing local time, twenty-one (21) days after the election. (IC 3-12-6-4)

The recount petition must state the following: (IC 3-12-6-3)

- the office for which the recount has been filed;
- the precinct(s) in which the recount is desired;
- that the petitioner was a candidate at the election for the office/ or the appropriate county chairman and that the office was voted upon in the precinct(s) specified;
- the name and addresses of the petitioner's opposing candidate(s);
- that the petitioner in good faith believes that the votes cast for the office at the election in the named precinct(s) were not correctly counted and returned; and
- that the petitioner desires a recount of all the votes cast for the office in the named precinct(s).

If the county uses optical scan ballot cards, a petitioner may request that the ballot cards cast in the specified precincts be recounted manually. (IC 3-12-6-21.5) A cross-petition contains virtually the same information. (IC 3-12-6-6)

The petitioner must pay the civil case-filing fee under IC 3-12-6-2.5 (also see IC 33-37) and file a bond or cash deposit of at least $100 with the court for payment of costs of the recount. For every precinct over ten to be recounted, the bond or cash amount should be increased by $10 per precinct or $100 per precinct, depending upon whether the candidate lost by more or less than 1%.

The court will establish the amount of the deposit, but this amount may not exceed the maximum amount specified by state law. Any cash deposit is placed in the county general fund. (IC 3-12-6-10.5) If the recount petition is successful, the petitioner's deposit or bond is refunded in full. Partial refunds may also be required, based on the outcome of the recount. (IC 3-12-6-10)

If a cross-petition is filed, the cross-petitioner must file a bond or cash deposit for the cross-petitioner's proportional share of the recount. If the recount petition is unsuccessful, a cash deposit was not made, and the costs of the recount exceed the bond amount, the petitioner or cross-petitioner must pay the difference. (IC 3-12-6-12) Any unexpended balance remaining after payment of all costs and any refund shall be deposited in the county general fund. However, if a cash deposit or bond was filed, then any other cost of the recount that remains unpaid following the determination of the local recount commission and which cannot be recovered shall be paid from the county general fund without appropriation. (IC 3-12-6-17.5)

Once the petition is filed, the county clerk assigns the petition a cause number as a miscellaneous civil action and issues a notice of the filing and pendency of the petition to the opposing candidate(s). (IC 3-12-6-2.5) The sheriff then delivers the notice to the opposing candidate(s), to the county election board, and to the election division (if the recount relates to the office of judge or prosecuting attorney). (IC 3-12-6-9)

Upon granting the petition or cross-petition for a recount, the court appoints a three-member recount commission to perform the physical recounting of the votes. One member of the commission must be a Democrat, and one member must be a Republican. See IC 36-1-8-10 to determine party membership for this purpose. The judge may request the two county political party chairmen to recommend nominees to the recount commission, though is not required to do so. Except as described in the paragraph below, each member of the commission must be a registered voter of the county qualified to vote at the election. (IC 3-12-6-16)

Where only traditional hand counted paper ballots were used in the election, the remaining member must be a Democrat or Republican qualified to vote in the district of the recount. (IC 3-12-6-16) If a voting method other than hand counted paper ballots was used in the election (for example, an optical scan ballot reader or direct recording electronic (DRE)), one member of the commission must be a "competent technician" who is familiar with the voting system used in the election. This person does not need to be a voter of the district. (IC 3-12-6-16)

Each member of a recount commission is entitled to be compensated. Each member receives a per diem not to exceed $100 for each day engaged in conducting the recount. The judge of the court having jurisdiction over the recount must establish the compensation to be paid to each recount commissioner. (IC 3-12-6-17) If the deposit or bond is not sufficient to pay the compensation of the recount commission or any other recount expenses, the compensation or expenses are to be paid from the county general fund, without appropriation. (IC 3-12-6-17.5)

After the recount is ordered, the commission must immediately begin the recount. The court must fix the place and time for completing the recount. Each candidate may attend and may have a watcher attend the proceedings. The

watcher has the same rights as a political party's polling place watcher. Members of the press may also attend and have the same rights as media watchers at precinct polling places. (IC 3-12-6-21)

The recount commission must adopt ballot counting rules and any other rules needed to restrict access to the ballot counting areas to authorized individuals, including candidate and media watchers. These rules must conform as closely as possible to the guidelines adopted by the State Recount Commission. These guidelines may be found at https://www.in.gov/sos/elections/voter-information/register-to-vote/indiana-recount-commission/ (IC 3-12-6-21)

The recount commission's proceedings must be performed in public under the Open Door Law, but the commission may restrict access to parts of the room where election materials are being handled or transported. The court, by order, impounds all traditional hand counted paper ballots, optical scan ballot cards, electronic voting systems, poll lists and tally sheets. These materials will be made available to the recount commission. However, a circuit court clerk or board of voter registration may copy any election materials other than the ballots under the supervision of a person designated by the court. (IC 3-12-6-19)

NOTE: A recount conducted by a local recount commission must be completed not later than the last Friday in June after a primary election or December 20 after a general election, unless the court finds good cause to extend this deadline to another specific date! When the recount is complete, the commission makes out a certificate verifying the totals and stating the candidate receiving the highest number of votes. (IC 3-12-6-21.9) The commission then files the certificate with the circuit court clerk, who adds this to the order book of the court and sends a certified copy by certified mail to each opposing candidate named in the petition (and to the Indiana election division if the local recount concerned the office of circuit, superior, probate or Marion County small claims judge or prosecuting attorney). (IC 3-12-6-18; IC 3-12-6-22; IC 3-12-6-28)

After the commission files the certificate, the court that appointed the local recount commission issues an order acknowledging the filing of the certificate, discharging the commission, and releasing election materials impounded during the recount. An appeal may be taken to the court that appointed the local recount commission but must be filed not later than thirty (30) days after the court issues the order described in this paragraph. (IC 3-12-6-22.5)

After a recount in an election for a public office has been completed, if there is a difference between the votes shown by the recount certificate and the votes tabulated by the county election board the circuit court clerk issues a certificate setting forth the number of votes cast for each candidate in the election to the county election board if the candidate would receive a certificate of election or nomination from the board or to the Indiana election division and the governor, if the candidate would receive a commission from the governor. (IC 3-12-6-31) Candidates for precinct committeemen and state convention delegate are selected after the recount by their political party's applicable rules. (IC 3-12-6-1.5)

Election Contest Procedures

A person who was a candidate for nomination to office in the primary, a candidate in the general election, or the county chairman of the candidate is eligible to contest an election by taking legal action through the courts. If there is only one candidate for a school board office, a voter of the school corporation may file a petition to contest the election of the candidate. (IC 3-12-8-1)

An election may be contested on any of the following grounds (IC 3-12-8-2):

- A contestee (candidate) was ineligible.
- A mistake occurred in the printing or distribution of the official ballots used in the election, making it impossible to determine which candidate received the highest number of votes.

- A mistake occurred in the programming of a voting system making it impossible to determine which candidate received the highest number of votes.
- A voting system malfunctioned, making it impossible to determine which candidate received the highest number of votes.
- A deliberate act or series of actions occurred making it impossible to determine the candidate who received the highest number of votes cast in the election.

The candidate must file a contest petition with the county clerk not later than noon, prevailing local time, fourteen (14) days after the election. A county chairman wishing to contest a local election when a candidate has not filed a petition must do so not later than noon, prevailing local time, seventeen (17) days after the election. If an election district is contained within more than one county, the petition is filed with the circuit court clerk of the county that contains the greatest percentage of the population of the election district. (IC 3-12-8-5)

The contest petition must state the following (IC 3-12-8-6):

- That the petitioner desires to contest the nomination or election to an office.
- The name and address of each candidate for the office involved.
- The grounds for the contest.

If a petition for a contest alleges that it is impossible to determine which candidate received the highest number of votes, the petition must identify each precinct in which:

- ballots contained the printing or distribution mistake;
- a mistake occurred in the programming of a voting system; or
- a voting system malfunctioned.

A person who files a contest petition is responsible for paying the court filing fee. After the contest petition is filed, the county clerk collects the required filing fee under IC 33-37 and assigns the petition a cause number as a miscellaneous civil action. (IC 3-12-8-5.5)

The county clerk issues a summons to the contestee, and all other persons named in the petition, and to the county election board and to the election division (if the contest concerns the office of judge or prosecuting attorney). The persons named in the petition must appear and answer such petition on a day fixed by the court. (IC 3-12-8-8) The county sheriff serves summons on persons named in the petition in the same manner as in a civil action. (IC 3-12-8-9)

All contestees must appear to answer the petition. A contestee may present any defense or answer under a general denial, file a special answer, or both. The contest petition is heard and determined by a court without a jury, subject to the Indiana Rules of Trial Procedure. The court will determine the issues raised by the petition and answer the petition. If the court determines that a candidate was ineligible, the court must declare as elected or nominated the qualified candidate who did receive the highest number of votes: in other words, the candidate who finished second. (IC 3-12-8-17)

Unless the judgment is appealed, the court's decision is final. The circuit court clerk certifies the new results as declared by the court to the county election board. (IC 3-12-8-19) This new certification takes the place of the original, if issued. (IC 3-12-8-18)

If the court finds that a mistake occurred in the printing or distribution of the ballots or in the programming of a voting

system and it is impossible to determine which candidate received the most votes, the court MUST order a special election. The special election will be conducted only in those precincts identified in the contest petition in which the court determines that a mistake occurred. (IC 3-12-8-17) After the special election, the county election board issues a corrected canvass showing the results in those precincts. A new certificate of election or commission is prepared if another candidate wins as a result of the special election. (IC 3-12-8-17.5)

State Recount Commission

The state recount commission conducts recounts and hears contests for Presidential primaries and nominations for a federal, statewide, or state legislative office, and conducts recounts of election for federal, statewide, or state legislative offices. The state recount commission can issue orders to impound local election materials needed for state recount commission investigations and procedures. (IC 3-12-10-4; IC 3-12-11-16)

The procedures for recount noted above are substantially similar to the procedures to follow with the state recount commission. However, there are some significant differences: (1) a petition for a recount cannot be filed with the state recount commission earlier than 10 days after the election; (2) If a candidate or other petitioner who requested a recount loses by more than 10% of the total votes cast, the petitioner is responsible for the costs of the recount otherwise charged to another candidate or cross-petitioner; (3) the verified petition is filed with the Indiana Election Division, rather than a court. (IC 3-12-10-13; IC 3-12-11-2)

The state recount commission appoints an individual to serve as Recount Director. All recount work is performed with the assistance of the state board of accounts and the Indiana state police. (IC 3-12-10-8)

Any claim for expenses submitted by the state recount director must be filed with the secretary of state for approval. If a person incurs an expense related to an order issued by the recount director before a recount or election contest petition is filed (such as a county whose election materials are impounded by the state police under the recount director's order), that person must submit a claim to the commission not later than noon (prevailing local time), sixty (60) days after the deadline for filing a recount petition. (IC 3-12-10-12)

The recount commission has adopted these guidelines https://www.in.gov/sos/elections/voter-information/register-to-vote/indiana-recount-commission/. The orders issued by the State Recount Commission supersede any orders issued concerning a local recount conducted under IC 3-12-6.

Paper Audit Trail for VVPAT Used During a Recount or Contest

The certificate of vote totals from each electronic voting system used in the precinct sets forth the official votes cast by the voters for a candidate or on a public question by the voters of the precinct. However, during a recount or contest proceeding the information set forth in the voter verifiable paper audit trail may be used as evidence for a recount commission or court to determine the votes cast for a candidate or on a public question in the precinct. (IC 3-12-3.5-3)

Resolving Tie Votes

Whenever a tie vote occurs at a **primary** election, a "CANDIDATE VACANCY" results. (IC 3-13-1-17) The resulting vacancy is filled through a caucus of eligible precinct committeemen, the party chairman (if the chairman has received authority from the county committee to fill candidate vacancies), or a caucus of party officers. (IC 3-13-1-6)

In a **general** election, a tie vote occurring in a federal, state (other than governor and lieutenant governor), or legislative office requires a special election to break the tie. (IC 3-12-9-1) A tie vote for the office of governor and

lieutenant governor is resolved at a joint session of the State Senate and House of Representatives. (IC 3-12-9-2)

Whenever a circuit court clerk receives certification that a tie vote at an election for a local office or school board office has occurred, the clerk shall immediately send written notice of the tie vote to the fiscal body of the affected political subdivision. (IC 3-12-9-3)

A fiscal body notified by the circuit court clerk of a tie vote resolves the tie by electing a person to fill the office not later than December 31 following the election at which the vote occurred.

If a tie vote occurred for the election for more than one at-large seat on a legislative or fiscal body, the fiscal body shall elect the number of individuals necessary to fill each of the at-large seats for which the tie vote occurred. If one of the candidates involved in the tie vote is also an incumbent officeholder, the candidate may not cast a vote.

A fiscal body is defined in IC 36-1-2-6 for the following political subdivisions:

- County Council – for a county not having a consolidated city;
- City-County Council – for a consolidated city or a county containing a consolidated city;
- Common Council – for a second or third class city;
- Town Council – for a town;
- Township Board – for a township;
- Governing Body or Budget-Approved Body – for any other political subdivision.

The executive of the political subdivision (other than a town council president or the president of a school board) may cast the deciding vote to break a tie in a fiscal body action on a tie vote. (IC 3-12-9-4) The town clerk-treasurer breaks a tie on the town council under this provision. Until a successor is elected, the incumbent officeholder remains in office. (IC 3-12-9-5)

If the tie vote occurs among the members of a school board when attempting to break a tie vote at an election, the judge of the circuit court selects one (1) of the candidates who is certified as elected. (IC 20-23-4-30)

Oaths of Office Following An Election

The Indiana Constitution provides that every person elected or appointed to an office under the Constitution must take an oath before assuming his or her duties. Taking an oath of office requires two steps. First, the candidate orally swears or affirms the oath required by the Indiana Constitution and by state law (IC 5-4-1-1) and then documents that oath in writing by signing the document before a notary public or other individual authorized to administer oaths. After being notarized, a written oath of office is to be filed with the appropriate agency (IC 5-4-1-2), and certain offices must file the oath not later than thirty (30) days after the term of office begins. (IC 5-4-1-1.2)

Oaths for local office are to be filed with the circuit court clerk; oaths for judicial office, prosecuting attorney, and statewide office holders are filed with the Indiana Election Division. Members of the Indiana General Assembly are sworn-in on Organization Day (usually two weeks following each general election), and the oath is recorded in the journals of the respective Houses for that day's session. Federal officeholders take an oath of office as established by federal law.

IC 33-42-9-7 states that any of the following officials (and certain other individuals) can administer an oath:

- The Secretary of State of Indiana,
- Clerk of the Supreme Court,
- Notaries Public,
- Official Court Reporters,
- Justices and Judges of an Indiana court,
- Judges of United States District Courts and their commissioners (in the court's jurisdiction),
- County Auditors,
- County Recorders,
- Mayors,
- City Clerks,
- City or Town Clerk-Treasurers,
- Township Trustees,
- Circuit Court Clerks and Master Commissioners (in their respective counties, cities, towns and townships),
- State Senators and State Representatives (anywhere within Indiana),and the
- Adjutant General of the Indiana National Guard, specific active duty members, reserve duty members, or civilian employees of the Indiana National Guard, for any purpose related to the service of an active or reserve duty member of the Indiana National Guard.

A member of the Indiana Election Commission, a co-director of the election division, or an employee of the election division may also administer oaths. (IC 33-42-9-7(11)) Prosecuting attorneys and their deputies can also administer oaths. (IC 33-39-2-1)

Following the November election, the Secretary of State will issue certificates of election to state legislative offices, which includes an oath of office form. Constitutional officeholders, including judges and prosecuting attorneys, will receive a Commission from the Governor and the packet includes an oath of office. For all other local offices, the circuit court clerk will send a certificate of election, which includes an oath of office.

However, there is no legal requirement that the form created by the Indiana Election Division for the purposes of executing an oath of office be used. Except for school board members, the following form should be sufficient in most situations should a person want to create an oath document to print on special paper or letterhead, for example:

STATE OF INDIANA)
) SS:
COUNTY OF _____)

I do solemnly swear that I will support the Constitution of the State of Indiana and the Constitution of the United States, and will, to the best of my ability, faithfully and impartially discharge the duties of *(name of the office),* according to law.

Signature of Officeholder

Subscribed and sworn to before me, on this _____day of _____, 20_____:

_____	_____
Signature of Person Administering Oath	Printed Name of Person Administering Oath

NOTES: The person administering the oath must give the person taking the oath a copy of the oath. (IC 5-4-1-2) A notary public or an official authorized to administer oaths may also be required to add documentation indicating their county of residence and when their term of office or commission expires.

The special form of the oath for school board members can be found at IC 20-26-4-2.

RECORD RETENTION & PUBLIC ACCESS

Record Retention

Election Materials

The "general rule" for all election records is to retain the record for at least twenty-two (22) months after the election for which the records were produced. (IC 3-10-1-31.1; IC 3-12-4-13) Federal law provides that materials utilized in elections for federal offices must be preserved by election administrators for twenty-two (22) months from the date of the election. This includes poll lists, applications for absentee ballot, ballot envelopes, tally sheets, ballots, and the computer programs used to tabulate the votes.

NOTE: The circuit court clerk shall keep all election material under seal during the time allowed to file a recount or contest. In addition, if a recount or contest is filed all election material must remain sealed while a recount or contest is underway involving those materials. Once this period ends, all voted ballots and unvoted provisional ballots are confidential and must remain sealed.

After the time allowed to file a recount or contest has passed, or after a recount or contest is completed if a recount or contest is filed, most election material is available for copying and inspection under the Public Records Law, except for all voted absentee, provisional, and Election Day ballots and some provisional ballot materials that must remain confidential. (IC 3-10-1-31.1) An electronic record revealing the individual choices selected by each voter on their cast ballot would also be considered confidential such as a "cast vote record". (Please see the Appendix of this *Manual* for the "Indiana Election Division Memo Concerning Cast Vote Record" and the "Indiana Public Access Counselor Opinion Concerning Cast Vote Record" for more information.) This would not include precinct-level or summary level election results, which are public records, and a copy of the precinct level results must be retained with the written county election board meeting minutes in perpetuity.

The requirements under IC 3-10-1-31.1 to preserve sealed ballots and other material for the twenty-two (22) month period does not prohibit county election officials from performing a post-election audit that are authorized by Indiana state law. For example, risk-limiting audits, now known as "post-election" audits, require the use of a voter verifiable paper audit trail such as a ballot card or receipt tape from a direct record electronic voting system. County officials may open their election materials following a recount or contest action to participate in this post-election audit. However, election officials are not permitted to open their election materials for any type of "general" audit not prescribed by Title 3.

Special procedures apply to the ballots, poll lists, and other documents or material produced for use at a convention of a political party to nominate candidates, or a caucus conducted by a political party to nominate candidates. These ballots, poll lists, and other documents or materials are the property of the political party and must be retained and preserved as specified by the rules of that political party. (IC 3-5-4-10)

Before disposing of records, the circuit court clerk or board of voter registration may be required to notify the county records commission or the State Public Records Commission at (317) 232-3380.

Counties may also find the resources offered by State Archives helpful, particularly their record retention series available online at: https://www.in.gov/iara/divisions/records-management/countylocal-records-management/countylocal-retention-schedules/.

Poll Lists

Circuit Court Clerks or boards of voter registration are directed to unseal election materials, if necessary, to use the poll lists to update the voter registration records, including the voter identification numbers obtained during each election. (IC 3-10-1-31.1(e); IC 3-10-1-31.2) Upon completion of the inspection, the poll list and affidavits shall be preserved with the ballots and other materials in the manner prescribed by IC 3-10-1-31.1. Please see the current version of the *Voter Registration Guidebook* for more information about updating voter registration records using poll list information and data.

Voted & Unvoted Ballots

After ballots are printed by the county for each primary, general, municipal, or special election, the clerk shall retain one (1) regular official ballot from each township in the county and one (1) provisional ballot from any precinct in the county as part of the minutes. (IC 3-6-5-13)

Twenty-two (22) months after an election all voted ballots (including absentee and provisional ballots and printed voter verifiable paper audit trail documents from a DRE system) may be disposed of under the county's record retention policy. (IC 3-10-1-31.1) During this period, voted ballots are confidential and remain sealed as sorted in their precinct, unless there is a recount or contest action or a post-election audit (that is, a risk limiting audit) is performed. As an alternative to the destruction of voted ballots after the twenty-two (22) month period, the county election board may also contract with a state educational institution to dispose of any voted ballots and have them used for election research purposes. (IC 3-12-2-12)

Unvoted ballots may be destroyed after the deadline for filing a recount petition.

NOTE: Any record concerning an issue in litigation must be retained until the controversy is resolved, subject to orders of the court.

Provisional Ballots

Information contained in material related to provisional ballots that identifies an individual must remain confidential until the recount or contest deadline has passed. If a provisional voter's ballot is counted, the ballot is stored with other voted ballots of the precinct and remained sealed until the ballots are destroyed after 22-months. A voter's provisional ballot that was not counted remains sealed in the PRO-2 envelope and remains confidential. (In other words, the envelope containing an unvoted provisional ballot may not be opened.) However, once the recount and contest deadline has passed, the PRE-4 challenge affidavit and PRO-2 affidavit are considered public records and may be made available for public inspection. Unless the provisional ballot voter is enrolled in the Attorney General's address confidentiality program or the full 9-digit Social Security number is included, no information on the affidavit should be redacted.

Please see the "Provisional Ballots" section of the "Access to Public Records Act" below for more information.

Election Board Meeting Minutes

Each county election board shall keep minutes of all meetings of the board, including a written record of the "aye" and "nay" vote of each member on all questions coming before the board. (IC 3-6-5-13) The minutes must be kept permanently by the circuit court clerk.

Certified Election Results

Certified election results as well as any documents used to canvass, tally, or certify to vote for each candidate and

public question on the ballot in a county is considered election materials and must be kept by the circuit court clerk for at least twenty-two (22) months after the election before the materials may be destroyed or otherwise dispensed with according to local record retention policy. (IC 3-10-1-31.1)

DRE Voting System & ePollbook Electronic Records

A detachable recording unit or compartment used to record a ballot cast on a direct record electronic voting system. After the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election, the circuit court clerk shall transfer the data contained in the unit or compartment to a disc or other recording medium. After transferring the data, the clerk may clear or erase the unit or compartment. The circuit court clerk shall carefully preserve the disc or medium used to record the data for twenty-two (22) months, as required by 52 U.S.C. 20701, after which time the disc or medium may be erased or destroyed, subject to IC 5-15-6, unless an order requiring the continued preservation of the disc or medium is issued under IC 3-12-6-19; IC 3-12-11-16; and 52 U.S.C. 10301.

After each election, the county shall save all data recorded on the electronic poll book and any information stored on the dedicated, private server required under IC 3-11-8-10.3(b)(4). The circuit court clerk shall carefully preserve the disc or medium used to record the data for twenty-two (22) months, as required by 52 U.S.C. 20701, after which time the data may be erased or destroyed, subject to IC 5-15-6, unless an order requiring the continued preservation of the data is issued under IC 3-12-6-19; IC 3-12-11-16; and 52 U.S.C. 10301.

Voter Registration Record Retention

A paper document associated with any voter's registration record must be scanned into the statewide voter registration system if the document is used to create, amend, or cancel a voter registration record. Likewise, the paper copy of a voter registration application that is rejected must be scanned and associated to the rejected record of the voter registration application in SVRS. (IC 3-7-33-8)

For paper copies of voter registration records associated with an individual's registration record, the paper copies must be retained until each of the following has occurred:

1) The registration record for the voter at that address has been cancelled;
2) The November general election that follows the cancellation of the record has occurred; and
3) Twenty-four (24) months have passed following the general election described in subdivision (2).

For example, if a voter's registration is canceled July 1, 2026, the voter's paper registration records associated with the voter's registration at that address may be disposed of as provided in state law and the county's retention schedule after the November 2028 general election. In this scenario, the twenty-four (24) months is calculated from the date of the November 2026 general election. Alternatively, if a voter's registration is cancelled on November 15, 2026, the paper records would not be eligible for destruction until November 2030, since the next general election after cancellation is November 2028 and the twenty-four (24) months is calculated from the November 2026 general election. (IC 3-10-1-31.1)

It is critically important to always keep both the original voter registration application and any later documentation related to that registration, such as a VRG 4/12, SAMC, or statewide VLM mailing cards, for any voter who is "active" or "inactive" until the registration is cancelled.

The scanned copy of these records for a cancelled voter scanned into the statewide voter registration system are to be retained indefinitely. (IC 3-10-1-31.1)

Other documents that must be kept for two (2) years from the date the document was created or received are:

1) rejected registration applications;
2) declinations;
3) reports regarding persons who have been imprisoned following conviction from the county sheriff,
4) Department of Correction or any court;
5) reports regarding the death of any person used to cancel that person's registration received from the
6) State Department of Health or any local health official;
7) any postcard, list or other information received or created during the course of a voter list maintenance
8) program;
9) any affidavit used to cancel or transfer a registration, including the VRG 4/12 and 15;
10) certificates of error; and
11) any report from the Indiana Election Division or other source from out of state regarding the cancellation of a registration due to a voter moving out of state. (IC 3-7-27-6)

For more information, please review the "Public Records" section of the current version of the *Indiana Voter Registration Guidebook.*

Campaign Finance Record Retention

Campaign finance reports and statements are kept for four years from December 1, following the election to which they pertain. (IC 3-9-4-6) Reports and statements from candidates for judge must be kept six (6) years from December 1 following the election to which they pertain.

Retention of Oaths of Office

According to the Indiana Commission on Public Records, a copy of an oath of office must be kept for one (1) year after the completion of the term of office that the oath of office applies to. Note: Judges and prosecuting attorneys file a copy of their oath with the Indiana Election; all other local offices file a copy of their oath with the county circuit court clerk. (IC 5-4-1-4)

Access to Public Records Act

Indiana law (IC 5-14-3, generally) contains the state's public access laws known as the Access to Public Records Act or APRA. More detailed information about APRA can be found on the Indiana Public Access Counselor's website (in.gov/PAC). County election boards are encouraged to discuss public records requests with their county attorney and may reach out to the state's Public Access Counselor for clarification on whether an item is disclosable under APRA. The Indiana Election Division can also provide statutory references to inform local decision-making.

Generally, APRA allows any person to inspect and copy the public records of any public agency during regular business hours with some exceptions noted in statute. A request for inspection or copying must identify with reasonable particularity the record being requested; and be, at the discretion of the agency, in writing or in a form provided by the agency. The agency must provide, within a reasonable amount of time, the public record or response denying the request with statutory support. (IC 5-14-3-3)

However, the agency is not required to create a record or list if a record or list does not exist or otherwise required to be published. Records in electronic format shall be provided at the option of the requestor, though the agency is not required to change format of the record if it is not already in electronic format. If a record contains disclosable & non-disclosable information, then disclosable portions are to be provided. (IC 5-14-3-3; IC 5-14-3-6)

Fees may not be charged to inspect a public record or to provide an electronic record by email (with some exceptions). Otherwise, fees may be charged pursuant to IC 5-4-3-8. The State Board of Accounts or State PAC may be able to advise on your county's fee policy for public records & where to deposit those funds. (IC 5-14-3-8)

When a written request is made with the agency (county election board or circuit court clerk, for example), the agency must acknowledge the request. If the public records request was delivered by hand, then the agency must provide an initial response within 24 hours of receiving the request. If the public records request was delivered by email, fax, or mail, then the initial response must be sent within seven (7) days of the agency receiving the request. (IC 5-14-3-9)

State law does not require the requested documents to be provided within the initial response. Instead, the agency must acknowledge the receipt of the records request and inform the requestor that the agency will respond within a reasonable amount of time. An agency may provide the requested documents within the time frame and may wish to do so if the records are easily obtained.

After receiving a public records request, counties may find it useful to discuss with their county attorney if the request is reasonably particular, including requests for communications. The state PAC has an opinion on communications in *Lewbel v. City of Carmel, 18-FC-63* available on the PAC's website.

Some materials gathered by agency are non-disclosable under APRA, such as:

- Deliberative material;
- Administrative or technical information that would jeopardize a voting system, voter registration system or security system; and
- A record or part of a record where the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to a terrorist attack, including infrastructure records that disclose the configuration of critical systems such as voting system and voter registration system critical infrastructure. (IC 5-14-3-4)

Your county attorney is in the best position to advise county election officials if the requested records fall into these categories. Further, there are provisions in the state's election laws that specifically do not permit certain documents or materials to be disclosed such as information concerning provisional ballots before the recount or contest action deadline passes or individuals who have a temporary credential.

Election Materials As Public Records

The information below is not an exhaustive list of public records maintained by county election administrators. Not all information may be available for county election administrators to disclose. The above section on "Election Material Retention" notes the general retention policy procedures and most election materials are eligible for destruction once the retention period is over. Please consult with your attorney to be fully and properly advised.

Voter Registration Records

In general, voter registration records are public records and are subject to examination and copying by the public pursuant to IC 5-14-3. Documents that are confidential and not subject to examination and/or copying by the public include:

1) records concerning declinations to register;
2) records that indicate the identity of a voter registration agency where a person registered; and

3) voter registration records of participants in the attorney general's confidentiality program for abused persons. (IC 3-7-27-6)

In addition, though voter registration applications do not request a full social security number, to the extent a voter registration application or record contains a full social security number the number must be redacted except for the last four digits. (IC 5-14-3-4(a)(12))

Further, information concerning a person's temporary credential status with the BMV is confidential. (IC 3-11-4-2.2)

CEB Policy for Public to Access County Voter File & SVRS Records

A county voter registration office shall, with regard to voter registration information concerning voters of the county in SVRS, act in accordance with the non-discriminatory uniform policy adopted by the county election board regarding providing duplicate copies of a computer disc or other similar record that contains the full county voter registration file or election administration records and absentee activity reports. The policy must either permit a person to obtain a duplicate copy in electronic form or not. If the policy does allow duplicate electronic copies, then it must do so according to the non-discriminatory uniform policy.

The policy should be in written form in the minutes of the county election board. The state's Public Access Counselor has issued opinions related to the county's uniform, non-discriminatory policy. Two of those opinions can be found in the current version of the *Voter Registration Guidebook*. This policy does not apply to individual voter registration records or reports required by law to be provided to political party chairs. (IC 3-7-27-6; IC 5-14-3-3(g))

A person requesting any information out of SVRS from a county voter registration office must submit the request on State Form VRG-24. This form requires the requesting person to agree that the information will not be used to solicit merchandise, goods, services, or subscriptions. The person must also agree not to sell, loan, give away or otherwise deliver the information to any other person for a purpose other than political activities or political fund-raising activities. In addition, if there is a cost for providing copies for records, the charge must be uniform to all purchasers. (IC 5-14-3-8(d))

A county voter registration office is not required to create and provide a list, report, or record that has not otherwise been created unless state statute imposes a duty on the county voter registration office to create the list, report, or record. However, if a list, report, or record has been created, whether required by statute or not, it is a public record and must be provided unless it is subject to some exception under the Public Records Act. (IC 5-14-3-4)

SVRS Reports Available to Party Chairs

State election law permits a county party chairman to receive specific lists and reports from SVRS, which would not require the use of the VRG-24:

1) A report containing information regarding all registration applications, excluding any confidential information, executed from the beginning of the registration period and ending sixty-five (65) days before a primary, general, or municipal election is to be forwarded not later than sixty (60) days before the election, upon request, to the Democratic, Libertarian, or Republican (bona fide political parties) party chairmen, if the party has at least one (1) candidate on the ballot in the election, and an independent candidate's committee if the candidate is on the ballot in the election. (IC 3-7-28-2)

2) A report containing information regarding all registration applications, excluding any confidential information, executed from the period beginning sixty-five (65) days before a primary, general, or municipal election and ending twenty-nine (29) days before the election is to be forwarded daily and within forty-eight (48) hours of the data on which the report was created, upon request, to the Democratic, Libertarian, or Republican (bona fide political parties) party chairmen, if the party has at least one (1) candidate on the ballot in the election, and an independent candidate's committee if the candidate is on the ballot in the election. (IC 3-7-28-3)

3) One (1) copy of the registered voter list prepared for the inspector of each precinct under IC 3-7-29-1 shall be furnished to the Democratic and Republican County chairmen, after the county election board receives a written request from the chairman. The copy shall be furnished to the county chairman as soon as the lists are prepared. (IC 3-7-28-4)
    a. As soon as the registered voter list is prepared, a copy shall be furnished upon written request to the county chairman of any political party that has at least one (1) candidate on the ballot in the next election; the committee of a candidate whose name will appear on the ballot in the next election; and the county chairman of any other bona fide political party. (IC 3-7-28-5)
    b. To qualify as a bona fide political party under IC 3-7-28-5, a political party must file a certification with the clerk of the circuit court of the county that the political party is a bona fide political party together with verifiable factual representations to support the certification. (IC 3-7-28-6)

       NOTE: Notwithstanding IC 5-14-3-3(f), additional copies of the registration lists for the inspectors of each precinct shall be kept open to the public for inspection and copying in the same manner as other public records under IC 5-14-3 at the office of the circuit court clerk or board of registration as soon as the registration lists are completed. (IC 3-7-28-7)

4) A list of voters who are mailed voter list maintenance notices under IC 3-7 to the following upon request: 1) Democratic and Republican County party chairmen, and the chairmen of a bona fide political party of the county or 2) an independent candidate's committee if the independent candidate is on the ballot for the next election to be conducted in the county. (IC 3-7-28-8)

5) Following the mailing of voter list maintenance notices and the cancellation of a voter's registration under IC 3-7, a master list of precincts showing all persons whose registrations have been cancelled is to be provided to the following upon request: 1) Democratic and Republican county party chairmen, and the chairmen of a bona fide political party of the county or an independent candidate's committee, if the independent candidate is on the ballot for the next general election to be conducted in the county. (IC 3-7-28-9; IC 3-7-28-10) The master list of copies shall be prepared and furnished not later than fifteen (15) days after a voter's registration has been canceled under the voter list maintenance program. (IC 3-7-28-11)

6) A list of deceased persons whose registrations have been canceled to the following upon request: 1) Democratic and Republican County party chairmen, and the chairmen of a bona fide political party of the county or an independent candidate's committee if the independent candidate is on the ballot for the next election to be conducted in the county. A request filed for this report may state that the list is to include only cancellations made by the county voter registration office within the period specified in the request. (IC 3-7-28-12)

7) A list of disfranchised voters (that is, individuals who were cancelled following imprisonment after conviction of a crime) whose registrations have been canceled to the following upon request: 1) Democratic and Republican County party chairmen, and the chairmen of a bona fide political party of the county or an

independent candidate's committee, if the independent candidate is on the ballot for the next general election to be conducted in the county. A request filed for this report may state that the list is to include only cancellations made by the county voter registration office within the period specified in the request. (IC 3-7-28-13)

8) A list of the names and addresses of all voters whose registrations have been canceled under IC 3-7 to the following upon request: 1) Democratic and Republican County party chairmen, and the chairmen of a bona fide political party of the county or an independent candidate's committee participating in a primary, general, or municipal election. Upon request, the county voter registration office shall report cancellations daily and within forty-eight (48) hours after the day the cancellations were made, until Election Day. A request filed for this report may state that the list is to include only cancellations made by the county voter registration office within the period specified in the request. (IC 3-7-28-14)

Election Materials, Generally

Most documents and forms used during an election are considered public records. (IC 5-14-3-3)

Once the time allowed to file a recount or contest has passed, or after a recount or contest is completed if one is filed, most election material is available for copying and inspection under the Public Records Law. Voted ballots and sealed unvoted provisional ballots are to remain confidential until such a time those ballots can be destroyed. However, voted ballots (but NOT uncounted provisional ballots) may be unsealed to participate in a post-election audit that is authorized by the Indiana election code. (IC 3-10-1-31.1) Otherwise, the voted ballots and voted provisional ballots, including electronic records containing individual vote selections, are considered confidential.

See "Election Material Retention" in the above section for more information.

Absentee Applications

Applications to receive an absentee ballot by mail or traveling board, except for those participating in the Attorney General's address confidentiality program under IC 5-26.5-2, are a matter of public record and must be made available for inspection. Before the voter's absentee ballot application is attached to the voter's absentee ballot envelope and secured for counting on Election Day, the application must be scanned or otherwise copied so that it can be available for public inspection under the Access to Public Records Act. (IC 3-11-10-8.5)

Note: The voter ID number provided on the absentee application or a copy of the voter's photo ID attached to the application is confidential and must be redacted if a request is made for the person's absentee application. However, the voter ID number on the voter's registration record may be disclosed under public records law.

Provisional Ballots

Provisional balloting materials are confidential throughout the election season until the deadlines to file a recount or contest action have passed after Election Day (or the recount or contest action has concluded, if a lawsuit is filed). At the provisional ballot hearing, the county election board cannot disclose the names of provisional ballot voters. (See the "Provisional Ballot Voting" section of this *Manual* for more information.)

Once the recount and contest deadline has passed (or the recount or contest action has concluded, if a lawsuit is filed), most provisional balloting materials, including the PRE-4 and PRE-6 challenge affidavit, the PRO-2 envelope affidavit, and SVRS reports containing provisional balloting information, are considered public record. However, any information in the provisional ballot material that identifies an individual, except for the individual's name, address,

and birth date (the voter's telephone number or email address, for example), remains confidential. In other words, a county election board would need to redact the voter's email address on a PRE-4 affidavit but would disclose the voter's name, address, and birth date. (IC 3-10-1-31.1)

Provisional ballots that were not counted are considered confidential records and must remain sealed in the PRE-4/PRO-2 envelope. Should the county election board determine a provisional ballot is to be counted, the voted ballot is simply stored with the "regular" voted ballots in the precinct, which are required to remain sealed and eligible for destruction after twenty-two (22) months. Unless arrangements are made with a state educational institution, voted ballots are not considered public information and cannot be disclosed. This would include the voter verified paper audit trail documentation printed by a DRE voting system. (IC 3-10-1-31.1)

Attorney General's Address Confidentiality Program for Victims of Domestic Abuse

Indiana law establishes an address confidentiality program for persons who are victims of domestic abuse, stalking or sexual assault. A person who applies to the Indiana Attorney General and qualifies under this program may designate an address provided by the Attorney General as his or her address for service of process and receipt of mail. **This confidentiality program does not apply automatically to every person who is granted a protective order by a court.**

The name, address, telephone number, and any other identifying information relating to a program participant, as contained in a voting registration record or absentee application (ABS-Attorney General) is confidential for purposes of Indiana's public records law. The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record except (1) to a law enforcement agency, upon written request, and (2) as directed by a court order. (IC 3-11-4-6; IC 5-26.5; IC 5-14-3-4(a)(1))

Please see the "Absentee Voting" Chapter of this *Manual* for more information about the ABS-Attorney General form and the current version of the *Indiana Voter Registration Guidebook* for details about the voter registration impacts of this program.

Address Confidentiality for Elected Officials & Law Enforcement Officers

Under Indiana law, certain law enforcement officers and public officials may apply to have their home address restricted from disclosure on a "public property database website" maintained by a county, municipality, or township government. (IC 36-1-8.5-7) A "public property database website" refers to an internet website that is:

1) available to general public over the Internet;
2) does not require registration, subscription, or the creation of a username and password to search the web site; and
3) connects the law enforcement officer or public official's home address to their name, so that a search of the web site for the person's name discloses the covered person's home address. (IC 36-1-8.5-5)

However, this law would not entitle the person to have their address restricted or made confidential in the statewide voter registration system (SVRS). This is because under Indiana law, the SVRS database is owned and maintained by the State of Indiana through the Indiana Secretary of State and the Indiana Election Division and does not come within the law's definition of a "public property database website." (IC 3-7-26.3-3)

Lastly, in a primary election, the county election board is required to publish a public notice of the election (CAN-9). The CAN-9 includes the name and office sought of each candidate seeking nomination along with the text of any public question to be placed on the ballot, the date of the election, the hours in which the polls are open, and the dates, times, and locations of early voting. State law recently changed and no longer permits the publication of the candidate's address on the notice. Conversely, the CAN-39 notice of a general election does not require the county to publish the name or address of candidates on the ballot. Counties lack the "home rule" authority to include the candidate's address on any notice of election (CAN-9, CAN-39). (IC 3-8-2-19; IC 36-1-3-8(a)(12))

Voting System Security Information Confidentiality

If a county chooses to adopt a resolution under IC 3-11-15-46 setting forth an alternative method for securing voting systems other than the default security procedures set forth in state law, the county voting security resolution is confidential and may not be disclosed in response to a request for public records.

In addition, the state or a county has discretion whether to disclose administrative or technical information that would jeopardize a voting system, or infrastructure information which would disclose the configuration of a voting system, in response to a public records request. (IC 5-14-3-4)

Temporary Credential & Proof of Citizenship Documentation

Information from the BMV confirming whether a voter has a temporary credential issued by the BMV at their last transaction date is confidential. (IC 3-11-4-2.2) Additionally, any proof of citizenship documentation provided by the voter along with a VRG-26 or VRG-27 generated by the county voter registration official and sent to the voter is confidential. (IC 3-7-38.2-7.3(f))

Voting System Technical Oversight Program (VSTOP) Inventory of Voting Equipment

The VSTOP inventory of voting systems and electronic poll books kept in a statewide database is declared confidential under state law and, therefore, may not be provided in response to a public records request. (IC 3-11-16-6)

County Election Board Meeting Minutes

County Election Board meeting minutes are public records and must be maintained in perpetuity. (IC 3-6-5-13) However, should the county election board convene an executive session, the county election is only required to provide as a public record a memoranda or minutes that just identify the subject matter considered by specific reference to the enumerated reasons an executive can be called under IC 5-14-1.5-6.1.

Campaign Finance Records

All campaign finance filings are public records, including reports, statement of organization forms, and any notices sent by the county election board to individual committees. (IC 3-9-4-5)

Anomaly Reporting

An anomaly report submitted by the vendor is confidential at the discretion of the Secretary of State and the Indiana Election Division. (IC 3-11-17-9)

Required Election Day Reporting to Party Chairs

Requires that a county must provide absentee activity reports produced by the statewide voter registration system (SVRS) and other election day reports not later than 10 a.m., noon, 2 p.m., and 4 p.m. local time on election day. However, the county election board may adopt a policy by unanimous vote to provide the reports at alternative times on election day. (IC 3-7-27-6.5)

Voting Systems & ePollbook Access

State law requires that voting systems and ePollbooks remain sealed and under control of the county election board at all times when not in use to conduct a public test before an election, when the voting system is being set up to be used on election day, during in person and travel board absentee ballot, and on election day. The county must also follow its access control policies to these systems, and these policies are confidential. During a recount or contest legal proceeding filed by a candidate or other person with legal standing, a judge or state Recount Commission may impound some or all of the voting equipment. The voting equipment may be unsealed on the order of the court to conduct the legal proceedings; otherwise, the voting equipment is to remain sealed.

Please see the "Voting Systems & ePollbooks" section of this *Manual* for more information.

Publication of Notices

Indiana state law (IC 5-3, generally) focuses on the publication of notices, and state election laws reference several parts of it, particularly IC 5-3-1.

As a general rule, whenever officers of a political subdivision are required to publish a notice affecting the political subdivision, the notice shall be published in two (2) newspapers published in the political subdivision. However, if there is only one (1) newspaper published in the county, then publication in that newspaper alone is sufficient.

(c) This subsection applies to notices published by city, town, or school corporation officers. If there is only one (1) newspaper published in the municipality or school corporation, then publication in that newspaper alone is sufficient. If no newspaper is published in the municipality or school corporation, then publication of the notice shall be made in one (1) of the following:

(1) A locality newspaper that circulates within the municipality or school corporation.
(2) A newspaper published in the county in which the municipality or school corporation is located and that circulates within the municipality or school corporation.

(d) This subsection applies to notices published by officers of political subdivisions not covered by subsection (a) or (b). If there is only one (1) newspaper published in the political subdivision, then the notice shall be published in that newspaper. If no newspaper is published in the political subdivision, then publication of the notice shall be made in one (1) of the following:

(1) A locality newspaper that circulates within the municipality or school corporation.
(2) A newspaper published in the county and that circulates within the political subdivision.

(e) This subsection applies to a political subdivision, including a city, town, or school corporation. Notwithstanding any other law, if a political subdivision has territory in more than one (1) county, public notices that are required by law or ordered to be published must be given as follows:

(1) By publication in two (2) newspapers published within the boundaries of the political subdivision.
(2) If only one (1) newspaper is published within the boundaries of the political subdivision, by publication of the notice in that newspaper and in one (1) of the following:
    (A) A locality newspaper that circulates within the political subdivision.
    (B) In another newspaper:
        (i) published in any county in which the political subdivision extends; and
        (ii) that has a general circulation in the political subdivision.
(3) If no newspaper is published within the boundaries of the political subdivision, by publishing the notice in two (2) publications, consisting of either or both of the following:
    (A) A locality newspaper that circulates within the political subdivision.
    (B) A newspaper that:
        (i) is published in any counties into which the political subdivision extends; and
        (ii) has a general circulation in the political subdivision.
(4) If only one (1) newspaper is published in any of the counties into which the political subdivision extends, by publication of the notice in one (1) of the following:
    (A) A locality newspaper that circulates within the political subdivision.
    (B) The newspaper published in the county if the newspaper circulates within the political subdivision.

(f) A political subdivision may, in its discretion, publish public notices in a qualified publication or additional newspapers or locality newspapers to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the political subdivision. (IC 5-3-1-4)

Some smaller political subdivisions may not have a newspaper that meets the publication requirements under IC 5-3-1-4:

- If a newspaper or locality newspaper publishes a print edition not more than three (3) times a week AND an electronic edition, then a notice may be published in either the print edition or the electronic edition.
- If a newspaper or locality newspaper publishes a print edition not more than two (2) times a week AND does not publish an electronic edition, then a notice may be published in either the print edition or on the website of the newspaper or locality newspaper.
- If the newspaper or locality newspaper does not maintain a website, a notice may be published in either the print edition or on the political subdivision's official website (as defined in IC 5-3-5-2) in accordance with IC 5-3-5.

A newspaper or locality newspaper may not charge a person a fee for viewing or searching the website or electronic edition for public notices; or require a person to register on the newspaper's or locality newspaper's website in order to view or search for public notices on the website. The basic charge for publication of a notice in an electronic edition shall be the same as the basic charge for publication of the notice in the print edition in accordance with section 1 of this chapter. (IC 5-3-1-1.6)

APPENDIX

County Election Board Forms

County Election Administrator's Election Checklist

Campaign Finance Hearing Toolkit
- Sample Delinquency Notice
- Sample Public Notice
- Sample Notice of Hearing
- Administering the Oath
- Sample Finding of Fact Order (2 pages)

Sample Appointment of Proxy

Sample County Chair Certification used in a Primary Election to Affirm Party Affiliation

Sample Certification of Death of a Local Office Holder

Sample Checklist for Public Test in Counties Using a DRE Voting Systems

Sample Checklist for Public Test in Counties Using Optical Scan Voting Systems

Absentee Central Count Toolkit for County Election Boards

IC 5-3-1-4 Publication of Notice

Indiana Election Division Opinion Concerning Cast Vote Records

Public Access Counselor Opinion Concerning Cast Vote Records

Telephone List

County Election Board Forms

Below are some of the forms used in the 2026 Primary and General Elections for county election boards. These forms are no longer included in this *Manual.* Election forms, including those used by candidates or campaign finance committees, can be found in the "Election Administrators' Portal" on www.in.gov/sos/elections or through the state's Forms Management website, www.forms.in.gov. County election administrators also have access to forms on the INSVRS County Portal.

CAN-1	Candidate Filing Challenge
CAN-5	County Election Board Candidacy Filing Confirmation for 20__
CAN-6	Circuit Court Clerk's or Election Director's Certificate of Primary Election Candidate List
CAN-9	Legal Notice of Primary Election
CAN-12	Statement of Economic Interests for Local and School Board Offices
CAN-39	Legal Notice of General Election or Special Election
CEB-1A	Certificate of Delivery of Voting Systems to Precinct or Vote Center
CEB-1B	Certification of Return of Precinct or Vote Center Materials by Inspector and Judge
CEB-1C	Certificate of Return of Voting Systems from Polls
CEB-1D	Certificate of Return of Electronic Poll Books from Precinct or Vote Center
CEB-6	Appointment and Oath of Office for County Election Board Member
CEB-34	Apportionment of Municipal Primary Costs in Counties Using Precincts
CEB-35	Apportionment of Municipal General Election Costs in Counties Using Precincts
CEB-38	Apportionment of Municipal Primary Costs in Counties Using Vote Centers
CEB-39	Apportionment of Municipal General Election Costs in Counties Using Vote Centers
CEB-40	Certification of Ballot Agreement in a Vote Center County; Notice to Voters
IEC-6	Indiana Voting System or Electronic Poll Book Disposal Plan

IEC-9	Certification: Test of Direct Record Electronic Voting Systems
IEC-10	Certification of Test of Optical Scan Ballot Card Automatic Tabulating Machines
IEC-22	County Certification of Voting System and Electronic Poll Book Inventory

County Election Administrator's Election Checklist

VOTER REGISTRATION

_____ voter registration acknowledgment cards have been sent
_____ all name and address changes have been completed
_____ all additional residence documentation submitted from certain mail-in voters has been processed
_____ press release to media concerning last day to register and first day to vote absentee
_____ updated registration lists for county chairmen upon request
_____ check registration list; make sure all is in order
_____ run poll lists or if using electronic pollbooks, conduct any necessary acceptance testing of a new pollbook or upgrade
_____ certify number of registered voters
_____ put certificates on cover of poll lists (unless using electronic poll books)

CANDIDATES

_____ prepare candidate kits (declarations, campaign finance forms and manuals, etc.)
_____ prepare candidate folders
_____ prepare candidate checklists (who has filed which forms?)
_____ send notice to any candidate who has not filed campaign finance reports if required to do so

BALLOT PREPARATION

_____ estimate number of official, absentee, and provisional ballots
_____ prepare ballot worksheet for each precinct
_____ proofread worksheets
_____ make arrangements with printer; take worksheets to printer
_____ make corrections; have official, provisional, and sample ballots printed
_____ proofread finished official, provisional, and sample ballots
_____ have deputies, county election board members, county chairmen, and school board representative proof finished ballots
_____ have sample ballots available for distribution

ABSENTEE VOTING

_____ notify county chairmen of number of absentee boards to be appointed
_____ appoint absentee voting boards (including traveling boards)
_____ prepare absentee ballots (seal and signature stamp of clerk (using state prescribed seal if clerk is a candidate on the ballot; board member initials)
_____ process applications
_____ mail ballots (return postage prepaid)
_____ provide for bipartisan security of returned ballots in the clerk's office (cabinet, box, or room with 2 locks and keys, one for each appointed member of county election board).
_____ Provide key to county election board member of opposite party.

ELECTION WORKERS

_____ notify county chairmen to nominate workers
_____ prepare roster sheets of nominated workers (including alternates, if any)
_____ mail appointment letters to nominated workers
_____ prepare sign-in sheet for election training
_____ prepare instructions for poll workers (opening/closing polls, counting ballots); review instructions; revise to reflect recent election law changes or other new county procedures
_____ prepare supply lists for inspectors
_____ purchase precinct boxes and clerk's box from printer; or prepare your own
_____ hire clerical assistants to help in canvassing of election results
_____ prepare canvassing sheets (if not included in the clerk's box of supplies)

ELECTION WORKER TRAINING

_____ set date for training (county election board members should attend and assist)
_____ arrange for large meeting room (don't forget tables and chairs if needed)
_____ arrange for audio-visual aids as needed
_____ prepare training sign-in sheet for precinct officials
_____ prepare sample forms for use as training aids
_____ provide sample ballots
_____ prepare checklist of issues to cover at meeting
_____ arrange for voting system to be used as a training aid
_____ record training of inspectors (and other poll workers required to be trained by county)

MISCELLANEOUS

_____ prepare watcher credentials for candidate and media watchers
_____ mail letters to polling places stating times for delivery and pick-up of voting equipment
_____ arrange to have keys to polling places or instruct the inspectors to do so
_____ arrange for delivery of voting systems and completion and filing of documentation.
_____ publish legal notice of election and location of polling places in newspaper
_____ prepare telephone logs for Election Day telephone calls
_____ prepare electronic poll books (if applicable in county) to conform with requirements in state law or county security procedure filed with Election Division.
_____ make election night drop-off arrangements for precinct inspectors
_____ review Election Day procedures with office staff.
_____ advise courts, attorneys and public if the office is closed for non-election business (case filings, child support for example) under IC 3-5-4-14.
_____ discuss election night security with sheriff's department. Make arrangements for at least one deputy to be available at courthouse or election central
_____ transmit election night results to the Indiana Election Division.

POST ELECTION

_____ process any provisional ballots to determine validity

_____ determine if discrepancies exist between number of votes cast on direct record electronic voting systems and signatures on poll lists; conduct follow-up audit if necessary.

_____ certify local election results (majority of members of the county election board must sign certificate)

_____ certify results to the Indiana election division and return CEB-9 form

_____ tally election statistics

_____ review recount and contest procedures if necessary

_____ deliver copies of canvass sheets to county chairmen and election division

_____ prepare certificates of election, if requested by candidate or as courtesy

_____ arrange for long-term storage and security of election documents and voting systems

_____ process election claims (precinct statement of expenses, etc.)

_____ update registration record for each voter

Campaign Finance Enforcement Tool Kit

Form 1 – Delinquency Notice

Date

Committee to Elect _____
Name of Committee Treasurer
(Insert committee address)

Dear Committee to Elect _____ :

This letter serves as notification that your committee's (pre-primary, pre-general or other report) report is delinquent. (If report has not been filed add: "Please file your report with this office immediately upon receipt of this notice.")

Your delinquent report is now subject to enforcement action pursuant to Indiana Code 3-9-4-17. A person who has a delinquent campaign finance report is subject to civil penalties of up to $1,000.00 by the _____ County Election Board.

We will mail you further information about enforcement actions to be taken by the _____ County Election Board along with notification of the Board's hearing at which your delinquent report and accompanying civil penalties will be discussed.

If you require additional information about reporting requirements or need assistance, please contact the _____ Circuit Court Clerk at (***) ***-****.

Thank you for your cooperation.

_____ County Election Board

Form 2 – Public Notice

PUBLIC NOTICE

_____COUNTY ELECTION BOARD
PUBLIC MEETING NOTICE

_____COUNTY COURTHOUSE
(Place Room Number, if applicable, and street address here)

The _____ County Election Board will convene a public meeting at _____ (a.m. or p.m.) on _____, 20__, in the _____ (Place Room Number, if applicable, and street address here) pursuant to Indiana Code 5-14-1.5-5.

For more information contact:

_____
Circuit Court Clerk, _____ County
Phone No. (***) ***-****

Posted in accordance with IC 5-14-1.5 on this date:

_____, 20__, at _____ (a.m. or p.m.)

Form 3 – Notice of Hearing

_____ COUNTY ELECTION BOARD

COUNTY OF	)	IN RE:
	)	DELINQUENT CAMPAIGN FINANCE REPORT
STATE OF INDIANA	)	DUE _____, 20__

To: Committee to Elect _____
(insert committee address)

NOTICE OF HEARING

You are notified that on _____, at _____ (a.m. or p.m.) the _____ County Election Board shall hold a hearing at: (insert address of hearing).

The hearing is called to determine whether the committee has violated Indiana campaign finance laws by filing a late _____ (pre-primary, pre-general or other report) campaign finance report and, if so, whether the imposition of a civil penalty pursuant to IC 3-9-4-17 is appropriate under the circumstances.

You may be represented by counsel at this hearing. Counsel is requested to enter an appearance in writing, prior to the hearing. This hearing may be attended by the public. Notice of the hearing will be posted in accordance with the Indiana Open Door Law (IC 5-14-1.5).

Your failure to appear at the hearing described above may result in a penalty being imposed against your committee by default.

DATED THIS _____ day of _____, 20__.

_____ **County Election Board**

By: _____
Secretary, _____ County Election Board
(insert address and phone number)

Form 4 – Administering the Oath

ADMINISTERING THE OATH

Instruction: Please stand, raise your right hand, and say "I do" after the administration of the oath.

"Do you solemnly swear or affirm, under the penalties of perjury, that the testimony that you will give at today's county election board meeting is the truth, the whole truth, and nothing but the truth?"

(I do)

(Any member of the county election board may administer the oath per IC 3-6-5-26)

Form 5 – Finding of Facts & Order (2 pages)

ORDER 20__ -_____
_____ COUNTY ELECTION BOARD

COUNTY OF	)	IN RE:
	)	DELINQUENT CAMPAIGN FINANCE REPORT
STATE OF INDIANA	)	DUE _____ , 20__

To: Committee to Elect _____
(address of committee)

Findings and Order

This matter came before the _____ County Election Board (hereafter "the Board") at the Board's meeting of _____, 20__. The Board, after considering evidence in this case, now finds as follows:

FINDINGS

1. The Committee to Elect _____ (hereinafter "Committee") is a candidate's committee and was required to file a pre-primary report (or other report) by noon _____, 20__, pursuant to IC 3-9-5-6.

2. The Committee filed its pre-primary election report on _____, 20__, _____after the report was due.

3. The maximum civil penalty under law for a late report under these circumstances is One Thousand Dollars ($1,000) (or $50 x number of days late) pursuant to IC 3-9-4-17(c).

4. The _____ County Election Board finds that the maximum civil penalty permitted by law of One Thousand Dollars ($1,000) (or $50 x number of days late) should be imposed.

OR

5. The _____ County Election Board finds, by unanimous vote of its entire membership, that imposition of the maximum civil penalty in this case would be unjust under the circumstances and finds that the civil penalty should be reduced to _____ (or waived in its entirety) pursuant to IC 3-9-4-19.

The attached Order constitutes a Final Order of the Board under IC 4-21.5-3-27. The Board is the ultimate authority under IC 4-21.5-1-15, and the attached Final Order should be considered notice of the final agency action and determination in this matter. If a party to this matter wishes to seek judicial review, the party must file a petition with an appropriate court within thirty (30) days of the date of the issuance of this Order and must otherwise comply with Ind. Code § 4-21.5-5.

ORDER

THE _____ COUNTY ELECTION BOARD THEREFORE ORDERS that is fine is hereby imposed on Committee to Elect _____ in the sum of _____ pursuant to the findings set forth above. The above findings and the board meeting minutes are incorporated herein by reference.

OR

THE _____ COUNTY ELECTION BOARD THEREFORE ORDERS that any fine against Committee to Elect _____ is hereby waived and this matter is DISMISSED pursuant to the findings set forth above. The above findings and the board meeting minutes are incorporated herein by reference.

SO ORDERED, THIS THE ___DAY OF _____, 20__.

Signature**:** _____
Printed: _____
Member
_____ County Election Board

Signature: _____
Printed: _____
Member
_____ County Election Board

Signature: _____
Printed: _____
Member
_____ County Election Board

Sample Appointment Of Proxy

THE UNDERSIGNED, _____, a member of the _____ County Election Board ("Board") hereby appoints _____ as his (her) Proxy of Record to attend and serve as a full voting member of the Board in the place of _____to transact the business of the Board at its meeting on _____, 20__, at _____ (a.m. or p.m.) *

This Appointment of Proxy is made pursuant to IC 3-6-5-4.5 and expires at the adjournment of the _____, 20___, Board meeting.

Date: _____ _____

Printed: _____

Member, _____County Election Board

*A Proxy may also be limited to a specific case to be heard at the meeting. If so, describe the case by name.

Sample County Chair Certification used in a Primary Election to Affirm Party Affiliation

CERTIFICATION OF COUNTY CHAIRMAN OF THE
☐ DEMOCRATIC PARTY OR ☐ REPUBLICAN PARTY
IN SUPPORT OF
DECLARATION OF CANDIDACY

I, _____, as county chairman of the

(check one) ☐ Democratic Party **OR** ☐ Republican Party in

_____ County do hereby certify, pursuant to IC 3-8-2-7,
(insert name of County)

that _____
(insert name of candidate)

is a member of the above named party in good standing. This certification is made in support of the declaration of candidacy filed by the above named candidate for the elections being held in the year 20_____ only.

Certified this _____ day of _____, 20_____.

Signature: _____

Printed Name: _____

County Chairman of the Indiana ☐ Democratic Party OR ☐ Republican Party

Sample Certification of Death of a Local Office Holder

INSTRUCTIONS: This certification must be filed with: 1)The governor in the case of the death of a person who holds state office or a person who is a judge of a circuit, superior, probate, county or city court; 2) The secretary of state in case of the death of a person who holds a legislative office; 3) The circuit court clerk of the county in which the officeholder resided in the case of the death of a person who holds a county, city, town, township, or school corporation office not covered by number 1) above. If this certification is filed with the secretary of state, the secretary of state shall forward a copy of this certification with a notice of death, within 72 hours of becoming reasonably satisfied the certification is true, to the state chairman of the political party that elected or selected the deceased individual. If this certification is filed with the circuit court clerk, the circuit court clerk shall forward a copy of this certification with a notice of death, within 72 hours of becoming reasonably satisfied the certification is true, to either: (a) the person who must give notice of a political party caucus (for example, state or county chairman) or meeting (for example, the county auditor gives notice of a meeting of the county commissioners) to fill the vacancy; OR (b) to the person or entity who has the power to fill the vacancy if no political party caucus is required. A vacancy may not be filled until a copy of this certification is filed with the person who has the power to fill the vacancy or the person who must give notice of the caucus to fill the vacancy. The period in which to fill a vacancy by caucus does not begin until the person who must give notice of the caucus or notice of the meeting receives this certification. IC 5-8-6

CERTIFICATION OF DEATH OF OFFICEHOLDER

I, _____, certify, under the penalties of perjury, as follows:

1. I am over the age of 18 years, and I am competent to make this certification.

2. I reside in _____ County, Indiana.

3. To the best of my knowledge and belief (Name) _____, (office) _____ died on the ____ day of _____. The facts known to me that support my knowledge and belief are as follows: (use any of the following examples as facts, if true, or list any other fact known to person making the certification)

    a. A member of the deceased's family has advised me of the death of _____.
    b. I read an obituary in the _____ newspaper that reported the death of _____.
    c. I attended the funeral of _____ on the _____ day of _____, 20__.
    d. Other: death certificate, information from doctor, hospital, coroner or deputy coroner.

CERTIFICATION

I, the undersigned, certify, under the penalties of perjury, that the information in this Certification of Death of Officeholder is true to the best of my knowledge and belief.

_____ _____/_____/_____ (_____)_____ (_____)_____

Signature Date signed (MM/DD/YY) Telephone *(Day)* Telephone *(Evening)*

NOTICE OF DEATH

_____ Chairman of the _____ Party
XXX
_____, IN _____

Dear _____:

On the ___ day of _____, a certificate of death was filed with my office certifying that _____ (insert name of deceased), (insert name of office) has died. The certification of death is attached to this notice. _____ (insert name of deceased) was elected (or selected) to the office of _____ as a candidate of the _____ Party.

I am reasonably satisfied that this certification of death is true and, therefore, it is my sad duty, pursuant to IC 5-8-6-6, to provide you with this Notice of Death so that you, as _____ Chairman of the _____ Party, may proceed to fill the vacancy in the office of _____ pursuant to statute.

Sincerely,

(name)
(office)

Sample Checklist for Public Test in Counties Using Electronic (DRE) Voting Systems

STEP 1: Prepare for the Public Test

- Create ballot "test deck" of pre-audited ballots for use during the public test, which must include:
  - A vote for straight party voting, for each candidate (including write-in candidates) and each public question on the ballot in the precinct;
  - At least one (1) ballot for each office that has an overvote to confirm the machine will reject an overvoted ballot.
- Perform "logic and accuracy" testing using the "test deck" before the public test to ensure the systems are capturing vote totals correctly on the individual machines and the main tabulation hub.
  - Not a legal requirement, though most, if not all, vendors incorporate pre-testing to ensure coding was managed correctly.
- Identify location for public test that will accommodate the county election board, members of the public, media, and staff and has access to electricity, election management tabulation software, and any other equipment required to successfully support the public test.

STEP 2: Publish Legal Notice of Public Test

- Notice must include date, time, and location of the public test.
- Must be published at least 48-hours in accordance with IC 5-3-1-4, which includes newspaper publication (see appendix for statutory language).

STEP 3: Conduct the Public Test Not Later Than 29-Days Before Election

- Testing may occur before the statutory deadline, if legal notice is published at least 48 hours before the test.
- Sample Testing Checklist:
  - Review list of randomly selected machines sent from VSTOP. (IC 3-11-14.5-1)
    - Ensure that machines from at least three different precincts are tested. Three is the minimum legal requirement; counties are permitted to test more than three precincts
  - Visually inspect *each* voting system unit to be used at the precinct on Election Day and ballot label (the screen) for correct settings, proper functions, and accurate ballot information.
  - Print a "zero" tape to ensure no ballots have been recorded on the machine.
  - Use the "test deck" to enter the combination of straight party, candidate, and public question selections on each ballot, making sure to attempt an overvote to ensure the system will not permit an overvoted ballot.
    - The test deck must include at least one ballot that must be rejected under IC 3-11.5-4-13 that the voting system ballot retraction feature must void in accordance with IC 3-11.5-4-6 before the other ballots are tabulated.
  - Test the functionality of the system components used by a voter with disabilities to cast a ballot independently and privately.
  - Print a "totals" tape.
  - Remove the voting system's ballot storage media, and "upload" to the county's computer designated for the tabulation of election results.
  - Print an "election results" report.

    - Compare results on the individual machine's "totals" tape to the results printed from the "election results" report to the totals the county calculated from its pre-audited "test deck."
        - If an error is detected, determine the cause and correct the error.
        - Repeat the test process then or at a later date (after recess, not adjournment of meeting) to have the errorless count. If the error cannot be corrected, and errorless count documented, then that voting system may not be used in the election.
- Seal voting system after test of the unit is successfully completed, making sure the unit was reset to zero for use on Election Day or during absentee voting.
- Seal and retain all testing material and records used in the public test in the same manner as voted ballots.

STEP 4: File signed copy of the IEC-10 Certification of Test of Election Voting Systems with the Indiana Election Division not later than seven (7) days after the public test is completed. This form may be sent by email or fax.

Sample Checklist for Public Test in Counties Using Optical Scan Voting Systems

STEP 1: Prepare for the Public Test

- Create ballot "test deck" of pre-audited ballots for use during the public test, which must include:
  - A vote for straight party voting, for each candidate (including write-ins) and each public question on the ballot in the precinct;
  - At least one (1) ballot for each office that has an overvote to confirm the machine will reject an overvoted ballot.
- Perform "logic and accuracy" testing using the "test deck" before the public test to ensure the systems are capturing vote totals correctly on the individual machines and the main tabulation hub.
  - Not a legal requirement, though most, if not all, vendors incorporate pre-testing to ensure coding was managed correctly.
- Identify location for public test that will accommodate the county election board, members of the public, media, and staff and has access to electricity, election management tabulation software, and any other equipment required to successfully support the public test.

STEP 2: Publish Legal Notice of Public Test

- Notice must include date, time, and location of the public test.
- Must be published at least 48-hours in accordance with IC 5-3-1-4, which includes newspaper publication (see appendix for statutory language).

STEP 3: Conduct the Public Test No Later Than 29-Days Before Election

- Testing may occur before the statutory deadline, if legal notice is published at least 48 hours before the test.
- Sample Testing Checklist:
  - Review list of randomly selected machines sent from VSTOP.
  - Ensure that at least five percent (5%) of machines are randomly selected. (IC 3-11-13-22)
  - Visually inspect each voting system unit to be used at the precinct on Election Day for correct settings and proper functions.
  - Print a "zero" tape to ensure no ballots have been recorded on the machine.
  - Use the "test deck" to enter the combination of candidate and public question selections on each ballot, making sure to attempt an overvote to ensure the system will not permit an overvoted ballot.
    - The test deck must include at least one ballot that must be rejected under IC 3-11.5-4-13 that the voting system ballot retraction feature must void in accordance with IC 3-11.5-4-6 before the other ballots are tabulated.
  - Test the functionality of the system components used by a voter with disabilities to cast a ballot independently and privately.
  - Print a "totals" tape.
  - Remove the voting system's ballot storage media, and "upload" to the county's computer designated for the tabulation of election results.
  - Print an "election results" report.

    - Compare results on the individual machine's "totals" tape to the results printed from the "election results" report to the totals the county calculated from its pre-audited "test deck."
        - If an error is detected, determine the cause and correct the error.
        - Repeat the test process then or at a later date (after recess, not adjournment of meeting) to have the errorless count. If the error cannot be corrected, and errorless count documented, then that voting system may not be used in the election.
- Seal voting system after test of the unit is successfully completed, making sure the unit was reset to zero for use on Election Day or during absentee voting.
- Seal and retain all testing material and records used in the public test in the same manner as voted ballots.

STEP 4: File signed copy of the IEC-9 Certification of Test of Election Voting Systems with the Indiana Election Division no later than seven (7) days after the public test is completed. This form may be sent by email or fax.

Absentee Central Count Toolkit

Sample Resolution To Count Absentee Ballots After 6:00 A.M. On Election Day

NOTE: *This resolution may only be adopted by a county election board in a county that has adopted electronic poll books for in-person absentee (early) voting and for voting on Election Day or a county that has adopted a vote center plan.*

_____ COUNTY ELECTION RESOLUTION ORDER NO. _____

RESOLUTION TO COUNT ABSENTEE BALLOTS AT ANYTIME AFTER 6:00 a.m. ON ELECTION DAY

Recitals

Whereas, IC 3-11.5-4-11(e) permits the _____ County Election Board to pass a resolution, by unanimous vote of all of its members, to begin counting absentee ballots any time after 6:00 a.m. on Election Day provided that the following occur:

1) Electronic poll books have been updated to reflect receipt of the absentee ballots not later than 12:01 a.m. on election day; and
2) The absentee ballots are processed by the absentee ballot counters prior to counting.

RESOLUTION

IT IS THEREFORE RESOLVED, by unanimous vote of the entire membership of the _____County Election Board, as follows:

1) Electronic poll books shall be updated to reflect receipt of absentee ballots no later than 12:01 a.m. on Election Day; and
2) That the absentee ballot counters shall process absentee ballots as required by IC 3-11.5-4-12.

IT IS THEREFORE FURTHER RESOLVED that assuming the tasks described in paragraphs 1 and 2 above have been completed, the absentee ballot counters may begin counting absentee ballots any time after 6:00 a.m. on Election Day.

This Resolution may not be repealed or amended except by the unanimous vote of all the members of the _____ County Election Board as provided in IC 3-11.5-4-11(f).

Adopted this _____ day of _____, 20__.

_____ Democratic County Election Board Member

_____ Republican County Election Board Member

_____ Circuit Court Clerk as Secretary of the County Election Board

Sample Resolution For Expedited Review By Absentee Ballot Counters of Absentee Ballots Cast In-Person

_____ COUNTY ELECTION RESOLUTION ORDER NO. _____

RESOLUTION FOR EXPEDITED REVIEW BY ABSENTEE BALLOT COUNTERS OF ABSENTEE BALLOTS CAST IN-PERSON

Recitals

Whereas, IC 3-11.5-4-12(f) permits the _____ County Election Board to pass a resolution, by unanimous vote of all of its members, to expedite review by absentee ballot counters for absentee ballots cast in-person.

RESOLUTION

IT IS THEREFORE RESOLVED, by unanimous vote of the entire membership of the _____County Election Board, as follows:

1) This resolution applies to absentee ballots cast in-person before Election Day at the clerk's office under IC 3-11-10-26, satellite absentee office under IC 3-11-10-26.3, or before an absentee travel board under IC 3-11-10-25.

2) That the absentee ballot counters may but are not required to make the following findings under IC 3-11.5-4-12 with respect to the absentee ballots described in paragraph 1 above:

    a. That the signature on the absentee ballot envelope corresponds to the voter's signature on the voter's absentee ballot application (or voter's registration record when no application is used); and
    b. That the absentee voter is a qualified voter of the precinct.

The county election board shall still perform the review and comparison of the absentee voter's signature on the ballot security envelope and absentee ballot application (or voter registration record when no application is used) by the county election board under IC 3-11.5-4-4 and IC 3-11.5-4-5 as required.

This Resolution may not be repealed or amended except by the unanimous vote of all the members of the _____ County Election Board as provided in IC 3-11.5-4-12(g).

Adopted this _____ day of _____, 20__.

_____ Democratic County Election Board Member

_____ Republican County Election Board Member

_____ Circuit Court Clerk as Secretary of the County Election Board

Pre-Election Absentee Ballot Container Cover Sheet

Precinct: _____
Date of Election: _____

This bag (or container) contains absentee ballots for _____ precinct for the _____ (primary or general) election and must be opened only on Election Day under IC 3-11.5.

Signed: _____
Circuit Court Clerk
_____ County

Statutory Citation: IC 3-11.5-4-5

Certification of First List of ABS to Poll Workers (only used by paper poll book counties)

Precinct: _____
Date of Election: _____

Certification of Absentee Voters

First List
(Provided to Inspector with Pollbook)

I certify that the below (or attached) list contains the names of absentee voters for Precinct _____ who were sent and returned an absentee ballot to the county election board.

So certified this _____ day of _____, 20____.

_____
Circuit Court Clerk
_____ County

Certification of Poll Clerks that Absentee Ballot List Was Processed

The poll clerks hereby certify that the Inspector has marked the pollbook to indicate that the absentee ballots of the voters contained on this list (or "attached list") have been received by the county election board.

ATTEST:

_____ _____
Democratic Poll Clerk Republican Poll Clerk

Date: _____

Statutory Citation: IC 3-11.5-4-1; IC 3-11.5-4-9

Certification of Supplemental List of ABS to Poll Workers (only used by paper poll book counties)

Precinct: _____
Date of Election: _____

Certification of Absentee Voters

Supplemental List
(Provided on Election Day)

We certify that the below (or attached) list contains the names of absentee voters for Precinct _____ who were sent and returned an absentee ballot to the county election board.

So certified this _____ day of _____, 20____.

_____ _____
County Election Board Member **County Election Board Member**

_____
County Election Board Member

Certification of Poll Clerks that Absentee Ballot List Was Processed

The poll clerks hereby certify that the Inspector has marked the pollbook to indicate that the absentee ballots of the voters contained on this list (or "attached list") have been received by the county election board.

ATTEST:

_____ _____
Democratic Poll Clerk Republican Poll Clerk
Date: _____

Statutory Citation: IC 3-11.5-4-8; IC 3-11.5-4-9

Sample ABS Courier Return Envelope (only used by paper poll book counties)

ABSENTEE BALLOT COURIERS RETURN ENVELOPE

Precinct_____ Date of Election: _____

THIS ENVELOPE CONTAINS THE FOLLOWING:

(1) A list certified by the Circuit Court Clerk, and processed by the Inspector, of absentee voters who were provided and returned an absentee ballot to the county election board.

(2) Any supplemental list certified by the county election board, and processed by the Inspector, of absentee voters who were provided and returned an absentee ballot to the county election board.

(3) Any affidavit of challenge executed by a qualified person under I.C. 3-11.5-4-16 related to an absentee ballot.

(4) The above items were deposited in this envelope in the presence of both Poll Clerks and sealed by Inspector.

CERTIFICATION OF INSPECTOR AND POLL CLERKS:

The Inspector or Poll Clerks certify that they have complied with the requirement of marking the names of absentee voters contained on the enclosed lists in the pollbook.

ATTEST:

_____
Inspector

_____ _____
Democratic Poll Clerk Republican Poll Clerk

CERTIFICATION OF ABSENTEE BALLOT COURIERS

The absentee ballot counters certify that they have not opened or tampered with the envelope since the envelope was delivered to them by the Inspector.

ATTEST:

_____ _____
Absentee Ballot Courier Absentee Ballot Courier

Statutory Citations: IC 3-11.5-4-1; IC 3-11.5-4-8; IC 3-11.5-4-9

Sample ABS Counter Rejected ABS Ballot Envelope

ABSENTEE BALLOT COUNTERS
REJECTED ABSENTEE BALLOTS

Precinct_____

Date of Election: _____

TO THE ABSENTEE BALLOT COUNTERS: Enclose in this envelope all rejected absentee ballots, fill out the space below regarding the number or rejected ballots, sign and place this envelope in the container for all the absentee materials for the precinct when you have finished counting the absentee ballots in this precinct.

This envelope contains _____ rejected absentee ballots

ATTEST:

_____ Democratic Absentee Ballot Counter

_____ Republican Absentee Ballot Counter

Statutory Citations: IC 3-11.5-4-14(b)

Sample ABS Counters Accepted ABS Ballot Envelope

ABSENTEE BALLOT COUNTERS
ACCEPTED ABSENTEE BALLOTS

Precinct_____

Date of Election: _____

TO THE ABSENTEE BALLOT COUNTERS: For all absentee ballots accepted by the absentee ballot counters open the envelope containing the ballot and place all accepted ballots with their separated envelopes in this envelope before counting. Fill out the space below regarding the number of accepted ballots and, after you are finished counting all the absentee ballots in the precinct, place this envelope in the container for all the absentee materials for the precinct.

This envelope contains _____ accepted absentee ballots

ATTEST:

_____ _____
Democratic Absentee Ballot Counter
Republican Absentee Ballot Counter

Statutory Citations: IC 3-11.5-4-12

Sample Oath of ABS Ballot Counters

Precinct: _____
Date of Election: _____

Oath of Absentee Ballot Counters

I do solemnly swear or affirm under the penalties of perjury the following:

1) that the ballots and papers for the above-named precinct have been placed into and sealed the bag (or container) for the precinct;

2) that I did not permit any person to open the envelope or bag or to otherwise touch or tamper with the ballots for the precinct; and

3) that I had no knowledge of any other person opening the envelope or bag for the precinct.

_____
Signature of Democratic Absentee Ballot Counter

_____
Signature of Republican Absentee Ballot Counter

Statutory Citation: IC 3-11.5-6-22

Title 5, Article 3. Publication of Notices

IC 5-3-1-4 Notices by political subdivisions and school corporations; requirements; notice in multiple counties; supplementary notices

(a) Whenever officers of a political subdivision are required to publish a notice affecting the political subdivision, they shall publish the notice in two (2) newspapers published in the political subdivision.

(b) This subsection applies to notices published by county officers. If there is only one (1) newspaper published in the county, then publication in that newspaper alone is sufficient.

(c) This subsection applies to notices published by city, town, or school corporation officers. If there is only one (1) newspaper published in the municipality or school corporation, then publication in that newspaper alone is sufficient. If no newspaper is published in the municipality or school corporation, then publication of the notice shall be made in one (1) of the following:

(1) A locality newspaper that circulates within the municipality or school corporation.

(2) A newspaper published in the county in which the municipality or school corporation is located and that circulates within the municipality or school corporation.

(d) This subsection applies to notices published by officers of political subdivisions not covered by subsection (a) or (b). If there is only one (1) newspaper published in the political subdivision, then the notice shall be published in that newspaper. If no newspaper is published in the political subdivision, then publication of the notice shall be made in one (1) of the following:

(1) A locality newspaper that circulates within the municipality or school corporation.

(2) A newspaper published in the county and that circulates within the political subdivision.

(e) This subsection applies to a political subdivision, including a city, town, or school corporation. Notwithstanding any other law, if a political subdivision has territory in more than one (1) county, public notices that are required by law or ordered to be published must be given as follows:

(1) By publication in two (2) newspapers published within the boundaries of the political subdivision.

(2) If only one (1) newspaper is published within the boundaries of the political subdivision, by publication of the notice in that newspaper and in one (1) of the following:

(A) A locality newspaper that circulates within the political subdivision.

(B) In another newspaper:

(i) published in any county in which the political subdivision extends; and

(ii) that has a general circulation in the political subdivision.

(3) If no newspaper is published within the boundaries of the political subdivision, by publishing the notice in two (2) publications, consisting of either or both of the following:

(A) A locality newspaper that circulates within the political subdivision.

(B) A newspaper that:

(i) is published in any counties into which the political subdivision extends; and

(ii) has a general circulation in the political subdivision.

(4) If only one (1) newspaper is published in any of the counties into which the political subdivision extends, by publication of the notice in one (1) of the following:

(A) A locality newspaper that circulates within the political subdivision.

(B) The newspaper published in the county if the newspaper circulates within the political subdivision.

(f) A political subdivision may, in its discretion, publish public notices in a qualified publication or additional newspapers or locality newspapers to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the political subdivision.

STATE OF INDIANA

Indiana Election Division

J. Bradley King, Co-Director
Angela M. Nussmeyer, Co-Director

Indiana Election Division
302 West Washington Street, Room E204
Indianapolis, Indiana 46204-2767
Phone: (317) 232-3939
Fax: (317) 233-6793

TO: Circuit Court Clerks, Election Directors, And Election Administrators

FROM: J. Bradley King & Angela Nussmeyer, Co-Directors

DATE: September 6, 2022

RE: Guidance on Handling Public Records Request for "Cast Vote Record" from Voting System

Over the last few weeks, the Indiana Election Division has heard from several counties and received numerous calls from individuals regarding public records requests for a "cast vote record" from the county's election management systems (EMS) for a past election.

For background, a "cast vote record" or (CVR) is generally defined as the individual lines of data that capture how each individual voter voted. This could be the data entered by the voter on a direct record electronic (DRE) voting system or data pulled from a scanned ballot card marked by the voter and read by a ballot card tabulator. For reference, currently only MicroVote DRE voting systems are used in Indiana, and the ballot card voting systems currently used in Indiana are those provided by MicroVote (for absentee by mail voting), ES&S, Hart Intercivic, and Unisyn. Those individual voter choices are then totaled to produce a precinct level election results report or summary election results report. To learn more information about how a voters choices are reordered on a ballot using the CVR, please contact your county's voting system vendor.

It is the view of the Indiana Election Division that the CVR is confidential pursuant to Indiana Code (IC) 3-10-1-31.1(b). The subsection states:

> "(b) Except for unused ballots disposed of under IC 3-11-3-31 or affidavits received by the county election board under IC 3-14-5-2 for delivery to the foreman of a grand jury, the circuit court clerk shall seal the ballots (including provisional ballots) and other material (including election material related to provisional ballots) during the time allowed to file a verified petition or cross-petition for a recount of votes or to contest the election. Except as provided in subsection (c) and notwithstanding any other provision of state law, after the recount or contest filing period, the election material, including election material related to provisional ballots (except for ballots

and provisional ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3. The circuit court clerk shall carefully preserve the sealed ballots and other material for twenty-two (22) months, as required by 52 U.S.C. 20701, after which the sealed ballots and other material are subject to IC 5-15-6 unless an order issued under:
(1) IC 3-12-6-19 or IC 3-12-11-16; or
(2) 52 U.S.C. 10301;
requires the continued preservation of the ballots or other material."

This state law notes "after the recount or contest filing period, the election material, including election material related to provisional ballots (except for ballots and provisional ballots, which remain confidential) shall be made available for copying and inspection under IC 5-14-3."

Under Indiana law, "a ballot" means (1) the paper ballot prepared, printed and supplied for use at an election; (2) the electronic display prepared, printed and supplied for use on the front of an electronic voting system; or (3) the ballot card prepared, printed and supplied for use in a ballot card voting system. (IC 3-5-2-3)

Since the CVR contains the individual selections made by the voter as recorded on a DRE voting system or as recorded when the ballot card is scanned by the ballot card tabulator, the CVR isa voted ballot cast in the election. Therefore, as a ballot, the CVR is a confidential record under state law and excepted from the Access to Public Record Act (IC 5-14-3 et. seq.) according to IC 5-14-3-4.

"Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:
(1) Those declared confidential by state statute."

Additionally, it is a crime under Indiana law for any election official; meaning a person exercising a duty or responsibility to administer an election in Indiana, to disclose which candidates a voter voted on their ballot and how the voter voted on a public question (IC 3-14-4-9):

Sec. 9. An election officer who knowingly:
(1) discloses to a person the name of a candidate for whom a voter has voted or how a voter voted on a public question; or
(2) does any electioneering on election day;
commits a Class A misdemeanor.

Providing the CVR would disclose the name of each candidate and the public questions each voter, who cast a ballot that was tabulated, voted for. The part of the ballot

consisting of an electronic record is confidential and not available for public inspection. After the 22-month retention period, the electronic record or any paper record containing information on how a voter voted may be destroyed or transferred to a state educational institution. Even after the 22-month period expires, voted ballots and the CVR are not available for public inspection. (IC 3-10-1-31.1(h))

Please note that under state election law, the circuit court clerk is the custodian of the records produced during the administration of an election, according to IC 3-10-1-31.1, and the county election board is responsible for the care and custody of the voting systems in the possession of the county, while not in use during an election, according to IC 3-11-7-20 and IC 3-11-7.5-24.

As custodians of the records being sought and the machines or software that can produce that record, it is your responsibility under the Access to Public Records Act to make the final decision as it relates to responding to a public records request of this nature. This guidance is provided to you to inform your decision-making, but the final determination for record requests filed in your office is made by local officials.

The Election Division Co-Directors would also remind you that voting systems and electronic poll books are required to be sealed at all times and are subject the county's physical security policy as noted in IC 3-11-15-46.

Please contact the Indiana Election Division if you have any questions on this matter.

Additionally, any questions regarding the Access to Public Records Act can be asked to the Public Access Counselor, Luke Britt, at (317) 234-0906 or pac@opac.in.gov.

Sincerely,

J. Bradley King
Co-Director

Angela M. Nussmeyer
Co-Director

STATE OF INDIANA

ERIC J. HOLCOMB, Governor

PUBLIC ACCESS COUNSELOR
LUKE H. BRITT

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September 23, 2022

RE: Opinion 22-INF-7; Public Access to Cast Vote Records

This opinion examines issues raised by several formal complaints filed with this office against county circuit court clerks and the Indiana Election Division over access to data from the 2020 general election commonly referred to as "cast vote records."

BACKGROUND

Beginning in August, county clerks throughout the state began receiving public records requests for data from the 2020 general election commonly referred to as a "cast vote record."

On August 26, 2022, the Indiana Election Division—a division of the Secretary of State's office—issued a memo to circuit court clerks, election directors, and election administrators offering guidance on handling the pending requests. In sum, the Indiana Election Division concluded a CVR is confidential by statute; and thus, not disclosable under the Access to Public Records Act (APRA). Specifically, the election division asserted that a CVR is the equivalent of a ballot[1] cast in an election because it contains information on how each individual ballot was cast and tabulated, which includes individual selections made by the voter as recorded on a direct record electronic (DRE) voting system.

Additionally, the election division asserted that a CVR is confidential even if a specific ballot cannot be traced to a specific voter because providing the CVR would disclose the name of each candidate and public question answer each voter selected.

Around the same time, this office began hearing concerns from requesters and public agencies regarding access to CVR data. Requesters were

[1] "Ballot" is defined under Ind. Code § 3-5-2-3.

interested in both accessing the CVR data and extending the 22-month retention period to prevent the data from being discarded. Most, if not all, of the requesters that contacted this office were convinced the CVR data would be deleted or destroyed on Saturday September 3, 2022.

This office received 17 formal complaints against 14 counties. Most complainants requested priority status, which this office denied. None of the complainants cited any discernable reason for priority status as required by the Indiana Administrative Code. *See* 62 IAC 1-1-3.

Since the nature and substance of the complaints are substantially similar, this office consolidated the complaints into one action. This opinion will apply to each of the pending complaints concerning public access to and retention of CVR data for the 2020 general election. Both the Indiana Election Division and the county circuit court clerks were advised of the complaints. An index of complaints can be found at the end of this opinion.

ANALYSIS

1. The Access to Public Records Act (APRA)

The Access to Public Records Act (APRA) states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." Ind. Code § 5-14-3-1. The Indiana Election Division and county circuit court clerks are public agencies for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q).

As a result, unless an exception applies, any person has the right to inspect and copy an agency's public records during regular business hours. Ind. Code § 5-14-3-3(a). Indeed, APRA contains mandatory exemptions and discretionary exceptions to the general rule of disclosure. *See* Ind. Code § 5-14-3-4(a) to -(b).

1.1 Cast vote record (CVR)

At the heart of this controversy is what "cast vote record" means. As an initial matter, the term "cast vote record" is not defined under the Indiana Code or relevant caselaw. The public records requests appeared universal and not specific to Indiana.

Even so, the Indiana Election Division observed that a cast vote record is generally defined as "the individual lines of data that capture how each individual voter voted. This could be the data entered on a direct record electronic voting system or data pulled from a scanned ballot card by a ballot card tabulator." The division cited Indiana Code section 3-10-1-31.1(b), in part, as authority to preserve the confidentiality of ballots. By the election division's definition, cast vote records remain confidential as well.

Based on the information provided from election officials, voting machine vendors, and the requesters, there is significant and disparate disagreement about what data and reports are available from county clerks, much less what a "cast vote record" even is. In fact, many complainants submitted material suggesting "cast vote record" is a fungible term that could entail several different definitions and associated data.

What is more, some terms appear to be only applicable to an official statutory audit or recount period versus what is available to the general public once those contests are concluded. Additionally, many of the terms used by some of the requesters seem to be specific to a certain type of election machine that is simply not used in Indiana. In other words, there is no homogenous definition of "cast vote record," which makes it impossible to reconcile the various interpretive definitions without a fact finding.

Many requesters rely on legal authority from other states as support for their position. Out-of-state authorities, however, are not binding on Indiana. Other states define "cast vote record" but their laws are written differently from those in Indiana. The complainants did not provide sufficient countervailing evidence or persuasive arguments demonstrating any of the denials were deficient.

Toward that end, the investigative authority of this office and the formal complaint process is governed by statute. *See* Ind. Code § 5-14-5-1, to -12. Although a public agency is required to cooperate with this office during any investigation or proceeding, this office does not have administrative subpoena power, the authority to order and take sworn testimony, or to authenticate evidence.

When there can be no consensus on the public records sought, it is inappropriate for this office to make a definitive conclusion in an administrative context. Ultimately, the complainants and respondents cannot agree on the "who," "what," "when," and "where."

Judicial remedies are available under APRA to anyone dissatisfied with this opinion, however, there are no further administrative remedies through this office. Petitioning a court for a declaratory judgment or injunction is one avenue, as is approaching legislators for statutory clarification. The complainants sought and received this advisory opinion. As a result, this office's role in this matter has concluded.

CONCLUSION

Based on the foregoing, it is the opinion of this office that the respondent agencies carried their initial burden of proof for the nondisclosure as required under the Access to Public Records Act.

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Department of Justice, Public Integrity Section, Election Crimes Branch (202) 514-1412
Department of Defense, Federal Voting Assistance Program Toll Free (800) 438-8683
Federal Election Commission (202) 694-1100; Toll Free (800) 424-9530
Federal Communications Commission (202) 418-2120 or (888) 225-5322

COUNTY ELECTION BOARD MEMBERS:

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