

Election Division Dispatch

Brad King & Angie Nussmeyer, Co-Directors | September 2019

NEWS & UPDATES

Precinct Election Results Survey

A survey was emailed to counties asking if they intend to use the new SVRS precinct level results upload module in the November 2019 election.

While the tool was designed for counties to upload final certified results to SVRS to eliminate paper filing during certification, an added benefit is counties may use the module to upload unofficial results that can be viewed and downloaded from the state's ENR website. The ENR website can be leveraged by counties to share early precinct level results with interested parties and after certification, a public-facing website to point to for final precinct level results when requested.

Please respond to this survey not later than Friday, September 27, 2019. We'll use this information to reach out to counties interested in using the module to provide extra support mapping the data, if needed.

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 in-person 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 hours under IC 3-11-10-26.5 in 2019.)

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 Thursday, October 3, 2019, for a test conducted on October 7, 2019. Because the Open Door Law views the 48-hours in business days and not calendar days, then a county may not count the weekend 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 October 5, 2019, for a public test held on October 7, 2019. In this case, the statute relies on calendar days, so the 48-hours may include the weekend. There is never a penalty for publishing early!

Sometimes a newspaper fails to publish notice of a public test. A CEB need not reschedule the test as a result. Instead, state law permits a county where the newspaper failed to timely publish a notice to either 1) display the notice prominently in three (3) locations in the county or 2) post on the county's website (IC 5-3-1-2(k)).

SEPT WEB TRAINING

Sept. 12 | Absentee Overview

Sept. 12 & 17 | Election Office & Candidate Set-Up

Sept. 17 & 18 | Precinct Level Election Results Upload

Sept. 24 & 26 | ePollbook Overview

Dates are subject to change; check the 2019 INSVRS Training Schedule on the county portal to confirm.

CALENDAR

September 4, 2019: Deadline to file copy of CAN-18 with town clerk-treasurer, if "small" town political party held convention

September 4, 2019 (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 16, 2019: Deadline for absentee ballots to be delivered to CEB.

September 16, 2019 (NOON): Deadline for CEB to notify the D&R chairman the number of ABS voter boards, ABS ballot counties, and couriers needed for the 11/19 election.

September 20, 2019 (NOON): Deadline for D&R county chairs to appoint ABS voter boards.

September 21, 2019: 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 21, 2019: Deadline for counties to mail ABS ballots to persons with an approved ABS-Mail application

September 30, 2019: Deadline for counties who filed a request to redraw precinct boundaries for 2020 to file IEC -8 with assigned IED staff

October 5, 2019: Last date to publish notice with newspaper for a public test conducted on 10/7/19

October 7, 2019: Statewide VR deadline

October 7, 2019: Last day to conduct public test of voting systems used in 11/5/19 election

October 8, 2019: First day of in-person absentee voting at the Clerk's Office, unless CEB adopts resolution under IC 3-11-10-26.5

IN FOCUS: Ballot Re-Printing

With absentee ballots being delivered to counties and mailed to voters this week, 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 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” or may simply remove the withdrawn candidate’s name. (IC 3-11-3-29.5)

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 withdrawn 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 3-12-1-15)

VOTER OUTREACH

A CEB is not required to inform voters of a defective ballot, but are encouraged to do so. A voter has the right to complete an ABS-5 to request a new absentee ballot. State law was updated this legislative session to provide more options as to how the replacement ballot may be issued.

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-Travelling Board application before sending the bi-partisan team to deliver the replacement ballot .

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, not filled by the Libertarian Party at their convention, or a candidate withdrew for any reason up to noon, July 15, in an election year. State law does limit candidate withdrawal after the July 15 deadline to the following: candidate dies, moves out of the election district, was convicted of a felony, or ordered off the ballot. However, it does not set a deadline by which this “late” withdrawal can occur.

Therefore, state law contemplates two types of ballot vacancies: early and late. An “early” vacancy occurs at any point in the election cycle up to day 31 before the election. A “late” vacancy occurs in the final 30-days before an 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 PCs or fill by direct appointment if authorized by the party (or there’s only one eligible PC to vote in a caucus) not later than 30-days after the vacancy was created. The chair then files the required paperwork with the county clerk. (CAN-47, CAN-48, CAN-49)

Ballot vacancies created in the last 30-days before an election may be filled by county chairs fill the vacancy using the procedures in IC 3-13-2. A “late” vacancy created in the last 30-days for a local office is to be filled by direct appointment by the county chair and the certificate of candidate selection immediately filed. The timing of when the certificate of candidate selection is filed will impact whether or not a ballot is re-printed (see above). (CAN-48, CAN-50)

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. Do we need to include the names of candidates and their address on the CAN-39 notice of general election?

A. No. Unlike the notice of the primary election, state law only requires the offices on the November ballot to be published in the newspaper not later than 10 days from the election. Counties using SVRS to create the CAN-39 notice will find that the system does not include the candidate information. Finally, don't forget that a copy of the CAN-39 must be included in the CEB meeting minutes.

Q. We're a vote center county. Are we able to eliminate one or both Saturdays from the requirements in IC 3-11-18.1, if our CEB passes a resolution under IC 3-11-10-26.5 to reduce early voting dates and times?

A. No. While IC 3-11-10-26.5 does allow a CEB to unanimously agree to reduce "early voting" at the Clerk's office, it does not eliminate the requirement under the vote center statute (IC 3-11-18.1-4) to have at least one vote center used on Election Day to be available to voters the two Saturdays before Election Day.

Q. Can an ABS-Mail application used in the November 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* yard signs are to be placed in and around our community?

A. No. 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.

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

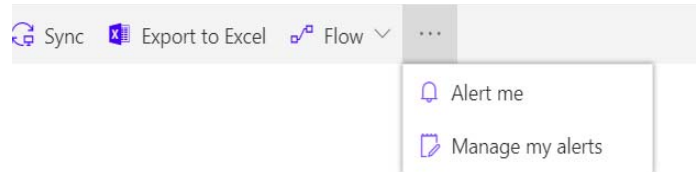
A. At-large candidates are placed at the end of the "partisan" section of the ballot. A reminder: straight party selections in the Nov. election do not apply for at-large candidates where more than one person is elected. (NOTE: A few jurisdictions in Indiana use 'at-large' for an office where only one person is elected. In this case, the at-large candidate would be listed with the district offices.)

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. 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)

ALERT ME The SVRS County Portal has an "alert me" function that will send an email when documents are posted to a county's folder. Below is an image where you can find this functionality along the top navigation bar on the far right side.

IED is scanning ABS-Mail applications and posting them under IED Postings in the specific county's folder each day, so the "alert me" function might be helpful to county users. Uploading scanned images of the ABS-Mail applications is a convenience to the counties for those that want to print and get ballots out the door. The original hard copies will follow by regular mail.



VR CORNER

In 2019, not every jurisdiction in the state is holding an election. Those individuals "in the county" technically don't have a voter registration deadline, assuming there is no special election being conducted in their precinct.

So what about those cities and towns that are scheduled to hold an election, but the CEB or town election board (TEB) passes a resolution to not conduct a November election because there are no contests? In our view, the election is still considered to have occurred in those precincts and the voter registration deadline should still be enforced.

County voter registration officials also have some responsibilities to a "small" town where the town election board is conducting the fall election. First, the county VR official must provide a list of all voters in the "small" town to the TEB not later than 24-days before the election in order to conduct absentee voting. (IC 3-10-7-30) However, the 24-day deadline may not comport with the TEB's hours for in-person early voting, and counties should discuss with the town their need for this list before this deadline.

Further, to prepare for Election Day, the county VR official must print a list of all voters in the "small" town and provide it to the TEB not later than ten days before the election. (IC 3-7-29-1; IC 3-10-7-30) NOTE: Counties using ePollbooks cannot provide their ePollbooks to the TEB for use.

Further, county VR officials must also issue certificates of error on Election Day in those small towns where the town is conducting their own election. The CoE does not need to be printed and delivered; instead, the SVRS code can be provided and documented in the town's precinct poll book.