



DEBRA BOWEN | SECRETARY OF STATE
STATE OF CALIFORNIA | ELECTIONS

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May 9, 2014

County Clerk/Registrar of Voters (CC/ROV) Memorandum #14126

TO: All County Clerks/Registrars of Voters

FROM: /s/ Jana M. Lean
Chief, Elections Division

RE: Statewide Direct Primary Election: Provisional Ballots

While the number of people who vote provisionally on Election Day tends to be relatively steady, there is always the potential that a larger than normal amount of people will register on the deadline either online or by mail leading to an increase in the number of people who may not be listed on your polling place rosters and who thus need to vote using a provisional ballot.

To prepare for that possibility, the Secretary of State's office urges you to remind poll workers of the provisional balloting procedures and that every person has a right to cast a provisional ballot for any reason.

Furthermore, the Secretary of State's office recommends that you consider providing each polling place with extra supplies of provisional ballots and provisional ballot envelopes.

For your convenience, below are the pertinent portions of Elections Code section 14310 and Help America Vote Act of 2002 section 302, both of which address provisional voting:

Elections Code section 14310.

(a) At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows:

(1) An elections official shall advise the voter of the voter's right to cast a provisional ballot.

(2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter's registration and eligibility to vote. The written instructions shall include the information set forth in subdivisions (c) and (d).

(3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote.

(b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for vote by mail ballots, and shall be completed in the same manner as vote by mail envelopes.

Help America Vote Act of 2002. SEC. 302.

(a) Provisional Voting Requirements.--If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows:

(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election.

(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is—

(A) a registered voter in the jurisdiction in which the individual desires to vote; and

(B) eligible to vote in that election.

If you have any questions, please feel free to contact me at Jana.Lean@sos.ca.gov or (916) 657-2166. Thank you.