

# Early Voting Ballot Board



Presented by: Krystine Ramon



# Purpose of EVBB

- To serve as the authority that processes early voting ballots and provisional ballots.
- The Early Voting Ballot Board (the “Board”) generally meets twice during an election. First, the Board meets to qualify ballots by mail on election day or after the last day to vote early by personal appearance. Second, the Board meets after election day to review any provisional ballots and to qualify mail-in ballots received by the NBD/5<sup>th</sup>/6<sup>th</sup> day after the election from voters casting a ballot from outside the country.



# Composition of EVBB

- Presiding judge and at least 2 other members
- Presiding Judge appoints clerks
- How many members are appointed?
  - General Election for State and County officers (if joint ballot board):
    - The same number of members must be appointed from each list provided by political parties.
    - November 2020 will be County Election Board.
  - Local elections:
    - Authority ordering election sets number of members.



## Who appoints Presiding Judge and Clerks?

| Type of Election                               | Presiding Judge  | EVBB Clerks  |
|--|--|--|
| General Election for State and County Officers | County Election Board -- from list provided by political party whose nominee for Gov received the most votes in the county | County Election Board -- from lists provided by political parties (same number from each list) |
| Primary Elections                              | County Chair of Political Party with approval of County Executive Committee  | Presiding Judge of EVBB  |
| All Other County ordered elections             | Commissioners Court  | Presiding Judge of EVBB  |
| All other Elections                            | Authority ordering election  | Presiding Judge of EVBB  |



# Eligibility to Serve on Board

- Same qualifications for Election Judges/Clerks
  - Qualified voter of the political subdivision served by the early voting clerk. Sec. 32.051
  - **Must take oath of office prior to service**
- Ineligible if:
  - Hold public elective office
  - Opposed candidate in election on the same day
  - Related to an opposed candidate within 2<sup>nd</sup> degree by blood or marriage
  - Serving as campaign treasurer/campaign manager for candidate in election



# Compensation

- Same hourly compensation as election judges EXCEPT Sec. 32.091
  - If work is less than 10 hours – payable for up to 10 hours.
  - Board members serving as election judges/clerks cannot be compensated for performing both tasks at the same time.



# FAQ's

## 1. Our entity doesn't have any ballots by mail, do we have to have a ballot board?

Yes. All entities must have a ballot board. An early voting ballot board shall be created in each election to process early voting results and provisional ballots from the territory served by the early voting clerk. [87.001] You must always appoint a ballot board because you will not know until Election Day whether there will be provisional ballots that need to be reviewed by the EVBB.



# FAQ's

## 2. May the deputy early voting clerks or election day workers serve on the ballot board?

This depends. Our office advises that a deputy early voting clerk may not serve on the EVBB. Duties conflict in scope and time for performance. An election day officer may serve on the EVBB. Please keep in mind that both duties may not be done at the same time.





## FAQ'S

### **3. May the early ballot board members serve on the signature verification committee?**

Not recommended. Since the ballot board members may override a rejected signature decision by the committee, a ballot board member should not serve on the signature verification committee. [87.027]



# Early Voting Ballot Board

| Role A                                 | Role B  | Okay?  |
|--|---|--|
| Early Voting Ballot Board Judge/Member | Election Judge/Alternate Judge                  | <b>Yes</b> – Except for during primary or general election for state and county officers. (87.004)       |
| Early Voting Ballot Board Judge/Member | Election Clerk                                  | <b>Yes</b> – Except for during primary or general election for state and county officers. (87.004)       |
| Early Voting Ballot Board Judge/Member | Early Voting Clerk or Deputy Early Voting Clerk | <b>Unadvisable</b> – Duties conflict in scope and time for performance.                                  |
| Early Voting Ballot Board Judge/Member | Signature Verification                          | <b>No</b> - Conflicts with role on early voting ballot board. (87.027)                                   |
| Early Voting Ballot Board Judge/Member | Central Counting Station                        | <b>Maybe</b> – If no conflicts with timing of work on ballot board. (87.027)                             |
| Early Voting Ballot Board Judge/Member | Employee of Political Subdivision               | <b>No</b> – per eligibility requirements of a presiding judge. (Ch. 32)                                  |
| Early Voting Ballot Board Judge/Member | Candidate/Officeholder                          | <b>No</b> – per eligibility requirements of a presiding judge. (Ch. 32)                                  |
| Early Voting Ballot Board Judge/Member | Employee of Candidate                           | <b>No</b> – per eligibility requirements of a presiding judge. (Ch. 32)                                  |
| Early Voting Ballot Board Judge/Member | Relative of Candidate                           | <b>No</b> – per eligibility requirements of a presiding judge if within 2 <sup>nd</sup> degree. (Ch. 32) |
| Early Voting Ballot Board Judge/Member | Campaign Employee – Manager or Treasurer        | <b>No</b> – per eligibility requirements of a presiding judge. (Ch. 32)                                  |

## FAQ'S

### 4. Do members from the ballot board have to be from different parties?

Yes. The same number of members must be appointed from each list provided by political parties with party affiliation on the ballot. Lists may be submitted by all parties that have a nominee on the general election ballot, including the Green and Libertarian Party.



## FAQ'S

### 5. What if our county does not have a chair from one of the political parties, what do we do?

The party first needs to fill the vacancy of the party chair. Then the chair would be able to provide a list of names. If there is no vacancy filed then the Presiding Judge or County Election Board whichever is applicable should appoint members.



## FAQ'S

**6. If the EVBB is verifying signatures and not the SVC, when does the board need to ask for copies of signatures within the past 6 years from the County Clerk, EA or VR?**

There is nothing in the Election code that states when this may be done. The board members may ask for these documents of voters signatures in advance as long as it is reasonable. We recommend that this may be done within ample time to allow for the County Clerk, EA or VR to prepare all these documents. Electronic copies of these documents may be sent to the board.



# FAQ'S

## 7. What is a majority vote of the EVBB?

The Election Code does not state what constitutes as a majority for the EVBB. Some counties will determine by the full board members present, or members of the subcommittees. Our recommendation is that the board comes to an agreement of what constitutes as a majority and that the board use that throughout the process.



# FAQ'S

## 8. May the EVBB keep notes?

The EVBB may not disclose the results of the accepted and rejected ballots. With that said, the Board may keep notes. Please keep in mind that these notes are subject to public information requests.



# FAQ'S

## 9. Are the carrier envelopes and applications public information?

Yes. A copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after the election day of the earliest occurring election for which the application is submitted. Originals of the applications and carrier envelopes are not available for public inspection until those materials are delivered to the general custodian of election records after the election. [86.014]





# FAQ'S

## 10. Does the EVBB separate rejected and accepted ballots?

Yes. The EVBB needs to separate the rejected and accepted ballots. If the board did not separate rejected and accepted ballots and cannot determine which ones were accepted or rejected, the board will need to start the process over as they have the authority to do so. However, if the SVC does not separate these ballots they have no authority to start this process over again and the ballots will be sent to the EVBB to verify signatures.



# Convening the Early Voting Ballot Board



# Convening the EVBB

- The board **must** convene to complete the following tasks:
  - Qualify and Process Regular Ballots by Mail
  - Qualify and Process Various Late Ballots
  - Qualify and Process Provisional Ballots
- The EVBB usually meets a minimum of **two** times.
- At first meeting, take oath.



# Convening the EVBB

- **On or before Election Day:**
  - Qualify ballots by mail
- **After Election Day:**
  - Process Provisional Ballots
  - Qualify “Late Ballots”
    1. Ballots mailed within US (received by next business day 5pm and postmarked by Election Day) voters using ABBM
    2. Ballots mailed from non military voters outside the US (received by 5<sup>th</sup> day)
    3. Ballots mailed military voters using FPCA (received by 6<sup>th</sup> day)



# Convening: Early Voting Ballots by Mail

- **General Rule:**

- Qualifying and Processing Ballots:

- May convene at the end of Early Voting by Personal Appearance (3<sup>rd</sup> day before) to qualify ballots (October 31, 2020)
    - Ballots may not be counted until after the polls open on election day.

- **Rule for Counties with a population of 100,000 or more (this includes CSO conducting an election jointly with the county):**

- Qualifying and Processing Ballots:

- May convene on the 9<sup>th</sup> day before the last day of the period of early voting (October 22, 2020)
    - EVBB may deliver ballots to the central counting station for early counting after the end of the early voting period. Results may not be released until the close of polls on election day.



# Convening: Late Ballots Outside the US

- The Board must reconvene to count mail ballots that were:
  - Cast from outside US (FPCA or ABBM)
  - Placed in delivery before polls closed
  - Received by 5<sup>th</sup> day after election (non-military) Sec. 86.007
  - Late Ballots mailed from outside US (received by 6<sup>th</sup> day) military voters using FPCA Sec. 101.057
- The board shall re-convene no earlier than the **6<sup>th</sup> day** after the election for these ballots, unless the EV clerk certifies that all ballots from outside the US have already been received.



## Convening: Late Ballots (“next business day after election day”) from ABBM voters Inside the US

- The 13<sup>th</sup> day after election day deadline for November 3, 2020 elections. Sec. 87.125(a-1)
- Date will be Monday, November 16, 2020



# Convening: Late Ballots (“6<sup>th</sup> day after election day”) from military FPCA voters Inside the US

- The 13<sup>th</sup> day after election day deadline for November 3, 2020 elections. Sec. 87.125(a-1)
- Date will be Monday, November 16, 2020





# Convening: Provisional Ballots

- May convene as soon as practicable after the Voter Registrar completes their review.
- **General Rule:** Cannot convene a **final time** until after the 6<sup>th</sup> day after the election due to Voter ID verification.
- **SOS RECOMMENDATION:** Review provisional ballots on a rolling basis.



# When is the last day the EVBB can complete their duties?

- Review of all late-qualified ballots must be completed by:
  - The 13th day after the date of the election, (Elections held on the date of the general election for state and county officers – Monday, November 16, 2020)



# WARNING

**If the EVBB does not complete their duties by the last day allowed under Texas law, they MUST get a court order to continue their review of ballots.**



# Notice Requirements



# Notice of Delivery of Ballots

- Early Voting Clerk must post Notice of Delivery of Ballots to the EVBB 24 hours before each delivery that is made prior to the time the polls open on election day.
- SOS has prescribed forms for this notice: AW6-6 (Mail ballots only) & AW6-7 (Mail and paper balloting materials)
- Recommendation: Notices should be posted on website if possible



# Delivery of Provisional Ballots

- Presiding Judge must post notice of the EVBB meeting on provisional ballots on the same bulletin board used for posting notices of meetings of the governing body ordering election.
- Notice must be posted no later than 24 hours before EVBB meets.
- Recommendation: Notices should be posted on website if possible.



# Security of Ballots



# Security of Ballots

- Presiding judge must inspect box, seals, numbers on seals and indicate on receipt any discrepancies.
- Presiding Judge cannot refuse delivery of ballot boxes.
- Custodian of second ballot box key must deliver key when requested.





# Security of Ballots

AW5-39  
Prescribed by Secretary of State  
Sections 53.032(9), 137.054, 137.064, Texas Election Code  
3/07

RECEIPT OF SEALED EARLY VOTING BALLOT BOX

I, the Presiding Judge of the Early Voting Ballot Board for the \_\_\_\_\_ Election, do hereby certify that the early voting ballot box was delivered to me in a locked and sealed condition.

I further certify that the serial number of the seal used to seal the ballot box to prevent unauthorized opening of the box was \_\_\_\_\_.

I also certify that the serial number of the paper seal used to prevent unauthorized deposit of ballots in the box was \_\_\_\_\_.

\_\_\_\_\_  
Signature of Early Voting Ballot Board Judge

\_\_\_\_\_  
Signature of Clerk of Early Voting Ballot Board

\_\_\_\_\_  
Signature of Poll Watcher (if present)

\_\_\_\_\_  
Signature of Poll Watcher (if present)

Attach a copy of this receipt to the Record of Early Voting Ballot Seals and return to the general custodian of the records.

- PJ must lock and seal each ballot box before delivering to the custodian of records
- PJ must complete Ballot Security Form AW5-39
- Form must be signed by another member of EVBB that witnessed the procedure.
  - In November of even-numbered year election, Co-signer must be from different political party.
- PJ retains the key to ballot boxes.
  - If PJ unwilling to retain keys, keys delivered to appropriate authority under (66.060 (a))



# Timeliness of Overseas Ballots

- Carrier envelope must:
  - Be properly addressed with postage
  - Bear a cancellation mark from the postal service or a receipt mark (**unless** military voter using FPCA)
    - However, it is timely even without cancellation mark if arrives by regular deadline of 7 pm election day.



# Overseas Ballot

- Should I reject an overseas non military ballot from a voter using an FPCA or ABBM if it was mailed in the U.S.?
  - No, the EVBB should not be considering where the ballot was mailed.
  - While in certain circumstances you should be checking to ensure it has a timely postmark, you should not be considering where the postmark is from.



# Ballot By Mail Procedures



# Ballot by Mail Procedures

- Review of ABBM/FPCA & Carrier Envelope
  - Reasons for voting by mail
  - Voter registration status
  - Procedures for submitting ballot properly followed
- Signature Verification
- Return materials to General Custodian



# Qualifying Ballots By Mail

- Signature Verification
  - Authorized to use electronic copies of balloting materials
  - Board may also compare signatures with two or more signatures the voter made within the preceding 6 years and on file with EA, VR or County Clerk.
- “ID” Voters
  - Must provide copy of one of the 7 valid forms of photo identification OR RID plus supporting form of ID
- Witnessing v. Assisting a voter
  - NO limit on number of carrier envelopes that a person may witness or assist.
    - A Witness may only witness 1 ABBM unless certain exceptions apply.



# Provisional Ballot Procedures



# Provisional Ballot Procedures

- Review Provisional Ballot Envelope
- Return of Materials to General Custodian





# Reviewing Provisional Ballots

- Authority appointing EVBB may determine which members of the board will review the provisional ballots
- Entire board does not need to be present
- Minimum of three EVBB members must be present.



# Administrative Duties



# Return of Materials to Custodian

- Delivered to General Custodian of Election Records.
  - Re-locked ballot boxes containing ballots
  - Key to ballot box returned to general custodian
  - List of Provisional Voters
- General custodian prepares amended unofficial return
- Ballots and Envelopes retained for preservation period
- Public Records
  - Carrier Envelopes
  - Application for Ballot By Mail (Annual ABBMS available after earliest occurring election for which the application was submitted)
  - Provisional Ballot Affidavit Envelope
  - List of Provisional Voters
- Rejected Ballots may only be opened by court order (TAC Rule 81.176)



# Notice to Voters

- Ballots by Mail
  - ***Notice of Rejected Ballot***
  - Within 10 days of election
- Provisional Ballots
  - ***Notice of Outcome to Provisional Voters***
  - No later than 10<sup>th</sup> day after the local canvass
  - Use mailing address provided on Provisional Ballot Affidavit.



# Notice of Rejected Ballot

The EV clerk shall, not later than the 30<sup>th</sup> day after election day, deliver notice to the Attorney General, including certified copies of the carrier envelope and corresponding ballot application, of any ballot rejected because:

- 1) the voter was deceased;
- 2) the voter already voted in person in the same election;
- 3) the signatures on the carrier envelope and ballot application were not executed by the same person;
- 4) the carrier envelope certificate lacked a witness signature; or
- 5) the carrier envelope certificate was improperly executed by an assistant [Sec. 87.0431]

For questions, you may contact: [mailinballotreporting@oag.texas.gov](mailto:mailinballotreporting@oag.texas.gov).



# FREQUENT SITUATIONS FOR EVBB



## Situation 1: Two Ballots in One Carrier Envelope

1. If you receive an envelope or package with two or more carrier envelopes from individuals registered at the same address inside may you accept the ballots?

This depends. If you receive an envelope or package with two carrier envelopes from individuals registered at the same address inside and the carrier envelopes are separated (meaning two different carrier envelopes with two different ballots), then you may accept the ballots. If you receive an envelope or package with two or more carrier envelopes from individuals registered at the same address inside and the carrier envelopes are not separated (meaning two or more ballots are in one carrier), then you may not accept both ballots and they would be rejected. This scenario is often found when a couple mails both their ballots in the same carrier envelope.



## Situation 2: Carrier Envelope Witness/Assistance Portion Filled Out Incorrectly

1. If you receive a carrier envelope with the witness/assistant portion filled out incorrectly, do you accept it?

No. The Witness/Assistance portion must be filled out correctly.

2. If the Early Voting Clerk receives a timely carrier envelope that does not fully comply with the applicable requirements prescribed by this title, the clerk may deliver the carrier envelope in person or by mail to the voter and may receive, before the deadline, the corrected carrier envelope from the voter, or the clerk may notify the voter of the defect by telephone and advise the voter that the voter may come to the clerk's office in person to correct the defect or cancel the voter's application to vote by mail and vote on election day. If the early voting clerk chooses to do this with one voter, this must be applied uniformly to all carrier envelopes. A poll watcher is entitled to observe the procedures if this is done. This procedure may be used if the early voting clerk can determine that two carrier envelopes are in one. (86.011(d))





## Situation 3: Voters Mailing Address on ABBM is Different than Voter Registration Address on File

1. If the grounds for voting by mail is either being 65 or over, or disability, and the applicant has not provided his or her official mailing address as shown on the list of registered voters as the address for mailing his or her ballot, the address provided must be that of a hospital, nursing home, other long term care facility, retirement center, or the address of a relative within the second degree of affinity or third degree of consanguinity with whom the applicant is living. If this information was not provided on the Application for Ballot by Mail, the ballot should be rejected per Section 87.041 of the Code.



Thank you for your time.

Questions?

[Elections@sos.texas.gov](mailto:Elections@sos.texas.gov)

