

Disclaimer:

This guide is designed for informational purposes only. It is not legal advice and is not intended to create an attorney-client relationship. The Election Protection Coalition does not warrant any information contained in this guide, nor does the Coalition suggest that the information in this guide should be used as a basis to pursue legal advice or decision making.

Questions Involving Access to the Ballot:

1. It is after 7:00 AM and the polling place is not open.

Immediately contact the Hotline at 1-866-OUR-VOTE (1-866-687-8683) or the Command Center to report the problem.

If the polling place is open at 7:00 a.m. but the voting machines have not arrived, call the Command Center immediately. Voters should be permitted to vote by emergency paper ballots (preferably) or by provisional ballots.

2. It is 7:00 PM and my precinct is closed or closing and they will not let me vote.

Immediately contact the hotline (1-866-OUR-VOTE, 1-866-687-8683) or the Command Center to report the problem.

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

Encourage the voter to request a back-up paper ballot or provisional ballot. If a caller reports problems with machines, immediately contact the Electronic Frontier Foundation representative at the call center to walk you through the appropriate steps to solve the machine problem.

Identification and Provisional Ballots:

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

Yes. If the voter is a first-time voter who registered by mail and did not present acceptable identification at that time, the voter may vote by provisional ballot. If possible, a voter should be encouraged to go and get an ID and NOT cast a provisional ballot.

Proper identification may include:

- A current OR expired state-issued driver's license or personal identification card;
- Any form of photo identification that establishes the person's identity;
- A birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;
- A United States citizenship papers;
- A United States passport;
- Official mail addressed to you from the government; or

- A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

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

Confirm that the voter is qualified to vote (i.e., meets the age, criminal status and durational residency requirements found in the manual) and that the voter registered in time to vote in this election. Next, using the online poll locator tool, make sure the voter is at the correct polling place. Mobile Legal Volunteers can call the Hotline (1-866-OUR-VOTE, 1-866-687-8683) to obtain polling place location information.

If the voter has registered on time, is eligible and is in the correct polling place, direct the voter to ask the poll worker to call the county clerk and confirm the registration. If the voter still is not on the rolls, state that the voter can still vote provisionally. This is a LAST resort, as provisional ballots will only be counted if the county clerk can later verify the voter's registration status before the election is certified.

3. Poll workers are turning voters away if they don't have photo ID.

Contact the Command Center immediately to report the problem. An attorney will be dispatched to the polling place. Encourage the voter to go back inside the polling place and demand the right to vote by a REGULAR ballot (unless the voter is a first time voter who registered to vote by mail and has not previously provided a copy of their ID, in which case the voter may vote by provisional ballot).

4. I have been offered a provisional ballot. What should I do?

Provisional ballots are a LAST resort.

In order to vote a provisional ballot, the voter must complete and sign an "Affidavit of Provisional Voter." Provisional ballots are placed in a designated, secure ballot box until the voter registrar and local ballot board can review the Affidavit.

The review and count of the provisional ballots must be completed by the seventh day after the election. Notice must be delivered to provisional voters regarding whether their ballot was counted or not counted, noting a reason. This notice must be delivered no later than the 10th day after the local canvass.

Where to Vote:

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

Call 1-866-OUR-VOTE (1-866-687-8683).

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 go to the appropriate polling place for that precinct. If the voter registration list still lists the voter's old address, the voter will be asked to update their registration. If the updated address is within the precinct, the voter must be permitted to vote.

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 address (Oct. 6, 2008), he or she may return to their old precinct to vote, and will be required to complete a "statement of residence" confirming his or her new address in the new precinct.

4. I have moved from one county to another and have not updated my address for voter registration purposes. Where should I vote?

The voter should go to the board of elections office in the voter's NEW COUNTY, complete and sign a new voter registration form, and vote a provisional ballot.

Assistance at the polls:

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

Texas law requires that each polling place be accessible to physically disabled voters, but many are not. If a voter reports that a polling place is not accessible to the handicapped, alert the Command Center so an attorney can get in touch with the responsible election official to report the problem immediately.

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

Texas is covered by the language minority provisions of the Voting Rights Act of 1965, and, therefore, is required to provide ballots or materials in non-English languages. Furthermore, a voter requiring assistance at the polls for any of the reasons stated above can take a person of their choice into the voting booth (except an employer, an agent of employer, an officer, or an agent of the voter's union). Election Protection volunteers may serve as assistants to disabled or language minority voters if asked to do so by the voter. If a poll worker refuses to allow a disabled or language minority voter to bring a person of their choice into the voting booth, alert the Command Center so an attorney can get in touch with the responsible election official to report the problem immediately.

3. 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. Under Tex. Elec. Code § 11.002, the only way a person's cognitive ability can affect their eligibility to vote is if "a court exercising probate jurisdiction" (in a guardianship proceeding) determines the person is "(A) totally mentally incapacitated; or (B) partially mentally incapacitated without the right to vote." As of September 1, 2007, all guardianship orders must specifically address the right to vote, stating whether or not the right is retained or not. A poll worker or county election official has no legal right to conduct their own assessment of a person's cognitive fitness to vote. For additional information on disability access issues, contact the NDRN contact for Texas at 1-888-796-VOTE (8683).

4. What if an individual is denied assistance they need or denied choice of person to assist them?

If an individual with a disability is denied assistance they need, make sure the person is articulating that they are a person with a disability and/or that they cannot read the ballot without assistance. Under

Tex. Elec. Code § 64.031, a voter is eligible to receive assistance in marking the ballot, as provided “if the voter cannot prepare the ballot because of: (1) a physical disability that renders the voter unable to write or see; or (2) an inability to read the language in which the ballot is written.” Some poll workers may wrongfully think they have to check into the person’s claim of disability, but this is not the case. The confusion may be because poll workers could face criminal penalty if they “knowingly” permit a person to provide assistance to someone who is not eligible to receive assistance under Tex. Elec. Code § 64.036. But, knowing someone is not a person with a disability is different than requiring the person to prove his/her disability. In addition to being entitled to assistance when necessary, voters with disabilities have their choice of person to offer assistance. Under Tex. Elec. Code § 64.032 a voter who is eligible for assistance can receive assistance from election workers or any person of their choice (except an employer or union representative).

5. 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. Tex. Elec. Code § 64.009 allows a voter who is “physically unable to enter the polling place without personal assistance or likelihood of injuring the voter’s health” 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.

Miscellaneous Issues:

1. I have been approached by candidates or others at the polls.

All poll monitors, including Election Protection volunteers, must stay at least 100 feet from the entrance to the polling place. People may solicit you if they comply with the 100-foot requirement. If they are violating the 100-foot requirement, alert the Command Center so an attorney can get in touch with the responsible election official to report the problem immediately.

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

As long as the voter has NOT already submitted the absentee ballot and is otherwise qualified, she or he should be allowed to vote in person by REGULAR ballot.

3. There are people at the polls trying to intimidate voters.

Contact the Command Center immediately. An attorney will be dispatched to the polling place. If the voter agrees, put them on hold while you call the Command Center so they can send an attorney to the location immediately. Then, gather as much information from the voter as possible. Also, alert the call center Director.

4. I have a felony conviction. Can I vote?

Texas law permits convicted felons to vote so long as they have served the full length of the criminal sentence, including parole, and have registered to vote.

5. 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 the latter location to be 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. 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 if 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.

If a properly registered student is turned away at the poll, contact the Command Center to dispatch an attorney to the location and contact the appropriate election official.