



Election Division Dispatch

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NEWS & UPDATES

Early Voting & Election Day Site Updates

Visitors to Indianavoters.com rely on information pulled from SVRS as entered by each county. If your county has finalized its plans for in-person absentee voting or locations for election day voting, please make sure your county's voting info is updated as soon as possible in INSVRS. Later this month and into October, this data will be shared with our partner, Democracy Works, to display on gettothepolls.com. This will increase the reach of our state's voting data, so having accurate information in SVRS will be even more critical.

Absentee Forms Update

Due to a change in a county's contact info, IED updated several absentee form types, which are now available on the INSVRS County Portal and our website. The "older" versions of the forms are grandfathered, so please be sure to check against the "Forms Master List" document to determine which forms are OK to use this election cycle. The Forms Master List can also be found in the INSVRS County Portal in the Shared Documents folder.

Scanned Absentee Applications

Beginning Monday, September 21, 2020, IED will begin scanning absentee applications received by our office and uploading them to your county's specific folder in the IED Postings section of the INSVRS County Portal. Counties may download and print these requests to process more quickly, or wait for the hard copies to arrive by mail.

ABS Voter Boards/Central Count Teams

Don't forget! CEBs must notify the D/R county chairs not later than September 14 of the number of ABS voter board teams the county needs to assist with ABS-Mail, Travel Board, and In-Person absentee voting AND the number of Election Day central count teams (and, if applicable, couriers) needed. The chairs have until noon, Friday, September 18 to recommend or nominate individuals to these positions. The CEB appoints those who are qualified pursuant to IC 3-11.5-4-22 and fills any vacancy that might exist after noon, September 18.

#Protect2020

The US DHS through CISA, the Cybersecurity & Infrastructure Security Agency, has released two new assessments and infographics on Election Infrastructure Cyber Risk and Mail-In Voting in 2020 Infrastructure Risk. You can find those documents on their website: <https://www.cisa.gov/election-security>

CALENDAR

September 1, 2020 (NOON): Deadline for entity to withdraw a local public question

September 3, 2020: Deadline for counties to file vote center plan to establish the voting model in their county (This does not apply to vote center plan amendments)

September 4, 2020 (NOON): Deadline for CEB to determine validity of CAN-1 challenges for most offices

September 4, 2020: Deadline for clerk or boards of election/registration to estimate number of ABS ballots

September 7, 2020: Labor Day - IED Closed

September 10, 2020 (NOON): Deadline for CEB to determine validity of school board CAN-1 challenges

September 10, 2020 (NOON): Deadline for IED to certify Pres./VP candidates to counties

September 19, 2020: Deadline for counties receiving ABS ballots on Sept 14 to mail ABS ballots to voters with approved FPCA & ABS-Mail apps

October 4, 2020: "Late" Ballot Vacancy procedures under IC 3-13-2 begin

October 5, 2020: Statewide VR Deadline

October 5, 2020: Deadline to conduct public tests of voting systems

October 6, 2020: In-Person Absentee Voting begins at one location of the clerk's office

October 9, 2020: End of pre-election campaign finance reporting period

October 10, 2020: First day for CFA-11 reporting of large contributions by candidate committees

October 12, 2020: Columbus Day—IED Closed

October 15, 2020: Travel Board Appointments Begin

October 16, 2020 (NOON): Pre-Election CFA-4 reporting deadline by candidate/party/political action committees

October 22, 2020 (11:59P): ABS-Mail application deadline

October 24, 2020: All counties open for "early" voting

October 31, 2020: All counties open for "early" voting

November 2, 2020 (NOON): Multiple absentee deadlines; see yellow Calendar Guide book

November 3, 2020: Election Day

SEPTEMBER WEB TRAINING

Sept 8 & 10 | Fall New User

Sept 9 & 15 | Precinct Level Upload Reporting

Sept 22 & 24 | ePollbook Overview

Dates are subject to change; check the 2020 INSVRS Training Schedule on the county portal to confirm.

IN FOCUS: ELECTIONEERING & PPE

In Indiana, “electioneering” is defined as expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another person. This would include the wearing of clothing, buttons, or displaying signs, etc. that states the name of any political party or includes the name, picture, photo, or other likeness of any currently elected federal, state, county, or local official in spaces where this speech is curtailed. (IC 3-14-3-16)

Our state law specifically requires that the candidate be clearly identified. Therefore, slogans like “I’m with her” would not be considered electioneering but “Sam Smith for Dogcatcher” would be considered be.

However, the electioneering statute does not prevent a voter from receiving information about a candidate or public question or bringing in material with candidate/PQ information to assist them with voting.

While poll workers or absentee voter boards, for example, would be within their rights to ask the voter to remove the clothing or cover it up, the voter is not required to do so and may vote a regular

ballot, if otherwise qualified to do so. BUT, election workers are within their rights to forward the issue of electioneering to the CEB or the county prosecutor for violating state law.

Before Election Day “Electioneering” cannot occur in the space where in-person absentee voting is taking place. There is no “chute” for early voting; instead, it cannot occur within the voting area. The county commissioners would control whether or not signs can be posted on the courthouse lawn. This is a first amendment issue, where all candidates can post a sign or no candidates can post a sign. The Commissioners should consult their county attorney on this matter.

No person can “electioneer” to an absentee voter while the voter is completing their vote-by-mail ballot, but there is an exception for the person’s spouse or member of the voter’s household in state law.

On Election Day No electioneering can occur within the chute or inside the voting area. The chute is defined in IC 3-5-2-10 as the 50 foot area leading to the entrance to where voting occurs.

Unlike “early” voting, similar limitations are not placed on yard signs unless the

sign is placed within the “chute” or inside the polls.

Voters & Masks Before the primary election, the IED Co-Directors sent out a memo about requiring voters to wear masks or to have their temperature taken before being able to vote.

In this memo, the co-directors noted that wearing a mask or taking a temperature cannot be a pre-condition to vote. In other words, county election officials cannot turn those persons away from being able to cast their ballot, if otherwise qualified under title 3 to do so. However, a voter may not wear a mask that expresses support or defeat of the candidate as the electioneering statutes apply to it as well. Much like wearing a T-shirt or hat, a person does not need to remove a mask that does not comply with the electioneering statute but may be subject to investigation or prosecution.

This memo also addressed whether poll workers or absentee voter board members can be required to wear a mask. In IED’s view, the appointed officials are independent contractors and may be subject to additional employment requirements like wearing PPE. CEBs are advised to discuss this with their county attorneys.

VR CORNER

Forwarding Voter Registrations

A voter may file state and federal voter registration forms or an FPCA in a county where the voter doesn’t reside. If that occurs, county voter registration officials must forward the VR document to the appropriate county. The forwarding count is able to email the document to the correct county, but the hard copy must be sent to the correct county. (IC 3-7-34-9) Additionally, IED can receive voter registration forms from any person, and our office will forward them to the appropriate county.

Timely Voter Registrations

A reminder that any timely received voter registration form will be sent with a “timely” memo as we near the statewide VR deadline. A “timely” VR form is either hand-delivered by the registration deadline, or postmarked on or before October 5, 2020. If the postmark is missing or illegible, then those registrations can be processed up to and including Tuesday, October 13, 2020 (deadline moved due to holiday). A legible postmark date on or before October 5 must be processed for November.

Pending Registrations & Auto-Activate Functionality

Counties may choose to auto-active pending voting registrations before each election. You’ll want to sign the auto-activate request document found on the INSVRS County Portal and attach it to your County Authorization Request filed through INSVRS. Signing this document acknowledges your county understands the state’s policy relating to activating registrations in a batch setting.

“Late” Ballot Vacancies

Occasionally there will be instances where a candidate must withdraw as a candidate from an election due to a felony conviction, a move out of the election district, or the candidate dies. Any vacancy occurring on or before October 3, 2020, is considered an “early” vacancy (even though this may seem late in the election season to election administrators). For “early” vacancies, the parties follow IC 3-13-1, generally, to fill those ballot vacancies through caucus or, if the county party has authorized it or there is only one eligible PC to vote in the caucus, by direct appointment.

However, “late” ballot vacancy procedures found in IC 3-13-2, generally, are followed for any ballot vacancy occurring on or after October 4, 2020. The procedures to fill a “late” ballot vacancy are streamlined to allow for direct appointment in some cases. Please be sure you and the appropriate county chair review IC 3-13-2, if a vacancy occurs during the final 30-days leading up to the election. The blue Election Administrator’s Guide goes in to more detail on the forms used for filing with the clerk (or IED, if it’s a state or federal office).

Ballot Re-Printing?

Despite all the hours and eyes on ballot proofs, mistakes happen. In this scenario of a defective ballot due to error or omission, the CEB can choose to 1/ reprint the ballot OR 2/ hold a hearing to determine if ballot re-printing is necessary. (IC 3-11-2-16)

Before the hearing, the CEB must notify the party(ies) or candidate(s) who may have an interest in the matter. At the hearing, the CEB must discuss the number of ballots, if any, containing the error or omission that have been cast; the cost of correcting the error; whether the error would cause confusion or mistakes by the voter; and whether any voter objects to using the ballot.

If no voter objects to using the defective ballot AND the CEB determines that the error or omission will not cause confusion, then the defective ballots may continue to be used. However, if any voter objects to using a defective ballot OR the CEB determines the error or omission will create confusion, then new ballots shall be printed.

Alternatively, a candidate may pass away after the ballot is printed. In this scenario, the procedures in IC 3-11-3-29.5 apply. The CEB must re-print ballots unless 1/ the party fills the ballot vacancy within the final five days before the election OR 2/ the candidate dies and notice of the death is received after noon, the final seven days before the election. The CEB can also unanimously agree a candidate has died without notice and re-print the ballot.

Absentee voters must file an ABS-5 to have an absentee ballot reissued, if the ballot is found to be defective. While there is no requirement for the CEB to proactively send the ABS-5, the CEB could choose to send uniform notice to impacted voters.

QUESTIONS OF THE MONTH

Q. Can a voter cancel their absentee ballot application once submitted to the county?

A. State law does not address cancelling an ABS app once received by the county. For that reason, the absentee ballot must be sent to the voter, assuming the app is reviewed and approved. A voter can surrender their absentee ballot to the Inspector on Election Day and vote a regular ballot, if qualified. Or, if the voter’s absentee ballot is lost, spoiled, or defective, it can be re-issued after the voter files an ABS-5. Or, if the voter never received their absentee ballot, on Election Day, the voter completes the PRE-5 and votes a regular ballot, if qualified.

Q. We’re a non-vote center county. Are we able to consolidate polling locations for November?

A. Yes. In non-vote center counties, state law allows adjoining precincts to be co-located at the same site. See IC 3-11-8-4.3 for more details.

Q. Can we modify in-person “early” absentee voting hours in the clerk’s office?

A. At minimum, early voting must be offered for the same hours as the clerk’s office is open. If the clerk’s office is open 8A to 5P, for example, then early voting must be offered from 8A to 5P during the weekday. State law sets forth minimum hours on the two Saturdays before election day. See IC 3-11-10-26 for more information.

Q. A school board candidate wants to purchase yard signs, but hasn’t met the threshold to require opening a candidate’s committee. What should her disclaimer be?

A. School board candidates have special rules under Indiana’s Campaign Finance Act and are not required to open a candidate’s committee until the candidate raises or spends more than \$500 toward running for office. However, the candidate is required to have a disclaimer on purchased goods, such as: Paid for by Mia Marshall. Mia would need to keep records of the purchase as it would be an in-kind contribution and may be reportable IF she raises/spends more than \$500 for school board office.

Q. Could a family member or other individual complete a PRE-3 and assist a voter with completing their absentee-by-mail ballot?

A. No. State law requires the voter to be able to personally mark their own vote-by-mail ballot. If they cannot, then state law specifically requires the person to vote before a travel board. See IC 3-11-10-24(b). But, if the voter wants to vote in-person at the clerk’s office or other early voting site or on Election Day, then any person other than the voter’s employer or union representative can assist a voter with disabilities or who cannot read or write the English language if the PRE-3 form is filled out before going to the voting booth. (IC 3-11-9-2)