

The State of Texas



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Jane Nelson
Secretary of State

ELECTION ADVISORY **NO. 2024-03**

TO: County Elections Officers (County Clerks/Elections Administrators/Tax Assessors-Collectors)

FROM: Christina Worrell Adkins, Director of Elections *CWA*

DATE: January 16, 2024

RE: Emergency Ballot Procedures

FPCA Ballot Mailing Deadline

Saturday, January 20, 2024 (the 45th day before the March 5, 2024 primary election) is the deadline for ballots to be mailed to all military and overseas voters. Federal postcard applications (FPCAs) received on or after the 45-day mailing deadline, must be processed and the ballot mailed not later than the seventh calendar day from the date the FPCA was received. **If your official ballots are not ready to be sent by January 20, 2024, you must create and send emergency ballots. Please see below for emergency balloting procedures. It is not acceptable to miss the deadline and simply wait until your official ballots are ready to mail ballots outside the United States.**

Emergency Ballots for FPCA and ABBM Voters

You have the authority to create emergency ballots. If you do not receive your ballots in time to meet the 45-day deadline, you may create your own paper ballots, or, if you have a copy of the ballot in the Adobe.pdf format, which is often provided by the printer for your proofing, you may forward a copy to the voter. If you have a physical copy of the ballot and a scanner, you may attach a copy of the scanned ballot to an email for the voter. If you have a copy of the ballot in Microsoft Word, you may attach a copy in that format, but it would be preferable to send the ballot as a PDF attachment. The ballot should be in a digital format that the average voter will be able to open and print.

Emergency Ballots for Voting by Personal Appearance

Emergency ballots may be used in the event a polling place runs out of ballots or experiences technical problems with a voting system. Under state law, once the polling place is open, it must remain open. Having run out of ballots is not a reason for closing the polling place or suspending voting until more ballots arrive. Please advise election judges to monitor the number of ballots remaining on

election day and contact you immediately if they run low. This memorandum provides the procedures for replenishment of a polling place's ballot supply. **Please distribute a copy of this memorandum to each of your election judges.**

NOTE: County Chairs are responsible for ensuring there are enough ballots at polling places during the primary unless the County Chair contracted with the County Clerk or Elections Administrator for the distribution of ballots.

Pre-Election Day Assessment of Ballot Stock

Before election day, your office should assess your early voting ballot supply for possible use on election day, regardless of what type of voting system your county uses. If early voting turnout by mail or by personal appearance has been heavy, consider having additional ballots prepared for potential use on election day.

Preparing Emergency Ballots for Election Day Paper and Optical Scan Precincts

If a precinct is about to run out of ballots, whether paper or optical scan ballots, you have two options.

1. Rush additional ballots to the precinct when the election judge notifies you of the shortage. If you do not have additional election day ballots for that precinct, your office can use the early voting ballots for that precinct. If no early voting ballots for that precinct are available, your office can make adjustments to ballots of the same ballot style in accordance with Section 52.006 of the Texas Election Code.
2. (a) You or the election judge may take one of the unvoted official ballots and make copies. Before copying the official ballot, white out or obscure the ballot serial number printed on the ballot. The judge must sign or stamp the backs of the copied ballots and serially number them, beginning with the next number from your ballot order. An election judge's signature may not be photocopied for this purpose. Please note that our office prefers that copies of an official ballot be used. If you or the precinct election judge do not have any official ballots to copy, copies of a sample ballot can be used instead. You must make a note on the ballot register form indicating how many emergency ballots were created and the range of serial numbers used.

(b) If a copier is not available, you may copy the ballot by hand on ordinary blank paper. Rather than copying the ballot yourself, you may allow voters to write their choices on a sample ballot available at the polling place. In this situation, the judge should sign and create serial numbers on several sample ballots. Place at least 3 face down and out of numerical sequence on the table. The judge should explain to voters that the polling place has run out of ballots and allow them to choose one of the disarranged sample ballots just as they would choose one of the official ballots.

Preparing Emergency Ballots for a DRE Voting System

If your county is using a DRE voting system and all voting machines in a precinct malfunction, instruct the election judge to follow the procedures prescribed by your county clerk or elections administrator. A best practice is to provide each precinct with paper sample ballots for use in

emergencies or for provisional voters. Instruct the election judge to continue using sample ballots and make additional copies as needed. If there are no paper sample ballots in the polling place, the judge should follow procedure 2.(b) prescribed above.

Please note that if people are waiting in line to vote at 7:00 p.m., they must be allowed an opportunity to present themselves to be qualified for voting.

If you have any questions, please contact our office toll-free at 1-800-252-2216.

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