



Election Division Dispatch

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NEWS & UPDATES

Primary Election—Party Affiliation Challenge

Our office is often asked if Indiana has a “closed” or “open” primary. A closed primary, generally speaking, means the voter registers to vote indicating a party affiliation, which voters do not do in Indiana. Instead, the voter develops a voting history based on which party’s primary ballot was chosen by them. An open primary usually means there are no restrictions on who can vote in the primary.

Indiana strikes a balance between the two and is closer to a closed primary than an open one. Our state law (IC 3-10-1-6) notes that a voter may vote in a party’s primary election:

- (1) if the voter, at the last general election (Nov. 2022), voted for a majority of the regular nominees of the party holding the primary, or
- (2) if the voter did not vote in the last general election (Nov. 2022) but intends to vote for a majority of the party’s candidates in the next general election (Nov. 2024).

In fact, in primary elections only, a voter of the precinct may challenge another voter on Election Day, if it is believed the voter does not affiliate with the party whose ballot the voter selected. The challenger would complete the PRE-6 affidavit, which all of your poll workers should have in their Election Day materials.

The voter can overcome the challenge and vote a regular ballot, if otherwise qualified, if the voter completes their portion of the affidavit which confirms they meet one of the two qualifications in IC 3-10-1-6 to vote in the party’s primary.

Ballot “Selfies” & Smartphones

A reminder that the former “ballot selfie” law (IC 3-11-8-17.5) prohibiting an individual from taking a photo of their completed ballot and sharing it **was found by a federal court to be unconstitutional in 2017 and is no longer enforceable pursuant to court order**. However, the statute has not been repealed, which is why it is printed in the Title 3 Code Book and searchable on iga.in.gov. Please be sure your staff, poll workers, absentee voter boards, and others involved in election administration are aware that the “ballot selfie” statute cannot be enforced.

Voters are permitted to use their smartphone or other electronic device or written materials to assist them with completing their ballot. This does not constitute electioneering under IC 3-14-3-16 as long as the materials or images are not displayed in a way for others to see. (IC 3-11-8-18.5)

CEB-9: County Election Report

State law requires the CEB-9 to be filed in SVRS. While the form includes lines for your CEB members to sign, this was added as a request by counties to keep with their records. There is no need to email or fax the signed form to our office, or to attach it to your completed CEB-9 in SVRS.

CALENDAR

May 4, 2024: All county clerk’s offices must be open for early voting; vote center counties must also open one additional vote center used on election day for early voting

May 6, 2024 (NOON): Deadline for FPCA to be filed to request faxed/emailed ballot; Deadline for ABS-Traveling Board to be filed; Early voting ends

May 7, 2024: Primary Election Day; polls open from 6A to 6P (local time); ABS-Mail ballots due by 6P (local time)

May 15, 2024 (NOON): Deadline for ABS voter to return ABS-18A, ABS-18B to cure mismatched or missing signature

May 17, 2024 (NOON): Deadline to receive an ABS ballot issued to an overseas or overseas military ballot by mail, which must be counted if the envelope is postmarked on or before May 7, 2024

May 17, 2024 (NOON): Deadline for a provisional ballot voter with ID issues to bring their ID to the CEB or sign an affidavit (PRO-10) that the voter is indigent or has a religious objection to having their photo taken for an ID

May 17, 2024 (3PM): Deadline for CEB to determine whether or not to count a provisional ballot

May 20, 2024 (NOON): Deadline for CEB to certify office-level election results to IED; must be done in SVRS

May 21, 2024 (NOON): Deadline for counties to file CEB-9; must be done in SVRS

May 21, 2024 (NOON): Deadline for candidate to file recount/contest action following primary election

May 21, 2024: Voter Registration re-opens; first day an ABS app can be filed for November election

May 21, 2024: First day a school board candidate can file CAN-34 petition & CAN-12

May 24, 2024: First day, after noon, to issue a certificate of election to a PC (CEB-14) or delegate (CEB-15) (no other certificates of election would be issued after the primary)

May 24, 2024 (NOON): Deadline for state or county party chair to file recount/contest action following the primary election

May 27, 2024: IED Closed (Memorial Day)

MAY WEB TRAINING

May 2 & 9 | Post-Election Processing

May 14 & 16 | CEB Form Generation Overview

May 12 & 23 | Petitions Overview

May 28 & 30 | US District Court Data Processing

2024 Calendar is posted to the [INSVRS County Portal](https://www.in.gov/insvrs) but is subject to revision.

Information in this newsletter is provided by the Indiana Election Division as a courtesy to county election administrators. If a person is unclear concerning election law provisions, the Election Division can serve as an interpretive source. However, where important legal rights are concerned, you must consult with your own attorney to be fully and properly advised.

IN FOCUS: Summer Candidate Filings

More candidate filing deadlines will be upon us this summer, as ballot vacancies will be filled, conventions held, and more petitions filed for minor party, independent, and school board candidates to gain ballot access.

D & R Ballot Vacancies

If a D or R did not file to run for an office in the primary election, the parties are able to fill those ballot vacancies not later than noon, July 3, 2024. There are two options for filling a local office ballot vacancy under IC 3-13-1:

1/ Direct appointment by the chair or central committee. The party organization may authorize the chair or central committee first, by passing a resolution or adopting a motion at a party meeting. There is no special state form and state law does not provide direction on what needs to be in the resolution. For example, some parties give the chair limited authority to fill ballot vacancies in a specific year, term of chair's service, or no end date at all. (Note: this authorization DOES NOT apply to elected office vacancies!) The appointments must be made by noon, July 3, 2024, and the paperwork (CAN-31, CAN-12, CAN-29) filed not later than noon, July 3, 2024.

2/ By holding a caucus of eligible PCs not later than noon, July 3, 2024. Notice of the caucus (CAN-30) must be sent to eligible PCs by first class mail not later than 10-days before the caucus is held AND notice must be filed with the county clerk not later than noon, 10-days before the caucus is held. The candidate must file their CAN-31 declaration with the chair of the caucus AND with the county clerk not later than 72-hours before the caucus is held. (At this stage, the CAN-12 is not required.) After the caucus is held, the CAN-29 certificate of candidate selection and the CAN-12 statement of economic interests must be filed not later than noon, July 3, 2024.

Note: Local offices include judicial office and prosecuting attorney; however, the paperwork noted in #1 and #2 for these two offices is filed with IED NOT with the county clerk. The CAN-12 is also not used; instead, the candidate must file the statement of economic interests prescribed by the Commission on Judicial Qualifications using their portal.

Note 2: State legislative vacancies are managed by state parties & filed with IED.

Libertarian Candidates

The Libertarian Party of Indiana generally nominates their candidates for federal, state, and local offices at a state or county convention. Instead of filing declarations of candidacy with the CEB, the LPIN county convention chair and secretary will certify the Party's nominees to the CEB using the CAN-22 certificate of nomination along with the candi-

date's CAN-12 statement of economic interests. If used, the LPIN county convention must be held not later than noon, July 3, 2024, and paperwork filed with the CEB by the same deadline.

Should the LPIN not nominate candidates for all offices on the ballot in November at their convention, the party has until noon, July 3, 2024, to fill a ballot vacancy. The LPIN chair will file notice with the CEB of their party's intent to fill a ballot vacancy for local office, which must be filed not later than ten days before the ballot vacancy can be filled. No state form is prescribed; a list of offices on letterhead signed by the chair is sufficient.

If ballot vacancies are filled by LPIN, the CAN-32 and CAN-12 must then be filed with the CEB not later than noon, July 3, 2024.

Note: L candidates filling a vacancy for judge file paperwork with IED and use the statement of economic interests created by the Commission on Judicial Qualifications not the CAN-12.

Independent & Minor Party Candidates

Independent and minor parties have two ballot access methods—through the petition process or to be a write-in candidate.

If an independent or minor party candidate wants their name printed on the ballot, then they must go through the petition process. Beginning January 10, 2024, candidates may file petition signatures using the CAN-19 or CAN-21 forms with the county VR office. The CAN-21 is used for local offices; the CAN-19 is used for federal, state, state legislative, and judicial offices, including prosecuting attorney.

The individual signing the petition must be a registered voter in the election district of the office the candidate is seeking at the time the petition is processed.

In order to gain ballot access, the candidate must collect signatures totaling at least 2% of the total votes cast in the 2022 SOS race in the precincts of the election district. This means county election officials will need to pull out the November 2022 precinct level results and calculate the signature threshold for local offices using the current office boundaries. (Countywide totals can be found in the back of the 2024 Candidate Guide.) State legislative or federal candidates should contact IED for this information.

CAN-19 or CAN-21 petitions must be filed with the county VR official by noon, July 1, 2024, for the petition to be reviewed and certified. If seeking a local office, the candidate must also submit their CAN-12 with the first batch of petitions filed with the clerk's office. However, in the few counties with a separate county VR office, the CAN-12 is filed with the certified

petitions when those are filed with the county clerk or election board. The CAN-20 consent form must also be filed with the certified petitions not later than noon, July 15, 2024.

The county clerk must send a letter by certified mail to the candidate if the individual does NOT achieve the signature threshold for ballot access. If the candidate did collect enough signatures, then counties will send the candidate a CAN-5.

Some individuals want to be a write-in candidate. WRITE-IN CANDIDATES ARE NOT PRINTED ON THE BALLOT! The CAN-3 form may be submitted from January 10 through noon, July 3, 2024. For local offices, the CAN-12 must also be filed with the CAN-3.

School Board Candidates

NEW! Candidates for school board may file the CAN-34 petition and consent along with a CAN-12 beginning May 21, 2024, and not later than noon, June 20, 2024. There is no separate declaration of candidacy; instead, the consent of the candidate found on the back of the CAN-34 is used for this purpose. A candidate can file multiple CAN-34 forms, but only one needs to have a consent completed.

Most school board candidates will need to collect at least ten signatures of registered voters within the school corporation's boundaries. However, there are exceptions to this rule if the district is single member or subject to special legislation.

Additionally, some school corporation boundaries cross into more than one county. In these instances, the county with the largest population receives the CAN-34 & CAN-12, and then certifies the signatures on the petition. This means the "large" county will use a statewide search to certify names in other counties. This process, where another county certifies another county's voters, is unique to the CAN-34.

"Small" Town Offices

Towns with a population of less than 3,500 may move some or all of their municipal offices to even-numbered years through a local ordinance. Unless the local ordinance specifically requested the D/R candidates be nominated at the May primary election, then "small" towns will have town conventions to nominate D, L, and R candidates to the offices on the ballot, if there is a contest in that party for nomination to an office. This requires a candidate to file the CAN-16 and CAN-12 with the CEB not later than noon, Aug. 1, 2024.

More information on this topic can be found in the blue *2024 Election Administrator's Manual* or *2024 Candidate's Guide*.

Summer Nominating Conventions

This summer the Democratic and Republican parties will host their state conventions to nominate candidates for Attorney General and Lt. Governor candidate. Their nominating paperwork is filed with IED not later than noon, July 15, 2024. (The Libertarian Party held their state convention in March 2024.)

All three parties—D, R, L—will host a national convention to nominate their Presidential and Vice-Presidential tickets. For Indiana, the nomination paperwork is to be filed not later than noon, September 10, 2024.

There will be a statewide public question on the ballot this November to amend the state's constitution.

The state will certify to counties info for all federal (except for D/R/L President/VP candidates), statewide, state legislative, and judicial candidates on the ballot to counties not later than noon, August 23, 2024. The presidential ticket for the D/R/L parties will be certified to counties not later than noon, September 12, 2024.

Note: Presidential tickets for minor parties or those running as independents follow the same deadlines of submitting petitions to counties for certification by noon, July 1, 2024, and then filing certified petitions with IED not later than noon, July 15, 2024.

Filling Ballot Vacancies for Nov. Due to Candidate Withdrawals

Candidates on the November ballot may withdraw for any reason not later than noon, July 15, 2024. An original, signed copy of the CAN-24 must be filed by this deadline. If a D, L, or R candidate withdraws by July 15, then the political party has 30-days to fill the vacancy under IC 3-13-1 for an early ballot vacancy. This process is touched upon in the feature article on page 2.

However, after noon, July 15, 2024, a candidate on the ballot in November can only withdraw for limited reasons. For example, the candidate moves out of the election district, is removed by court order or is convicted of a felony, or a few other special cases, including death of the candidate.

The D, L, and R parties are still able to fill the ballot vacancy created due to these situations; however, the procedures to do so are a little different depending on the timing. Between noon, July 15, and October 5, 2024, the early ballot vacancy procedures in IC 3-13-1 are followed.

On or after Oct. 6, 2024, the parties follow "late" ballot vacancy procedures under IC 3-13-2. The *2024 Candidate Guide* provides more details, including situations where a minor party candidate may be able to fill the ballot vacancy for November.

QUESTIONS OF THE MONTH

Q. Can we use jail inmates to deliver voting systems?

A. No. State law explicitly forbids the use of inmates to deliver voting systems (IC 3-11-3-10(e)). Instead, state law requires a bi-partisan team to deliver the equipment OR the CEB OR a commercial delivery service. (IC 3-11-3-10(d)) The CEB lacks home rule authority to adopt delivery procedures contrary to state law.

Q. Do we use the ABS-5 on Election Day?

A. No. The ABS-5 is used to troubleshoot absentee issues before Election Day. On Election Day, if a voter did not receive their ABS ballot, then they can complete the PRE-5 at the voting location and vote a regular ballot, if otherwise qualified. A voter can also surrender their ABS to the Inspector, which allows them to be issued a regular ballot if otherwise qualified. Should the voter's ABS be rejected on Election Day, then the individual may request the ABS-21 from the CEB not later than 5PM on Election Day. This allows the voter to go to their voting location to cast a regular ballot if otherwise qualified.

Q. Can the ABS-18A/ABS-18B be delivered to the Inspector at an Election Day voting location?

A. Yes. The affidavits used for a missing or mismatched signatures on ABS materials can be hand-delivered to the Inspector on Election Day. However, voters have until noon, 8-days after the election (May 15, 2024 for the primary) to file the affidavit by email, fax, hand-delivery or mail.

Q. Can we use INCite to verify a voter's Indiana driver's license number or SSN4 for VR or ABS purposes?

A. No. Counties are to use SVRS to validate Indiana DLN numbers using the direct connection to BMV and SSA records. INCite leverages court data that may not be accurate or validated by the BMV. More importantly, federal and state law do not authorize its use for this validation feature and instead relies upon the information sourced directly from BMV/SSA.

Q. Can a CAN-1 challenge for a local candidate that won the primary election be filed?

A. No. For local offices, the challenge period for those filing to run in the primary election has passed. If there are concerns about a candidate's qualifications, a contest lawsuit may be filed by certain persons under IC 3-12-8.

MISSING BALLOT VACANCY DEADLINES

As noted in this newsletter there are various filling deadlines that the county party chairs and candidates must observe when filling an early ballot vacancy.

Per IC 3-13-1-21 if the CAN-30 caucus notice or Libertarian notice, CAN-31 candidate declaration form, or CAN-29 certificate of candidate selection is offered for filing after the deadline then that specific form cannot be accepted according to IC 3-5-4-1.9 and the certificate of candidate selection placing the candidate on the ballot cannot be accepted. The political party would need to re-do the process to fill the ballot vacancy if there is time remaining.