

This presentation was made at the Secretary of State's seminar in August 2017. It has been revised to fit Tom Green County procedure.



Presented at Secretary of State's Conference August 2017, REVISED for Tom Green County

Provisional Ballots

AW7-15-53, 7/12 Prescribed by Secretary of State Sec. 63.011, Election Code	Type of Election / Tipo de Elección	Precinct No. where voted Núm. de Precinto-lugar de votación	Precinct No. where registered (if known) Núm. de Precinto-inscrito para votar (si se sabe)	Date of Election / Fecha de la Elección	Authority Conducting Election / Autoridad Administrando la Elección
Affidavit of Provisional Voter (Declaración Jurada de Votante Provisional) (Ballot number if using DRE _____)					
<p>TO BE COMPLETED BY VOTER: I am a registered voter of this political subdivision and in the precinct in which I'm attempting to vote and have not already voted in this election (either in person or by mail). I am a resident of this political subdivision, have not been finally convicted of a felony or if a felon, I have completed all of my punishment including any term of incarceration, parole, supervision, period of probation, or I have been pardoned. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I understand that giving false information under oath is a misdemeanor, and I understand that it is a felony of the 2nd degree to vote in an election for which I know I am not eligible.</p> <p>PARA QUE EL VOTANTE LO LLENE: Estoy inscrito como votante en esta subdivisión política y en el precinto en cual estoy intentando a votar y aun no he votado en esta elección (en persona o por correo). Soy residente de esta subdivisión política, no he sido definitivamente declarado culpable de un delito grave o si soy el autor de un delito grave, he cumplido toda mi condena inclusive el período de encarcelamiento, la libertad condicional, la libertad supervisada, la libertad vigilada, o he sido indultado. No me han determinado por un juicio final de una corte de la legalización de un testamento, ser totalmente incapacitado mentalmente o parcialmente incapacitado sin el derecho de votar. Entiendo que dar información falsa bajo juramento es un delito menor y también entiendo que es un delito grave de 2º grado votar en una elección sabiendo que no cumplo con los requisitos necesarios.</p>					
Last Name /Apellido usual		First Name / Su nombre de pila		Middle Name (if any) / Segundo nombre (si tiene)	Former Name / Nombre anterior
Residence Address: Street Address and Apartment Number, City, State, and ZIP. If none, describe where you live (Do not include PO Box, Rural Rt. Or Business Address) Domicilio: calle y número de apartamento, Ciudad, Estado, y Código Postal: A falta de estos datos, describa la localidad de su residencia. (No incluya el apartado de correos, camino rural, ni dirección comercial.)					Gender: (Optional) / Sexo (Optativo) <input type="checkbox"/> Male (Hombre) <input type="checkbox"/> Female (Mujer)
Mailing Address: City, State, and ZIP. If mail cannot be delivered to your residence address. / Dirección postal: Ciudad, Estado y Código Postal (si es imposible entregarle correspondencia a su domicilio).					Date of Birth: Month, Day, Year Fecha de nacimiento: mes, día, año <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>
TX Driver's License No. or Personal I.D. No. (Issued by Dept of Public Safety) Número de su licencia de conducir de Texas o de su Cédula de Identidad expedida por el Departamento de Seguridad Pública de Texas. <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		Social Security No. (last 4 digits required if you do not have a driver's license or I.D. number) / Número de Seguro Social. (Si no tiene licencia, de conducir ni identificación personal, se requiere los últimos 4 números de su seguro social) XXX-XX- <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>		<input type="checkbox"/> I have not been issued a TX driver's license/ personal identification number or Social Security Number. Yo no tengo una licencia de conducir de Texas/Cédula de identidad personal de Texas ni un Número de Seguro Social.	
Check appropriate box: ARE YOU A UNITED STATES CITIZEN? Marque el cuadro apropiado: Soy ciudadano/a de los Estados Unidos		Yes <input type="checkbox"/> NO <input type="checkbox"/> Si No		Signature of Voter / Firma del votante X _____	

Why are provisional ballots important?

THEY ARE THE LAW!!!



HAVA Requirements

- In 2002, the Help America Vote Act required that provisional ballots be offered to:
 1. Any voter that declares that they are a registered and eligible voter of the precinct in which they are appearing, and
 2. Any voter whose eligibility is called into question by an election official, e.g. shown have to have voted early by mail.

52 U.S.C. § 21082

- Texas Election Code Requirements Texas law echoes the federal requirements, but also adds that a voter may vote provisionally if they do not have the required identification.

Tex. Elec. Code § 63.011



Why are provisional ballots important?

THEY HELP THE VOTER!!!

- We often hear from voters that provisional ballots “do not matter.”
- We also have heard stories of election workers telling voters that their provisional ballot “will not count.”
- **However, this is not true.** Provisional ballots often end with a voter’s ballot being counted, when it otherwise wouldn’t have counted.
- *It cannot be determined if a provisional ballot will count until the early voting ballot board has reviewed it.*



Why are provisional ballots important?

A provisional ballot **helps** the voter when...

- An error occurred when they went to DPS to obtain/update a license and the registration information was not transmitted to SOS.
- When an error occurred on the list of registered voters, e.g. city annexed land and did not provide an updated map.
- The voter's registration application is smudged/poor-handwriting.
- When a registration update was timely post-marked but was delivered to VR after the OLRV was printed.
- When a voter registered through a VDR, but the VDR did not turn in the application.



THEY REGISTER THE VOTER!!!

By casting a provisional ballot-even if it's not accepted- the person will become a registered voter.

Provisional ballots **must**
be offered to voters when
required!!!



Polling Place Procedures

Preparing the Polling Place

The supplies sent to the polling place must include.

- The green Affidavit of Provisional Voter envelope.

- The white Secrecy Envelope.

- The Notice to Provisional Voter.

- The List of Provisional Voters.

- Secured container for provisional ballots.

The election judge/deputy early voting clerk should setup the polling place to allow for provisional ballots. The setup will depend on if you are using:

- Paper or optical scan ballots

- DREs



DREs

- If your DRE system is set to segregate provisional ballots from the regularly-cast ballots, and adding accepted provisional ballots to the vote total, you may use your DRE for voters casting a provisional ballot. (This involves the equipment providing a code that can be used later to count the ballot.)
- If you are using DREs, the election judge needs to be prepared to operate the system for provisional voting.



Polling Place Procedures (T.A.C. 81.172)

- A provisional ballot **must** be offered to...
 - 1) A voter who does not provide an acceptable form of identification.
 - 2) A voter whose identity cannot be verified by the identification presented.
 - 3) A voter who has received a disability exemption, but does not have voter registration certificate indicating such exemption.
 - 4) A voter whose name does not appear on the list of registered voters and does not have a registration certificate, but states they are a registered and eligible voter of the precinct.



Polling Place Procedures (T.A.C. 81.172)

- 5) A voter who has applied for a ballot by mail, but has not yet properly cancelled the mail ballot application.
- 6) A voter who votes during the polling hours that are extended by a state or federal court.
- 7) A voter who is registered in another precinct other than the one in which the voter is seeking to vote.
- 8) A voter who is on the precinct list of registered voters, but whose registered residence address is outside the political subdivision for which the voter is seeking to vote.
- 9) Other _____ (with an explanation).



Polling Place Procedures (T.A.C. 81.173)

- If a voter fits into one of these categories, the election worker shall inform the voter of their right to cast a provisional ballot.
 - If the voter is not appearing on the list of registered voters, the election worker may assist the voter in determining if they are registered in another precinct.
 - Using an e-pollbook, or calling Voter Registrar.



Did Voter Register Through DPS?

- If the voter believes they are registered, the election judge **must** ask if the voter registered or updated their registration at DPS.
- If voter did go to DPS, the election judge **must** note this and the approximate date the voter went to DPS on the green Affidavit of Provisional Voter envelope.

Recommended Procedure

- In addition to asking about DPS, it is okay for the Election Judge to ask additional information about when/how the voter believes they have registered:
 - When did you mail in your card?
 - What was the name and/or location for which you registered through a VDR?

All of these help the voter!!!



TO BE COMPLETED BY ELECTION JUDGE:

VOTER PRESENTED ACCEPTABLE FORM OF IDENTIFICATION OR A SUPPORTING FORM OF IDENTIFICATION AND EXECUTED A REASONABLE IMPEDIMENT DECLARATION

☐ Yes ☐ No

REASON FOR VOTING PROVISIONAL

1. _____ Failed to present acceptable form of identification, a supporting form of identification with an executed Reasonable Impediment Declaration, or voter certificate with exemption.
2. _____ Voter not on list of registered voters.
3. _____ Voter not on list, registered in another precinct.
4. _____ Voter on list of people who voted early by mail, and voter has not cancelled mail ballot application.
5. _____ Voting after 7:00 p.m. due to court order.
6. _____ Voter on list, but registered residence address outside the _____ political subdivision.
7. _____ Registered at Department of Public Safety (DPS): When: _____ Where: _____
8. _____ Other: _____ (Please explain)

Sworn and subscribed to before me this date: _____

Signature of Election Judge

TO BE COMPLETED BY THE COUNTY VOTER REGISTRAR FOR STATUS:

I, the voter registrar/deputy registrar, did research the records of my office and the following conclusion(s) was made:

FOR VOTERS WHO DID NOT PRESENT ACCEPTABLE PHOTO IDENTIFICATION AT THE POLLING PLACE

1. _____ Voter presented acceptable form of identification or a supporting form of identification and executed a Reasonable Impediment Declaration within 6 days of election day.
2. _____ Voter met disability exemption within 6 days of election day.
3. _____ Voter executed religious objection affidavit within 6 days of election day.
4. _____ Voter executed natural disaster affidavit within 6 days of election day.
5. _____ Voter did not satisfy identification or affidavit requirements, listed in categories 1-4 above, within 6 days of election day.

FOR VOTERS WHO VOTED PROVISIONALLY FOR OTHER REASONS

6. _____ Not a registered voter or registration not effective in time for this election.
7. _____ Registered to vote, erroneously listed in wrong precinct.
8. _____ Registered to vote in a different precinct within the county.
9. _____ Information on file indicating applicant completed a voter registration application, but it was never received in the voter registrar's office.
10. _____ Voter erroneously removed from the list.
11. _____ Voter is not registered to vote in _____ political subdivision.
12. _____ Other: _____ (Please explain)

Signature of Voter Registrar

Date

Action taken by the Early Voting Ballot Board: ☐ ACCEPTED ☐ REJECTED Signature of Ballot Board Judge: _____

If a voter states that they updated their registration at DPS, enter the approximate date they went to DPS, and any other relevant information. There is usually an Issued date on the license that can be used.



Polling Place Procedures (T.A.C. 81.173)

- If the voter is not appearing on the list of registered voters, the election worker should inform the voter that the ballot will be counted if it is determined they are registered voter.
- If voter is casting a provisional ballot due to lack of an acceptable or supporting ID, the election worker should inform the voter that the ballot will only be counted if the voter appears at the Voter Registrar and shows acceptable ID, or executes a temporary affidavit (if applicable), or permanent exemption (if applicable).



Polling Place Procedures (T.A.C. 81.173)

REMEMBER all provisional ballots should be processed on the Kiosk at the Forms Table.

1. Voter should complete a green Affidavit of Provisional Voter envelope on the front side.
2. Election Judge should complete their portion on both sides of the envelope and **sign it** the back.
3. Election Judge should add voter's name to List of Provisional Voters/Early Voting List of Provisional Voters.
4. The election judge should provide a "Notice to Provisional Voter to the voter".



Voting a Provisional Ballot (T.A.C. 81.173)

- DREs:
 - The election judge shall prepare voting system for provisional voting in accordance with instructions provided by you and vendor.
 - If there is a code that needs to be written on the green Affidavit of Provisional Voter envelope, or slip of paper with code needs to be placed inside by the voter, this will need to be done. Please do both.
 - After submitting their ballot on the DRE, voter should then deposit into separate and secured container for provisional ballots. We actually have the voter deposit the Provisional ballot envelope before voting.



Separate and Secured Container

Q: Why is it important that provisional ballots be placed in a separate, secured container?

A: Provisional ballots do not get counted on election night, and take a different route than all other ballots. You may use a securable ballot box or ballot bag.

Election Day (T.A.C. 81.174)

- After the polls close on election night, election judge should enter the number of provisional ballots on the appropriate paperwork.
- Election judge should place/separate paperwork as directed.

Election Day (T.A.C. 81.174)

The judge should then deliver the secured container with provisional ballots and paperwork to the General Custodian.

The General Custodian (or central counting station personnel) should open the container and confirm that the number of provisional ballots matches the number of voters on the List of Provisional Voters.

The General Custodian will sign the List of Provisional Voters after confirming the number.



Provisional Voting

When would someone vote provisionally? Some examples:

- Voter does not possess one of the 7 forms of acceptable photo IDs on “List A”, can reasonably obtain one, does not have an (E) notation on voter’s voter registration certificate, and does not return to the polling place with a “List A” ID to vote at that time.
- Voter does not possess one of the 7 forms of acceptable photo IDs on “List A”, cannot reasonably obtain one, does not have an (E) notation on voter’s voter registration certificate, and does not have, or does not bring a “List B” ID to the polling place and does not return with one to vote and sign the Declaration at that time.
- Voter possesses one of the 7 forms of acceptable photo IDs on “List A”, but did not bring it to the polling place, and does not return to the polling place with a “List A” ID to vote at that time.
- Voter who does not have a “List A” ID due to a religious objection to being photographed or does not present their acceptable form of photo ID due to a natural disaster declared by the U.S. President or Texas Governor.
- Voter whose name on the form of “List A”, or if applicable, “List B”, ID is determined by the election officer to not exactly match or be substantially similar to the name on the List of Registered Voters.
- A voter whose identity cannot be verified by the identification presented.



When would someone vote provisionally? Some examples:

- A voter who has received a disability exemption but does not have or otherwise fails to present the voter's voter registration certificate with a (E) notation.
- Voter is not on the list of registered voters for the precinct and does not present a voter registration certificate indicating the voter is currently registered.
- Voter is not on list of registered voters for the precinct, and is registered in another precinct.
- Voter is on list of people that voted early by mail and is not surrendering the ballot at the poll.
- Voter votes after 7:00 pm due to a court order extending hours.
- Voter on list of registered voters, but residence address is outside the political subdivision.

Any voter that requests a provisional ballot should be given one. NO voter should ever be refused a provisional ballot!



What to do? (1 T.A.C. § 81.173)

- Inform the voter of their right to cast a provisional ballot.
- If ID-related, advise the voter of the 6 day cure period. If not ID-related, complete identification procedures.
- Advise the voter that in order to have ballot counted, voter must be voting in their correct precinct. (Countywide polling places makes this unnecessary)
- Have the voter complete the Provisional Voter Affidavit Envelope prior to voting provisionally.
- If the voter indicates they are registered, the election officer must ask the voter if the voter registered at DPS. If the voter states they did register at DPS, the election officer must ask the voter for the approximate date the voter went to DPS. The election officer must then note that the voter went to DPS, and, if the voter knows, the approximate date the voter went to DPS, on the Provisional Ballot Envelope in the “Other” line.
- Election officer will check “yes” or “no” as to whether voter met ID requirements. If no, use NO ID provisional paperwork because voter will need to cure ID to have ballot counted.



What to do?

- Election officer will complete the remainder of their portion of provisional ballot.
- Election officer signs Provisional ballot envelope.
- Election officer indicates whether the voter met identification requirements and adds the voter's name on the List of Provisional Voters form.
- Provisional voter signs the regular signature roster or combination form (on Kiosk).
- Election officer provides voter with Notice to Provisional Voter. For ID-related provisional ballots, this is the Notice to Provisional Voter (ID Voter) forms; for non-ID-related provisional ballots, this is the Notice to Provisional Voter form.
- Provisional voter casts ballot on DRE voting machine or on paper or optical scan ballot (in early voting or if DRE is not working). Election officer informs provisional voter of procedures to follow, which depend on the method of casting ballot.



Provisional Voting Procedures

- **Notice to Provisional Voter (ID Voter) includes:**
 - A Description of the Acceptable Photo IDs from “List A”.
 - The procedure for curing not meeting ID requirements.
 - Presenting acceptable photo ID to the VR.
 - Executing affidavit for temporary exemption.
 - Applying for a disability exemption.
 - A map of the location(s) to cure not meeting ID requirements.
 - Information relating to the process for determining and reporting whether the voter’s ballot will be counted.
 - A place for the voter’s name, VUID, and precinct polling place where provisional ballot was voted.



Provisional Voting Procedures

- **Provisional Voting due to Not Meeting ID Requirements**
 - There is a “cure period” for voters who voted provisionally because (1) they did not possess one of “List A” IDs, and either (a) could reasonably obtain one (and did not obtain one and return to the polling place and vote), or (b) could not reasonably obtain one but did not present a supporting form of ID from “List B” (or return to the polling place to do so, complete the Declaration, and vote) and (c) did not have an (E) notation on their voter registration certificate; or (2) possess one of the “List A” IDs but did not bring it to the polling place (or return to the polling place to do so and vote).
 - Cure period = day the voter casts provisional ballot through the 6th day after the election.



Provisional Voting Procedures

- **During the “cure period,” voter may:**
 - Present to VR one of the forms of identification.
 - Execute in the presence of VR an affidavit stating:
 - voter has a religious objection to being photographed; or
 - voter does not have any identification meeting the requirements of Section 63.001(b) as a result of a natural disaster that occurred not earlier than 45 days before the date the ballot was cast.
 - Apply for and receive a permanent disability exemption for the county the voter is registered in.
 - NEW LAW: Can now cure with List B and Reasonable Impediment Declaration.



REMEMBER

A Provisional vote is handled in a special way on the Controller. You must choose Provisional which will cause a longer tape to print that includes the Access Code. If you have a provisional voter and do not have that longer tape, with a place for the voter to sign you **MUST** reissue the ballot as a provisional. Otherwise, the voter has been provided a regular ballot that they do not qualify for and it is counted without being reviewed.



Provisional voters will be checked in on the Kiosk at the Forms Table.

The provisional ballot envelope is still completed by the voter and the envelope is used to enter the provisional voter on the Kiosk to ensure accurate information.

If a voter is voting provisionally due to a ballot by mail that is not returned, the voter has an option to choose “I will vote a provisional ballot now.” When they make this choice they are instructed to step out of line to complete the provisional envelope. They have already moved to the forms table so this is not necessary. The poll worker will be able to click on “OK” and the provisional data entry window will open. The voter name and address will be populated and showing green. The date of birth is showing but is in red and there is now additional information that the poll worker will need to complete. The voter is not seeing the same screen as the poll worker.

The information includes: Gender, ID type, and if the ID has a number, the ID number. Once this information is completed, the option to submit will show.



Provisional Data RETURN TO START

1. Name: COMPLETE ✓

Last Name	First Name	Middle Name	Suffix
SMITH	SARA		

2. Address: COMPLETE ✓

Number	Fraction	Dir	Street Name	Type	Unit	City	Zip
6842			FM 2114			HUBBARD	76692

☐ Check if Mailing Address is different from Residential Address

3. Other: INCOMPLETE

Birthdate *	Gender	ID Type *	ID Number
01/18/2001	---	---	

Voter is 18 years old

SUBMIT

Provisional Data RETURN TO START

1. Name: COMPLETE ✓

Last Name	First Name	Middle Name	Suffix
SMITH	SARA		

2. Address: COMPLETE ✓

Number	Fraction	Dir	Street Name	Type	Unit	City	Zip
6842			FM 2114			HUBBARD	76692

☐ Check if Mailing Address is different from Residential Address

3. Other: COMPLETE ✓

Birthdate	Gender	ID Type	ID Number
01/18/2001	FEMALE	SSN4	1234

Voter is 18 years old

SUBMIT **13**



A window will appear to verify the address and the poll worker will click on choose.

Street Lookup Matches RETURN TO START

Please choose address correction

	Address	Precinct
CHOOSE	6842 FM 2114, HUBBARD 76648	15.06

EDIT ADDRESS

The voter will then see the screen with their information.

Name SARA SMITH Birth Year 2001
Address 6842 FM 2114
HUBBARD 76648
Mailing N/A

Is the information above CORRECT?

YES NO

After they confirm the information, they will see a window with the provisional affirmation to initial.



CLEAR

SUBMIT

I swear or affirm that:

1. I am a registered voter of this political subdivision and in the precinct in which I'm attempting to vote and have not already voted in this election.
2. I am a resident of this political subdivision.
3. I have not been finally convicted of a felony or if a felon, I have completed all of my punishment including any term of incarceration, parole, supervision, period of probation, or I have been pardoned.
4. I have not been determined by a final judgement of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote.

I understand that giving false information under oath is a misdemeanor, and I understand that it is a felony of the 2nd degree to vote in an election for which I know I am not eligible.

Provisional Ballot Affidavit

The poll worker will continue the check in process and the label will print. The voter will then be taken to the ballot station to get their provisional ballot.



If the bar code scanner is working on the Controller, it will mark the ballot as provisional. If manually issuing the provisional ballot the poll worker must Mark the ballot as provisional. Remember, if you do not get a tape that will allow the voter to sign, you have NOT printed a provisional access code.

Menu ? Help

Confirm Access Code

Confirm your selections

To print this code, touch "Yes"

To make this a provisional ballot, touch "Mark as provisional"

To exit without printing a code, touch "No"

Precinct 102

Provisional

Access Code: 54173 Retrieval Code: 1060700002

☒ Mark as provisional

Is this correct?

Yes, print the code

No, cancel

1:49 PM Wednesday 1/13/2020 Ballots: 0 Ultimate: 1342

*** Test Mode ***

ACCESS CODE

58577

Date & Time Printed:
02/01/2020 3:21 PM

Place: Angelo Bible Church
Pct: 106-BS1 D
Party: Democratic Party

PROVISIONAL BALLOT CODE

2060500008

To begin voting, enter your access code into an available voting machine

*** Test Mode ***

PROVISIONAL STUB

Date & Time Printed:
02/01/2020 3:21 PM

030320 Tom Green County Primary Election
Election Date: 3/3/2020
State of Texas

Place: Angelo Bible Church
Pct: 106-BS1 D
Party: Democratic Party

PROVISIONAL BALLOT CODE

2060500008

Printed Name of Voter:

Voter Signature:

