



## ADMINISTRATION OF ELECTIONS - ELECTRONIC VOTING SYSTEMS -

### Activities Prior to Opening the Polls on Election Day

#### Notice of Voting System Preparation

As of part of its compliance with section 1110-A(d) of the Election Code, 25 P.S. § 3031.10(d), on or before the fortieth (40<sup>th</sup>) day preceding any primary or election, a county board of elections shall mail a notice stating the times and places where preparation of the voting system shall be started. This letter shall be sent to the chairmen of the county committee of each political party that is entitled to participate in primary elections in the county, as well as to the presiding officer of any organization of citizens in the county whose purpose is to investigate or prosecute election frauds and which organization has registered with the county board of elections at **least fifty (50) days before the primary or election.**

The county board of elections shall appoint a custodian of the electronic voting system and deputy custodians to prepare the voting system and all of its components for use in any election which uses the electronic voting system. Compensation, fixed by the county board of elections, shall be provided to the custodian. The custodian shall represent the county board of elections during the preparation of the electronic voting system. See section 1110-A of the Election Code, 25 P.S. § 3031.10(c).

#### Instructions on Use of Electronic Voting Systems

As of part of its compliance with section 1111-A of the Election Code, 25 P.S. § 3031.11, a county board of elections shall instruct voters on the use of electronic voting systems in the following way.

- *Public exhibition thirty (30) days before each primary or election.* During the thirty (30) days before an election, the county board of elections shall place on public exhibition the components of an electronic voting system that are used by the voter, containing a sample ballot for instructional use. “Such components shall be under the charge and care of a person competent as custodian and instructor. No voting system component which is assigned for use in an election shall be used for such public exhibition and instruction after having been prepared and sealed for the election.” Section 1111-A(a) of the Election Code, 25 P.S. § 3031.11(a).

## **Testing Central Automatic Tabulating Equipment**

As of part of its compliance with the requirements of section 1114-A(a) of the Election Code, 25 P.S. § 3031.14(a), a county that uses an electronic voting system that provides for central tabulation of ballots shall, by the **fourth (4<sup>th</sup>) day prior to each election**, have the central automatic tabulating equipment publicly tested to ascertain that it will accurately count the votes cast for all offices and all questions. Public notice of this test shall be given **at least forty-eight (48) hours prior to the test**, unless the central automatic tabulating equipment was tested during the voting system preparation provided for in part 1. In either event the testing must be done publicly, and public notice must be given at least forty-eight hours prior to the test.

## **Secrecy in Voting**

To assure compliance with the constitutional and statutory requirements that secrecy in voting be preserved (*see* Pa. Const. Art. VII, § 4; and 25 P.S. § 3031.7(a)), county boards of elections should use privacy screens or hoods or take other physical measures that prevent other individuals in the polling place from seeing how an elector has cast his or her ballot on the machine. Electronic voting machines shall be positioned in the polling place in such a manner that other individuals may not watch an elector casting his or her ballot.

## **Activities While the Polls are Open on Election Day**

### **Instructions on Use of Electronic Voting Systems**

As authorized by section 1111-A of the Election Code, 25 P.S. §3031.11, elections officials can use diagrams to show voters how to use an electronic voting system before they enter the voting booth and give them audible instructions while they are in the voting booth whenever the voters ask for such help. When providing this help, elections officials shall not enter the voting booth with the voters or while the voters occupy the voting booth, and shall not request, suggest or try to persuade or induce the voters in any manner to vote for any particular candidate, ticket of candidates, or other persons, or in favor or against a ballot question.

At primary elections, the election officer in charge shall adjust the voting system before the voter records any votes so that the voter will only be able to register a vote for candidates on the ballot of the party in which he or she is registered. The voter must be able to vote for each candidate individually. A voter may vote for any person for any office which his or her name does not appear upon the ballot label as a candidate by writing the identification of the office and the name of such person in or upon the appropriate receptacle. See section 1112-A of the Election Code, 25 P.S. § 3031.12.

At all other elections, the voter shall be able to vote for each individual candidate or may vote a straight party ticket. At any general election at which presidential electors are to be chosen, each voter shall be permitted to vote by one operation for all presidential electors of a political party.

### **Voter Leaving Voting System without Completely Casting Ballot**

A county board of elections that uses a Direct Recording Electronic (DRE) voting system should implement the following procedures to prevent a voter from leaving the voting system without completing the process of casting his or her ballot (sometimes referred to as “the fleeing voter”).

- The county board of elections shall direct each local election board to post in a conspicuous place within the polling place informational posters containing information that alerts a voter to verify before leaving the voting compartment that his or her ballot has been properly cast on the electronic voting system.
- At each election, make a copy of the last screen that the voter will see after casting his or her ballot. Post a copy of that screen in each voting booth. When a district election official escorts the voter to the voting booth, point to the copy of the last screen and tell the voter that his or her vote will not be recorded until the voter sees that the last screen on the voting system is the same as that on the copy.
- If possible, try to notify the voter before he or she leaves the enclosed place in the polling place to return to the voting booth to complete the voting process.
- If these procedures are not successful and the voter leaves the polling place without completing the process for casting the ballot, then two district election officials of different political parties should jointly cancel that elector’s vote. The district election officials shall keep a record of the number of canceled votes so that they can compare that record to the numbered list of voters.

See the Directive Concerning the Use, Implementation and Operation of Electronic Voting Systems by the County Board of Elections.

### **Inoperable Electronic Voting Systems – Repairs, Substitutes and Emergency Back-up Paper Ballots**

In the event that an electronic voting system or any of its components should become inoperable during the election, the county board of elections is required, “as promptly as possible,” to make necessary repairs or to use substitute machines. 25 P.S. § 3031.20(b). However, in the event that the county board of elections is not able promptly to make repairs or to use a suitable substitute machine, section 1120-A(b) of the Election Code

permits the county board of elections to use “paper ballots, either printed or written and of any suitable form,” for registering votes (described herein as “emergency back-up paper ballots”).

For this purpose, county boards of elections may use, as “emergency back-up paper ballots,” ballots specifically designed for use as emergency back-up paper ballots; surplus, un-voted absentee ballots; surplus, un-voted alternative ballots; ballots that the county board of elections has supplied to the district election board for use as provisional ballots; or other paper ballots that are “either printed or written and of any suitable form.”

- **Except as noted below, the procedures applicable to the casting of absentee ballots, alternative ballots or provisional ballots (declaration and affidavit requirements) do not apply to an emergency back-up paper ballot that is cast under section 1120-A(b) of the Election Code.**
- When ballots originally intended for use as absentee ballots, alternative ballots or provisional ballots are used as emergency back-up paper ballots under section 1120-A(b) of the Election Code, the ballot is cast as a regular ballot, and not as an absentee ballot, alternative ballot or provisional ballot.
- A county board of elections must supply an adequate amount of emergency back-up paper ballots to ensure that voting continues uninterrupted until the voting systems become operable.

As a regular ballot, the emergency back-up ballot should be deposited by the voter in a ballot box or other secure receptacle designated by the board of elections for the deposit of completed emergency back-up paper ballots. Absentee ballots, alternative ballots or provisional ballots that are being used as emergency back-up paper ballots must be identified as such and must be segregated from regular absentee ballots, alternative ballots and provisional ballots.

**EXCEPTION NOTE: Persons permitted or required to vote by provisional ballot must follow the procedures applicable to casting of provisional ballots, whether electronic voting systems or paper ballots are used to conduct an election.** When ballots labeled as provisional ballots are employed under section 1120-A(b) of the Election Code as emergency back-up paper ballots for the casting of regular ballots in place of inoperable machines, the local board of elections must continue to require individuals to cast provisional ballots when those individuals are required by law to vote in that manner, subject to all of the procedures prescribed for casting a provisional ballot at section 1210(a)(4) of the Election Code, 25 P.S. § 3050(a.4).

### **Accessible Electronic Voting Systems**

County boards of elections must direct the district election boards to prepare, in the manner provided by section 1110-A(g) of the Election Code, 25 P.S. § 3031.10(g), an

electronic voting system for voting in a precinct where such system is necessary to provide to a disabled voter the same opportunity for access and participation in the voting process as is afforded voters who do not have a disability. Audio components for the visually impaired must be in working order and must present instructions and information in a user-friendly and understandable format. **(All district election boards must comply with this requirement regardless of whether the district board anticipates that a disabled voter will present himself or herself to vote on the day of the primary or election.)**

## **Activities after Closing the Polls on Election Day**

### **Post Election Procedures**

As soon as the polls have been closed and the last elector has voted in districts having an electronic voting system and district tabulation is provided for, the number of ballots issued to voters, and the number of ballots, as well as any spoiled or returned by voters and cancelled, shall be announced to all present in the polling place and entered on the general returns of votes cast at such primary election. The district election officers shall then compare the number of names marked as voting in the district register, "Voter's Check List" and numbered lists of voters, shall announce the result and shall enter on the general returns the number of voters who have voted.

If votes are computed and tabulated in the election district, all write-in votes which have been properly cast and records on the voting device shall be counted and recorded on a standard form provided for this purpose. District total cards or other appropriate data storage device may also be prepared by the district board of election reflecting the results of voting in that district. If district tabulation of votes is provided for by the voting system, the district election officers shall, immediately upon the close of the polls, cause the automatic tabulation equipment to tabulate the ballots cast during the election and shall prepare duplicate records of the total number of voters whose ballots have been tabulated.

In the event that district tabulation of votes is not provided for by the voting system, it shall be the responsibility of the county board of elections to make available to the public at the central tabulating center the election results for each election district. Furthermore, the county board of elections must also post such results in each election district by no later than 5:00 P.M. of the second day following the election.

By two (2) o'clock A.M. on the day following the election, all of the following shall be returned to the county board:

- Envelopes.
- Supplies, including all uncast provisional ballots.

- Returns, including all provisional ballots and absentee ballots cast in the election district.

All reports and returns shall be signed by all district election officers.

*See 25 P.S. § 3031.13.*

### **Counting and Recording Absentee Ballots**

In order to assure compliance with all provisions of the Election Code, especially sections 1113-A, 1115-A, 1226 and 1308 of the Election Code, 25 P.S. §§ 3031.13, 3031.15, 3066 & 3146.8, county boards of elections shall **not, at any time**, manually enter absentee ballots into an electronic voting system, including the time after the voting system has been locked against voting at the closing of the polls.

**THE COUNTING AND RECORDING OF VOTES CAST ON ABSENTEE BALLOTS MUST BE COUNTED AND RECORDED SEPARATELY FROM BUT IN A LIKE OR SIMILAR MANNER AS THE VOTES CAST ON ELECTRONIC VOTING SYSTEMS.**

### **Computation and Canvass of Returns – Random Sampling**

As part of the computation and canvass of returns, in order to comply with the requirement at section 1117-A of the Election Code, 25 P.S. § 3031.17, the county board of elections must conduct a statistical recount of a random sample of at least two percent (2%) of the ballots cast or two thousand (2,000) ballots, whichever number is fewer.

- For those counties using optical scan electronic voting systems, the county board of elections shall conduct the statistical recount manually.

For those counties using direct recording electronic (DRE) voting systems, the county board of elections shall conduct the statistical recount using the ballot images contained in the system, rather than the “totals tapes.”

### **Sealing Voting System Terminals for Recounts and Election Contests**

A county board of elections shall keep voting terminals sealed or otherwise locked against voting for at least twenty (20) days, or longer if there are recounts or election contests pending, unless a court should order the terminals to be opened. *See* section 1230 of the Election Code, 25 P.S. § 3070.

### **Reuse of Memory Cards and Retention of Ballot Images**

A county board of elections may reuse memory cards for the next election if the county maintains either a printed or electronic copy of the ballot images contained in the system.

For Federal elections, a county board of elections must retain these ballot images for 22 months from the date of the election. 42 U.S.C. § 1974. For municipal elections, the county board of elections must retain the ballot images for a least 20 days, unless ordered otherwise by a court as provided at section 1230 of the Election Code, 25 P.S. § 3070.

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