

### **Disclaimer:**

This guide is designed for informational purposes only. It is not legal advice and reliance on the information provided here does not create an attorney-client relationship. The Election Protection Coalition does not endorse the information contained in this guide, nor does the Coalition suggest that the information in this guide should be used as a basis to form a legal opinion or should be relied upon to pursue or refrain from pursuing legal action.

### Questions Involving Access to the Ballot:

#### **1. It is after 7:00 A.M. and the polling place is not open.**

Polling locations must be open at 7:00 a.m. on Election Day. If the polling location is not open at 7:00 a.m., immediately contact the local County Election Official. Contact information may be found at: <http://www.sos.state.tx.us/elections/voter/county.shtml>. Voters may also contact the hotline at 1-866-OUR-VOTE (1-866-687-8683) or a command center to report the problem. [TEX. ELEC. CODE § 41.031(a)]

If the polling location is open at 7:00 a.m., but the voting machines have not arrived, call a command center immediately. Voters should be permitted to vote instead with paper ballots. [See TEX. ELEC. CODE § 125.006(c)(2)]

#### **2. It is 7:00 P.M. and my precinct is closed or closing and they will not let me vote.**

Most polling locations must remain open until 7:00 p.m. on Election Day. Each qualified voter inside a polling location or waiting to enter a polling location at 7:00 p.m. is entitled to cast a ballot. [TEX. ELEC. CODE §§ 41.031–41.033]

If the polling location is closing or closed before 7:00 p.m., immediately contact the hotline at 1-866-OUR-VOTE (1-866-687-8683) or a command center to report the problem, as well as the local County Election Official. Contact information may be found at: <http://www.sos.state.tx.us/elections/voter/county.shtml>.

#### **3. There are equipment problems at my precinct and I cannot vote. What should I do?**

If the voting machines at the polling location experience a malfunction, immediately report the problem to the Presiding Judge assigned to the polling location. If the Presiding Judge is unable to resolve the problem, request a back-up paper ballot or ask to mark the voting machine ballot by hand. [TEX. ELEC. CODE § 125.006(c)(2) and (3)]

## Voter Registration and Who Can Vote:

### **1. My name doesn't appear on the voting list. Under what circumstances could it have been removed from the list of registered voters?**

A voter's name may only be removed from the list of registered voters by his or her written request, relocation to another county or state, lack of U.S. citizenship, mental incapacity (if determined by a final judgment of a court exercising probate jurisdiction), conviction of a felony, death, or in connection with a suspense list. [TEX. ELEC. CODE §§ 11.002, 15.081, 16.031–16.0332]

In most cases, each voter whose name was removed from the voter registration list on the basis of a determination of ineligibility who subsequently becomes eligible to vote must reregister to have his or her name restored to the list of registered voters. A voter removed from the voter registration list in connection with a suspense list may have his or her registration reinstated by submitting a statement of residence. [See TEX. ELEC. CODE §§ 13.002, 16.037]

### **2. I have a felony conviction. Can I vote?**

Texas law permits persons with felony convictions to vote so long as they have fully completed their sentence, including any term of incarceration, parole, supervision, or court-ordered probation. In addition, persons with felony convictions may also be allowed to vote if they have been pardoned or otherwise had their voting rights restored. [TEX. ELEC. CODE § 13.001(4)]

### **3. I am a college student. Can I vote where I go to school?**

College students may register and vote where they go to school, provided that they consider that location as their voting residence. A voting residence is the residence the student claims as the student's home, and which qualifies the student to vote on a particular ballot. A residence is defined as a person's home and fixed place of habitation, to which the person intends to return after any temporary absence. Students must be held to the SAME eligibility requirements as any other voter in the jurisdiction. If a student has been turned away at the polls, ascertain whether she or he has fulfilled all of the registration requirements (age, criminal status, durational residency requirements) and that the student has registered on time for this election. [TEX. ELEC. CODE. §§ 1.015, 13.143; see generally *United States v. Texas*, 445 F. Supp. 1245, 1261–62 (S.D. Tex. 1978), *aff'd* 439 U.S. 1105 (1979)]

## Identification and Provisional Ballot:

## **I. I do not have any identification with me. Can I vote?**

A voter may only cast a regular ballot on Election Day if she or he provides an acceptable form of identification. Only the following forms of identification are acceptable:

- A driver's license, election identification certificate, or personal identification card issued by the Texas Department of Public Safety that has not yet expired or that expired within the past 60 days;
- A U.S. military identification card containing the voter's photograph that has not yet expired or that expired within the past 60 days;
- A U.S. citizenship certificate containing the voter's photograph;
- A U.S. passport that has not yet expired or that expired within the past 60 days; or
- A concealed handgun license issued by the Texas Department of Public Safety that has not yet expired or that expired within the past 60 days.

[TEX. ELEC. CODE §§ 63.0101, 63.001(b),]

A disabled voter may be permitted to present a voter registration certificate on Election Day in lieu of one of the acceptable forms of identification listed above. A disabled voter may do so only if his or her registration application included:

- Written documentation from the Social Security Administration or the U.S. Department of Veterans Affairs evidencing the disability; and
- A statement from the Texas Secretary of State indicating that the voter does not have an acceptable form of identification.

[TEX. ELEC. CODE §§ 13.002, 63.001(h)]

Even if a voter does not have identification on Election Day, she or he is still entitled to vote a provisional ballot. To receive a provisional ballot on Election Day, the voter must sign an affidavit stating that she or he is a registered voter in the precinct and is eligible to vote in the election. [TEX. ELEC. CODE §§ 63.001(g), 63.011]

However, the voter's provisional ballot will not be counted unless the voter appears before the local Voter Registrar within six calendar days of the election to present one of the acceptable forms of identification listed above. Election officials are required by law to inform the voter where to find the local Voter Registrar. If a voter cannot provide an acceptable form of identification to the Voter Registrar, the provisional ballot will only be counted if the voter signs an affidavit claiming a religious or natural disaster exception.

[TEX. ELEC. CODE §§ 63.001(g)(2), 63.011(a), 65.054–65.0541]

## **2. Poll workers are turning voters away if they don't have a photo ID.**

If you are a hotline volunteer, encourage the voter to go back inside the polling location and demand the right to vote a provisional ballot.

If you are a field volunteer at a polling place, contact the hotline at 1-866-OUR-VOTE (1-866-687-8683) or the Command Center immediately to report the problem. An attorney will be dispatched to the polling location.

## **3. I am a registered voter who is not on the rolls at my precinct. Can I vote?**

Even if a registered voter's name does not appear on the rolls at his or her precinct, the voter is still entitled to cast a regular ballot, as long as she or he provides a voter registration certificate in addition to one of the acceptable forms of identification listed above. The voter registration certificate must indicate that the voter is registered to vote either in the precinct, or in a different precinct in the same county. If the voter registration certificate shows that the voter registered to vote in a different precinct, the voter must also sign an affidavit. [TEX. ELEC. CODE § 63.006]

If the voter does not have his or her voter registration certificate on Election Day, the voter is still entitled to vote a provisional ballot. To receive a provisional ballot on Election Day, the voter must sign an affidavit stating that she or he is a registered voter in the precinct and is eligible to vote in the election. Assuming the voter provided an acceptable form of identification on Election Day, she or he will not have to appear before the local Voter Registrar to have his or her vote counted. [TEX. ELEC. CODE §§ 63.001(g), 63.009, 63.011, 65.054]

## **4. I have been offered a provisional ballot. What should I do? When should I cast a provisional ballot?**

Provisional ballots are a LAST resort. Inquire why the voter was offered a provisional ballot. A voter should receive a provisional ballot for one of the following reasons:

- The voter does not have the required identification with her or him at the polls;
- The voter has received a disability exemption from the identification requirement, but does not have a voter registration certificate with her or him at the polls;
- The voter applied for an absentee ballot, but chose to vote in person at the polls;
- The voter is casting his or her ballot during court-ordered extended polling hours;
- The voter is attempting to vote in a precinct other than the one in which she or he is already registered;
- The voter's name is missing from the rolls at the precinct, and the voter does not have a voter registration certificate with her or him at the polls; or
- The voter's is registered on the precinct rolls, but his or her registered address is outside the political subdivision.



Other than for these reasons, the voter should be able to cast a regular ballot. However, if the voter needs to cast a provisional ballot, the voter must sign an affidavit stating that she or he is a registered voter in the precinct and is eligible to vote in the election. [TEX. ELEC. CODE § 63.011; 1 TEX. ADMIN. CODE § 81.172(a)]

Additionally, if the voter received a provisional ballot due to a lack of identification, she or he must appear before the local Voter Registrar within six calendar days of the election to present one of the acceptable forms of identification listed above. Election officials are required by law to inform the voter where to find the local Voter Registrar. If a voter cannot provide identification to the Voter Registrar, the provisional ballot will only be counted if the voter signs an affidavit claiming a religious or natural disaster exemption. [TEX. ELEC. CODE §§ 63.001(g)(2), 63.011(a), 65.054–65.0541]

## Where to Vote:

### **1. Where do I vote (for voters who have not moved recently)?**

Each voter must vote at the polling location designated for his or her precinct. Polling locations may be found by contacting the hotline at 1-866-OUR-VOTE (1-866-687-8683), or by accessing the Texas Secretary of State's website at: <https://team1.sos.state.tx.us/voterws/viw/faces/Introduction.jsp>. [See TEX. ELEC. CODE §§ 11.003, 43.001]

### **2. I have moved WITHIN THE SAME PRECINCT and have not updated my address for voter registration purposes. Where should I vote?**

If the voter has moved within the same precinct, the voter should still go to the appropriate polling location for that precinct. If the precinct registration list still lists the voter's old address, the voter will be asked to update their registration information. If the updated address is within the precinct, the voter must be allowed to vote. [TEX. ELEC. CODE § 63.0011]

### **3. I have moved TO A DIFFERENT PRECINCT (within the same county) and I have not updated my address for voter registration purposes. Where should I vote?**

If a voter missed the deadline for updating his or her voter residence (30 days before an election), the voter should go to the polling location for his or her previous precinct. The voter will be asked to complete a statement of residence confirming his or her new address in the new precinct. [TEX. ELEC. CODE §§ 11.004, 63.0011]

### **4. I recently moved to a DIFFERENT COUNTY and I have not updated my address for voter registration purposes. Where should I vote?**

The voter should submit a new voter registration application to his or her new county's Voter Registration Official and vote a provisional ballot. Contact information may be

found at: <http://www.sos.state.tx.us/elections/voter/votregduties.shtml>. [See TEX. ELEC. CODE § 63.009]

Voters who have moved from one Texas county to another are also eligible to vote a limited ballot during the early voting period. A limited ballot entitles the voter on statewide offices and propositions, as well as offices and propositions covering a territorial unit in which the voter was a resident both before and after the voter's change of residence. [TEX. ELEC. CODE §§ 112.001–112.012]

## **5. Will a provisional ballot cast in the wrong precinct but correct polling place be counted?**

No. [TEX. ELEC. CODE §§ 63.011(a), 65.054(a); 1 TEX. ADMIN. CODE § 81.173(b)(2)]

### **Assistance at the Polls:**

#### **1. I am physically disabled and need assistance. Will my polling place be accessible?**

Texas law requires that each polling location be accessible to physically disabled voters. That means an accessible polling location:

- Has voting areas on the ground floor or on a floor accessible by elevator with doors that provide an opening of at least 36 inches in width;
- Doors, entrances, and exits used to enter or leave the polling place must have a minimum width of 32 inches;
- Any curb adjacent to the main entrance to a polling place must have curb cuts or temporary nonslip ramps;
- Any stairs necessary to enter or leave the polling place must have a handrail on each side of the stairs and a nonslip ramp; and
- The polling place may not have a barrier that impedes the path of a person with physical disabilities to the voting station.

[TEX. ELEC. CODE § 43.034]

Additionally, each polling location must also provide at least one voting station that is accessible to physically disabled voters. [TEX. ELEC. CODE 61.012]

Unfortunately, many polling locations do not meet these requirements. Should a voter be physically unable to enter the polling location, the voter may request that an election officer deliver a ballot to the voter at the polling location's entrance or curb. After the voter completes his or her ballot, either the election officer or a person accompanying the voter shall be permitted deposit the ballot in the ballot box. [TEX. ELEC. CODE § 64.009]

## **2. I am blind, physically disabled or cannot read English and require assistance at the polls in order to vote. Can I get assistance at the polls?**

Election officials must assist any voter who requires assistance to vote due to blindness, physical disability, or an inability to read the language in which the ballot is written. A voter is also entitled to receive assistance from any person of the voter's choice (other than the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's labor union). [42 U.S.C. § 1973aa-6; TEX. ELEC. CODE §§ 61.034, 64.032]

Federal and Texas law also requires that bilingual ballots, instructions, voting materials, and poll workers be made available to voters statewide and in certain counties:

- **Chinese:** Harris County, King County
- **Kickapoo:** Maverick County
- **Navajo:** San Juan County
- **Pueblo:** El Paso County
- **Spanish:** Statewide
- **Vietnamese:** Harris County, King County

[42 U.S.C. § 1973aa-1a; TEX. ELEC. CODE § 272.001–272.011; Voting Act Amendments of 2006, Determinations Under Section 203, 76 Fed. Reg. 63,602 (Oct. 13, 2011)]

## **3. I don't know how to use the voting equipment. Can I get help?**

Election officials may not assist a voter with marking the ballot, unless the voter requires assistance due to a physical disability or language barrier. However, Texas law permits election officials to provide voters with general information regarding the ballot and the operation of voting equipment. In addition, polling locations are required to display voting instruction posters to voters waiting to cast their ballots. [TEX. ELEC. CODE §§ 62.011, 64.031, 64.036; see *Carter v. White*, 161 S.W.2d 525, 525 (Tex. Civ. App. 1942)]

## **4. What if an individual with a disability is told they can't vote because "they don't understand"?**

Sometimes individuals with cognitive disabilities, speech impediments, or other disabilities are told they can't vote because of stereotypes that "people like them" are not smart enough to vote or don't fully understand the electoral process. The only way a person's cognitive ability can affect his or her eligibility to vote is if the person has "been determined mentally incompetent by a final judgment of court." A poll worker or county election official has no legal right to conduct their own assessment of a person's cognitive fitness to vote. [TEX. ELEC. CODE § 11.002]

## **5. What if an individual is denied assistance or is denied his or her chosen assistant?**

A voter with a disability is eligible to receive assistance in marking his or her ballot when the voter has:

- A physical disability that renders the voter unable to write or see; or
- An inability to read the language in which the ballot is written.

On a voter's request for assistance in marking his or her ballot two election officers shall provide the assistance. Or on the voter's request, the voter may be assisted by any person selected by the voter other than the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs. If assistance is provided by a person of the voter's choice, an election officer shall enter the person's name and address on the poll list beside the voter's name. [TEX. ELEC. CODE § 64.031] Voters with disabilities who are denied assistance should contact the hotline at 1-866-OUR-VOTE (1-866-687-8683). If you are a hotline volunteer, advise the voter that if the Presiding Judge fails to resolve the issue, they should notify this hotline again. If that happens, flag your hotline captain, who will contact the Texas Secretary of State's Elections Division.

## **6. What if an individual with a disability cannot enter the polling place or stand in line?**

A person can request to vote at curbside and an accessible voting machine can be physically brought to the individual at the polling place entrance or at the curbside. A voter who is "physically unable to enter the polling place without personal assistance or likelihood of injuring the voter's health" is able to vote curbside. When voting curbside, the law says "an election officer shall deliver a ballot to the voter at the polling place entrance or curb" and allows "regular voting procedures" to "be modified by the election officer to the extent necessary to conduct voting under this section." Many accessible voting machines are portable and have battery packs where they can be taken to the curbside as well. TEX. ELEC. CODE § 64.009

## **Voter Intimidation and Deceptive Practices:**

### **I. I have been approached/intimidated/harassed by candidates or others at the polls.**

Bystanders must remain at least 100 feet from the entrance to the polling location at all times. Additionally, loudspeakers may not be used to broadcast political or electoral messages within 1,000 feet of the polling location. As long as bystanders comply with these requirements, Texas law permits them to solicit prospective voters, display and distribute political materials, and wear political emblems and insignia. If a bystander violates these rules, the voter (or a volunteer present at the polling location) should report the incident to the Presiding Judge assigned to the polling location. [TEX. ELEC. CODE §§ 61.001–61.010]



Voters may also contact the hotline at 1-866-OUR-VOTE (1-866-687-8683). If you are a hotline volunteer, advise the voter that if the Presiding Judge fails to resolve the issue, they should notify this hotline again. If that happens, flag your hotline captain, who will contact the Texas Secretary of State's Elections Division.

If you are a field volunteer at the polling place and if the Presiding Judge fails to resolve the issue, call your command center, which will contact Texas Secretary of State's Elections Division. Gather as much information from the voter as possible.

## **2. What should I do if I am intimidated by police present at the polling place?**

If you are a hotline volunteer, find out if the police are stationed outside of the polling location and not interacting with voters or if the police officer is actively intimidating voters. Then flag your hotline captain, who should contact the local police to let them know that that police presence at the poll is intimidating voters. The captain should also call the local County Election Official and ask them to follow up with local law enforcement.

If you are a field volunteer at the polling place, call your command center and let them know about the issue. They should contact the local police to let them know that that police presence at the poll is intimidating voters and call the local County Election Official and ask them to follow up with local law enforcement.

## **3. What should I do if I see or receive deceptive information regarding an upcoming election?**

If you are a hotline volunteer, flag your hotline captain. The hotline captain should ask the caller to photograph or make copies of all documents and to fax a copy of the deceptive documents to 877-303-5034 or e-mail a photograph or scanned copy to [info@866ourvote.org](mailto:info@866ourvote.org) and report the incident to the local County Election Official and local media contacts so that the correct information can be shared with voters. Contact information may be found at: <http://www.sos.state.tx.us/elections/voter/county.shtml>. We will share the documents with the County Election Official and other relevant authorities.

If you are a voter or a field volunteer and you see this first hand, document the deceptive information as well as possible—take photographs of it or obtain a copy. Then call your command center or contact the hotline at 1-866-OUR-VOTE (1-866-687-8683).

### **Miscellaneous:**

#### **I. What if I requested an absentee ballot but I want to vote in person on Election Day?**

If a voter had requested an absentee ballot, but instead chooses to vote in person on Election Day, she or he should be allowed to cast a provisional ballot, so long as the voter

has not already submitted the absentee ballot. The voter will be required to sign an affidavit stating that she or he is a registered voter in the precinct and did not vote early by mail. [TEX. ELEC. CODE § 63.011(a)(1)]