



Election Division Dispatch

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NEWS & UPDATES

August Build

New features have been pushed to SVRS, including changes to mailing labels and to the ABS-24 notice of disposition. If you did not attend online training, please review the materials found on the INSVRS county portal, which includes a recording of the online training.

The ABS-24 is used to notify a voter that their absentee application was found defective or rejected under new state law. This notice should be mailed to voters and, if an ABS-Mail application is found defective, a new ABS-Mail application sent to the voter. The training materials demonstrate the workflow functions to ensure the proper box on the ABS-24 is marked along with the reason the application was rejected or found defective.

Notice of Public Test of Voting Systems

State law requires a county election board to begin its test of voting systems not later than the day before early voting occurs in the clerk's office. (Counties are to follow the 28-day start date, even if the CEB passed a resolution to reduce in-person absentee early voting hours under IC 3-11-10-26.5 for Nov. 2023 election.)

Notice of the public test under the Open Door Law requires notice to be posted not later than 48-hours before the public test, or Thurs., Oct. 5, 2023, for a test conducted on Oct. 10, 2023. Because the Open Door Law views the 48-hours in business days and not calendar days, a county may not count the weekend or the holiday in its calculation for posting notice.

Additionally, state election law requires notice of the public test to be published in the newspaper not later than 48-hours before the test begins. This deadline is Oct. 8, 2023, for a public test held on Oct. 10, 2023. In this case, the Title 3 statute relies on calendar days, so the 48-hours may include the weekend and holiday. There is never a penalty for publishing early!

Sometimes a newspaper fails to publish notice of a public test, which does not require the CEB to reschedule it. State law permits a county where the newspaper failed to timely publish a notice to either 1) display the notice prominently in three locations in the county or 2) post on the county's website (IC 5-3-1-2(k)).

CALENDAR

- September 1, 2023:** Deadline for CEB to provide written notice to county party chairs and, if applicable, the superintendent of each school corporation if a public question concerning school corporations is on the ballot, that sample ballots are ready for review
- September 4, 2023:** Labor Day - IED Closed
- September 5, 2023 (NOON):** Deadline for county clerk to file copy of CAN-18 with town clerk-treasurer, if a political party held a town nominating convention
- September 5, 2023 (NOON):** Deadline to file CAN-1 to challenge D, L, R, independent/minor party candidate in a "small" town where no primary was conducted
- September 18, 2023:** Deadline for absentee ballots to be delivered to CEB.
- September 18, 2023 (NOON):** Deadline for CEB to notify the D&R chairman the number of ABS voter boards, ABS ballot counters, and couriers needed for the 11/7 election.
- September 21, 2023:** Deadline for a "small" town (less than 3,500) to enter into an agreement to pay a fixed rate for the Nov. election conducted by the CEB.
- September 22, 2023 (NOON):** Deadline for D&R county chairs to appoint ABS voter boards & central count teams.
- September 23, 2023:** Deadline for counties to send ABS ballots to persons with an approved ABS application
- September 27, 2023 (NOON):** Deadline for counties who filed a request to redraw precinct boundaries for 2023 to file IEC-8 proposals with assigned IED staff
- October 5, 2023:** Deadline to post notice of a public test of voting systems on 10/10/23
- October 8, 2023:** Last date to publish notice with newspaper for a public test conducted on 10/10/23
- October 9, 2023:** Columbus Day (IED Closed)
- October 10, 2023:** Statewide VR deadline in precincts where election is being conducted
- October 10, 2023:** Last day to conduct public test of voting systems used in Nov. election
- October 11, 2023:** First day of in-person absentee voting at the Clerk's Office, unless CEB adopts resolution under IC 3-11-10-26.5

SEPTEMBER WEB TRAINING

- Sept. 5 & 7 | Election Mapping Overview
- Sept. 12 & 14 | ePB Overview
- Sept. 19 & 21 | Fall Build Overview
- Sept. 26 & 28 | Indianavoters.com Functionality

2023 Calendar posted to INSVRS County Portal. Dates/times subject to change.

IN FOCUS: Ballot Reprinting

With absentee ballots being delivered to counties and mailed to voters this month, a common question our office receives is what do we do if we spot an error (or omission) or we have a candidate withdraw after ballots are printed and the election coded on our voting systems.

ERROR OR OMISSION

If the CEB is alerted to an error or omission on a ballot, then one of two things can occur:

1/ The CEB conducts a public meeting, discusses the issue, and agrees to correct and re-print the ballot; OR

2/ The CEB conducts a public hearing, notifies the parties that may have an interest in the error or omission, discusses the issue, takes testimony, and decides if re-printing is necessary.

If the hearing is conducted under #2 and no person files a written request to re-print the ballots before the hearing ends, then the CEB may choose to reprint the ballots or not. However, if a person files a written request before the close of the hearing in option #2, then the CEB must re-print the ballot.

There are a number of requirements to

follow, if the county chooses to hold the hearing noted in option #2. Please be certain to consult IC 3-11-2-16 for those details.

CANDIDATE WITHDRAWAL

As noted below, ballot vacancies can be filled by county chairs up to the day before an election, if certain criteria are met.

A CEB MUST re-print a ballot if the county chair fills the vacancy not later than 5-days before the election. If no replacement or "successor" candidate is found, then the CEB may re-print the ballot to include the term "Candidate Deceased" or "No Candidate." If a ballot vacancy is filled within the last 5-days before the election, then the CEB may re-print the ballot but is not required to do so. (IC 3-11-3-29.5)

If a successor candidate's name is NOT printed on the ballot, then only the straight party votes recorded for that office may be counted for the successor candidate. If the name is re-printed on the ballot, then straight party votes AND the ballots where the successor candidate's name appears may be counted. (In other words, any "old" ballots with the former candidate's name may not be counted for the successor

candidate, unless the voter used the straight party device.)

This assumes the office is a "vote for 1" and not at-large where more than one person can be elected. Straight party selections do not apply to at-large candidates where more than 1 person is elected. (IC 3-12-1-7)

VOTER OUTREACH

A CEB is not required to inform voters of a defective ballot, but are encouraged to do so. A voter should complete an ABS-5 to request a new absentee ballot.

If in-person "early voting" has begun in the office, the voter may complete the ABS-5, complete an ABS-In Person application (or sign ePollbook), and complete an in-person ABS ballot. Or the person may receive a new ballot by mail or if needed, by travel board. If travel board is needed and the voter meets the travel board requirements, then the voter should complete a ABS-Traveling Board application before sending the bi-partisan team to deliver the replacement ballot.

If the voter does not request a replacement ABS ballot, then the CEB may need to re-make the absentee ballot on Election Day, if the original ballot card cannot be read.

Early Ballot Vacancy v. Late Ballot Vacancy

For context, ballot vacancies are created because a person did not run for an office in the Dem. or Rep. party primaries (or, a D, R, or L candidate is nominated at a small town convention and withdraws within the deadline), not filled by the Libertarian Party at their convention, or a candidate withdrew for any reason up to noon, July 15 (or later, if the deadline falls on a weekend), in an election year. State law limits candidate withdrawal after the applicable deadline to the following: the candidate dies, moves out of the election district, was convicted of a felony, ordered off the ballot by a judge, or disqualified for other reasons. (IC 3-8-7-28)

Because candidate withdrawals can occur up to Election Day, state law contemplates two ballot vacancy periods: "EARLY" (any withdrawal up to and including 31-days before an election) and "LATE" (any withdrawal in final 30-days before the election) .

Counties are likely more familiar with early vacancies, which are filled pursuant to IC 3-13-1. The method by which an "early" vacancy is filled is for the chair to either call a caucus of eligible PCs or fill by direct appointment if authorized by the party (or there's only one or no eligible PC to vote in a caucus or, if applicable at the caucus, there is not a quorum or a tie vote). An "early" vacancy must be filled within 30-days after the vacancy occurs, and the applicable paperwork filed not later than noon, three days after the vacancy is filled. Unless the candidate has passed away, the CAN-46 form is used to withdraw, which starts the 30-day clock to fill the vacancy. An early vacancy can also occur due to the death of a candidate, a court order, or a successful challenge to a candidate. (IC 3-13-1-17)

The procedures in IC 3-13-2 are used to fill a "late" ballot vacancy. For local office "late" ballot vacancies, the county chair fills it by direct appointment and the certificate of candidate selection filed within three days. The timing of when the certificate of candidate selection is filed will impact whether or not a ballot is re-printed. The [Election Administrator's Manual](#) has more details. The CAN-46 is used to withdraw, and other forms include CAN-50 certificate of candidate selection, the CAN-48 and CAN-12 completed by the candidate filling the vacancy.

NOTE: Independent candidates who withdraw are not eligible to fill a ballot vacancy, since independent candidates by definition do not affiliate with a political party.

QUESTIONS OF THE MONTH

Q. Where are at-large candidates, where more than one person can be elected, placed on the ballot?

A. At-large candidates are **NOW** placed before the corresponding single member district seats, if applicable. This is a recent change in state law. Reminder: straight party selections in the Nov. election do not apply for at-large candidates where more than one person is elected.

Q. Do we need to put all candidates on the ballot if some races are uncontested?

A. It depends. If all voters vote for an office in a city or town and the office is contested, then all offices go on the ballot. If the only contested offices on the ballot are NOT municipality-wide, then an election only needs to be held in those isolated precincts with the contested office on the ballot if the CEB adopts a resolution, by unanimous vote, only hold the election in the contested district.

Q. Do we need write-in lines on the ballot?

A. For a municipal election year, a write-in line for any office on the ballot is **ONLY** needed if the candidate filed the CAN-51 form. If NO CAN-51 Form is filed for an office, then NO write-in line should be included. (IC 3-11-2-6(e))

Q. Do we need to include a political party under the "Straight Party" section of the ballot, if no candidate of the party has filed to run in all of the vote-for-one offices on the ballot for a precinct?

A. No. See IC 3-11-13-14 and IC 3-11-14-14.5

Q. How many ballots do we provide to each precinct or vote center on Election Day?

A. For optical scan counties, the county must provide blank ballot cards for ballot marking devices or printed opScan ballots totaling 100% of the total active registered voters for each precinct. For DRE counties, the number of printed ballots necessary for emergency purposes. If your county has multiple precincts reporting to one polling location or are a vote center, then you must plan accordingly. (IC 3-11-3-11)

Q. Can an ABS-Mail application used in the Nov. election exclude the party choice box needed in a primary election?

A. Yes. In the forms order signed by the co-directors and noted on the Forms Master List provided to counties, it's noted that a printer may remove the primary party choice box on the ABS-Mail application (both English and Spanish) used in a November election and renumber the sections. Further, the printer may print the ABS-Mail application portrait or landscape.

Q. Does the CEB enforce where or when yard signs are to be placed in and around our community?

A. No but see IC 36-1-3-11 and review local ordinances. The CEB would enforce whether or not a yard sign includes the proper "paid for" disclaimer language. If this is missing, then the CEB may ask that the signs be removed, disclaimer language added, or find other approach the CEB believes is appropriate. See the "Disclaimer" brochure found at in.gov/sos/elections for more information.

LEGAL NOTICES

This fall counties need to publish the following notices ahead of the November election:

- 1/ Notice of the Public Test of Voting Systems;
- 2/ CAN-39 Notice of General or Municipal Election; and
- 3/ List of polling locations used on Election Day

The notice for the public test is covered extensively on page 1 of the newsletter, so please refer back for those details.

The CAN-39 Notice includes the offices on the ballot along with early voting dates and times. Unlike the CAN-9 Notice for the primary election, state law does NOT require the names of candidates and their address on the CAN-39 form. If counties use SVRS to create the CAN-39, they will find that the system does not include the candidate information. This notice must be published in the newspaper not later than 21-days before the election! (Don't forget that a copy of the CAN-39 must be included in the CEB meeting minutes!)

All county election boards are required to publish a list of all Election Day voting locations in a newspaper not later than 21 days from Election Day. The law recently changed to clarify the CEB (rather than the county commissioners) publishes notice in vote center counties; this has been the requirement for the CEB to publish notice in non-vote center counties for years.

Newspaper publication information is found in IC 5-3, generally. Further, failure to publish these notices does not invalidate an election, but please do your part to ensure this important information is shared with voters.

VR CORNER

Statewide VLM Project Update

After Labor Day, counties should expect to see a large number of records in the VLM Inactive Hopper. This group consists of individuals whose first card AND second card was returned as undeliverable OR whose first card was returned as undeliverable and NO second card was returned after at least 30 days' notice.

Counties will need to act on the VLM Inactive hopper as soon as possible. The state's vendor will continue to scan returned second cards: either undeliverable card or a returned response card (VRC). In order to ensure the change requested by a voter on a VRC returned after Aug. 28 is honored, the original record in the "inactive" hopper needs to be processed out first, before the VRC is processed.

Lastly, the various VLM cards will be shipped to counties not later than:

- 10/16/23
- 11/9/23
- 11/17/23
- 12/22/23
- 12/27/23