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HOUSE DEMOCRATIC POLICY COMMITTEE

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House of Representatives
COMMONWEALTH OF PENNSYLVANIA

HOUSE DEMOCRATIC POLICY COMMITTEE HEARING

Topic: Voting and Elections

United Lutheran Seminary – Philadelphia, PA

February 25, 2019

AGENDA

- 4:00 p.m. Welcome and Opening Remarks
- 4:10 p.m. Panel One:
- Rachel Boss
Community Impact Manager in Bureau of Campaign Finance and Civic Engagement
Pennsylvania Department of State
 - Omar Sabir
City Commissioner
City of Philadelphia
- 4:30 p.m. *Questions & Answers*
- 4:50 p.m. Panel Two:
- Patrick Christmas
Policy Director
Committee of Seventy
 - Marc Stier
Director
Pennsylvania Budget and Policy Center
- 5:10 p.m. *Questions & Answers*
- 5:30 p.m. Panel Three:
- Sara Mullen
Associate Director
ACLU of Pennsylvania
 - Kendra Cochran
Statewide Voter Engagement Coordinator
POWER Interfaith
- 5:50 p.m. *Questions & Answers*
- 6:10 p.m. Closing Remarks



Act 77 Changes to the Election Code

Act 77 of 2019 makes several changes to the Election Code. Those changes are summarized below. Most of the changes take effect with the Presidential Primary Election on April 28, 2020. Some, however, take effect immediately. For more information, see the entire Act [here](#).

Voter Registration Deadline

The deadline to register to vote is now 15 days prior to an election, rather than 30 days. The deadlines to appeal the denial of a voter registration have also changed. These new deadlines take effect for elections held on or after 4/28/2020. Please note that postmark dates are no longer relevant for timeliness - a voter registration application must be **received** by the county by the 15-day deadline.

Absentee and Mail-In Voting

Pennsylvania has added a new, no-excuse-needed means for voters to vote by mail. It is called Mail-In Voting, and the timelines and process are similar to those for absentee balloting. The primary difference is that mail-in voters do not have to provide any reason or excuse for voting by mail. If a voter qualifies for an absentee ballot, they must still continue to use absentee ballots.

Voters who wish to vote absentee or by mail must still apply for a ballot, which may be done electronically through the Department of State's website or by paper application. Applications for mail-in or absentee ballots must still be received by the county no later than 5 p.m. on the Tuesday before the election, but the time frame for ballot return has been extended. The deadline for a county to receive a mail-in ballot or regular civilian absentee ballot has been extended to 8 p.m. on Election Day. Mail-in ballots or civilian absentee ballots received after this time will not be counted unless a court has extended the deadline.

An individual who receives and votes a mail-in or absentee ballot that is timely received by the county may not vote at their polling place. If a voter requests but does not return their mail-in or absentee ballot by the deadline, they may still deliver the ballot in person to the county elections office until 8 p.m. on Election Day, or if they cannot do so may vote by provisional ballot at their polling place.

The process for obtaining an emergency absentee ballot has been simplified. Multiple individuals may now designate the same individual to deliver their ballots. This envisions a scenario where, for example, the same hospital employee delivers ballots for multiple patients.

Counties are now authorized to begin processing mail-in and absentee applications more than 50 days before the election. Counties may await the result of a court proceeding that would affect the content of ballots before mailing out the ballots but, in any case, counties must begin to send out mail-in and absentee ballots as soon as they are available and no later than the second Tuesday before the election.

Voters with a permanent disability may request to be placed on a permanent absentee voter list. All other voters who wish to vote by mail without an excuse may request to be placed on a permanent mail-in voter list. These individuals will have a ballot application mailed to them by the first Monday in February each year which, if completed and returned, entitles them to receive ballots in the mail for all elections taking place during the remainder of that calendar year and for any special elections through the third Monday in February of the following calendar year.

Over the Counter

County election boards are now required to immediately process walk-in applications for both mail-in and civilian absentee ballots. Voters must be allowed to complete their application request and cast their mail-in or absentee ballot while in the county office. This takes effect for elections held on or after 4/28/2020.

No Straight-Party Voting

Voters will no longer have a shortcut straight-party button to vote for all candidates of one party. This change does not prevent a voter from individually selecting only candidates from one party. This change takes effect for elections held on or after 4/28/2020. It will not apply to special elections held before then.

Poll Workers Compensation

Act 77 alters the compensation structure for district election officials (i.e., judges of elections, inspectors of elections, etc.) This change takes effect for elections held on or after 4/28/2020. Paid compensation shall be fixed by the county board of elections for each election and shall be at least \$75 and not more than \$200. Election officers shall receive additional compensation, as fixed by the board of elections, for participating in election training. Judges of Elections shall receive additional compensation, as fixed by the board of elections, for picking up and returning election materials.

Bond funding – \$90 million

Act 77 authorizes the Department to apply to the Pennsylvania Economic Development Financing Authority (PEDFA) for bond issuance up to \$90 million. These funds will be used to reimburse counties for up to 60 percent of allowable costs for replacing old voting machines with new systems that meet current security and accessibility standards by the 2020 primary. Allowable expenses include new ballot marking devices, scanners, system software, one year of licensing fees, and voting system storage cases. Counties must select their new voting systems by December 31, 2019 and implement them no later than the 2020 primary. Any remaining bond proceeds may be used by the Department to fund grants to purchase county election security equipment.

Requirements for Disapproval or Decertification of Voting Apparatuses

In the future, the Department may not disapprove or decertify a voting system in 50 percent or more of the counties until the Department has submitted a written plan to certain General Assembly officials at least 180 days prior to the effective date of decertification. However, this requirement has no effect on the current decertification process, as this section does not take effect until April 28, 2020.

Nomination Petitions

Circulators of nomination petitions no longer need to be residents of the election district in which they are circulating petitions. Petition circulators now need only complete a statement under penalty of perjury for signature pages, rather than a notarized affidavit. This section takes effect immediately.

Circulators of Nomination Papers

Act 77 codifies caselaw relating to nomination papers. Circulators of papers need not be registered electors in Pennsylvania, and indeed, need not even reside in the state. In addition, circulators now need only complete a statement under penalty of perjury for signature pages, rather than a notarized affidavit. This section takes effect immediately.

Restrictions on Election District Alteration (Census/Redistricting Blackout Period)

Because of redistricting, which will occur in 2021 as a result of the decennial census, election district (precinct) boundaries may not be altered (with a few exceptions) from December 31, 2019, to November 30, 2022, or until all judicial appeals to the 2022 Congressional Redistricting Plan are resolved, whichever occurs later.

County Ballot Printing

The registration-based printing requirement has been replaced with a turnout-based printing requirement. In each precinct, counties must now print at least 10 percent more ballots than the highest number of ballots cast in the prior three elections of the same type (odd-year primary, midterm general, etc.). The exception is in presidential election years, when counties will be required to print at least 15 percent more than the highest number of ballots cast in the prior three presidential elections. However, we believe these new minimums may be too low in many places and strongly urge counties to print more than the minimums outlined above, especially in 2020 when record turnout is expected. The Department will follow up with more guidance.

Canvassing of Ballots

Mail-in and absentee ballots must now be counted centrally at the county board of elections' office, rather than distributed to polling places and counted there. Canvassing may begin no earlier than the close of the polls on Election Day and no later than the third day after Election Day and must be completed no later than the eighth day after the election.

Prohibition on Stickers for Write-in Ballots

The use of stickers and paste-on labels for write-in candidates is now prohibited. Write-in names must be either written or stamped. This change takes effect for elections held on or after 4/28/2020.

Public Records

Counties must maintain additional public records regarding mail-in and absentee ballots, including the date an application is received by the county, the date an application is approved or rejected, the date the election board mails the ballot to the voter, and the date the ballot is returned to the county.



Pennsylvania
Applications and Balloting Guidance:
Mail-in and Absentee Ballots
and Voter Registration Changes

Date: January 10, 2020
Version: 1.0

Act 77 of 2019 provides that voters in Pennsylvania can cast their vote early by either mail-in or absentee ballot. The Act also modifies voter registration requirements. The following guidelines define both what is required by Act 77 and what is permissible under Act 77 or some other portion of the Election Code.

Voter Registration

- The voter registration deadline is now fifteen (15) days before the election. Therefore, voter registration applications must now be **received** by the county board of elections no later than fifteen (15) days before the election.
- Applicants may either return their application in person or it must be received by mail by the county board of elections by the deadline. Previously, counties accepted applications postmarked by the deadline, but that is no longer permitted.
 - Voter registration applications submitted online are timely if they are submitted before midnight on the 15th day prior to a primary or election.
- If an applicant's voter registration application is rejected, the applicant may appeal that decision to the county board of elections by the 8th day prior to Election Day.

Mail-in and Absentee Balloting – General Provisions

- Qualified voters may apply at any time before any primary or election for a mail-in or absentee ballot (up to the deadline described below), and county boards of elections **must begin** processing applications at least fifty (50) days before the primary or election. County boards of elections **may process applications earlier** than fifty (50) days before the primary or election, **if the county board of elections determines that it is better for its operational needs to do so.**
- The deadline for applying for absentee ballots has not changed, and the new mail-in ballots follows the same application deadline. Applications must be received by the county board of elections by 5:00 P.M. on the Tuesday prior to the primary or election. **However, the deadline for counties to receive voted mail-in or absentee ballots has been extended to 8:00 P.M. on Election Day.**
- **Permanent voter lists:**
 - **For the permanent absentee ballot list, only voters with a permanent illness or disability are eligible;** this section does not apply to voters expecting to be absent from the municipality.
 - Absentee voters who request to be placed on the permanent absentee list no longer have to renew their physician's certification of continued disability every four (4) years or list it on each application.

- For the permanent mail-in ballot list, any mail-in voter can request to be placed on the permanent mail-in voter list.
- Each year the county must send an application to any voter on the permanent absentee and mail-in voter lists by the first (1st) Monday in February.
- The yearly application serves as a standing request for any election that calendar year **and** for any special election until the third (3rd) Monday in February the next year.
- **Important Changes relating to Returning the Ballot:**
 - A voter who has returned a mail-in or absentee ballot may **not** vote at the polling place on Election Day.
 - If a voter requests but does not return their mail-in or absentee ballot, they may still deliver the ballot in person to a county elections office (CEO) until 8:00 P.M. on Election Day.
 - If a voter cannot return the ballot in person, the voter can vote in person at the voter's polling place on Election Day, but they may only do so by provisional ballot.
 - If a voter whose record in the district poll book indicates that the voter is not eligible to cast a ballot in person on Election Day asserts that they did not cast a mail-in or absentee ballot and is eligible to vote, the voter should be provided a provisional ballot.

Mail-in and Absentee Applications

There are three (3) ways by which voters can apply for mail-in or absentee ballots:

1. In Person
2. Online
3. By Mail

Requirements for in-person applications:

- Voters are permitted to apply in person at a CEO for a mail-in or absentee ballot.
- Voters who apply at a CEO during business hours may request to receive a mail-in or absentee ballot in person while the voter is in the office. **Note:** Please see "Optional county services" below for more information.

- Once the ballot has been finalized and printed, the county board of elections **must promptly present** the voter with the voter's mail-in or absentee ballot.
- A county board of elections **cannot decline** the voter's application for a mail-in or absentee ballot, unless there is a bona fide objection to the mail-in or absentee ballot application.
- Voters who request a mail-in or absentee ballot in person must be provided an opportunity to privately and secretly mark their ballot. **Note:** *The marking of the ballot in secret does not have to take place in the election offices. It can be provided in a nearby location.*
- Voters are permitted to deliver a mail-in or absentee ballot in-person at a CEO up to 8:00 P.M. on Election Day.

Optional County Services:

- As allowed under existing law, county election boards may provide for mail-in and absentee application processing and balloting at more than one CEO located within county borders.
- Additional business hours for CEOs may be established; hours do not have to be limited to weekdays nor to typical business hours. Counties are encouraged to offer business hours outside of these time frames, including weeknights or weekend hours to enable maximum flexibility and convenience to voters.
- If a county decides to provide additional mail-in and absentee balloting by establishing additional CEOs, the county must account for **all** of the following:
 - Each CEO must be staffed by appointed elections personnel in municipal or county-owned or leased properties selected by the county board of elections for processing applications and in-person voting of both mail-in and absentee ballots.
 - Each CEO must have a secure county network connection that is capable of connecting to the Statewide Uniform Registry of Electors (SURE), and staff trained and approved to access SURE. **NOTE:** *The Department will work with counties to establish secure connections; the county network extension must be approved by the Department.*
 - Each CEO must either have copies of all ballot styles available to be voted in the county, or an on-demand ballot printer capable of printing all ballot styles available to be voted in the county.
 - Each CEO must have a secure ballot collection receptacle to store voted mail-in or absentee ballots submitted at the location.
- When choosing a location for the CEO, counties should consider, at a minimum, the following:
 - Choose locations that serve heavily populated urban/suburban areas, as well as rural areas.

- For example, counties may want to select accessible locations near heavy traffic areas such as commercial corridors, large residential areas, major employers and public transportation routes.
 - In rural areas, locations should be selected that are easily recognizable and accessible within the community.
- Counties may want to select locations in areas in which there have historically been delays at existing polling locations, and areas with historically low turnout.

Requirements for online or mail applications:

- After the ballot has been finalized and printed, the county board of elections **must promptly deliver or mail** the voter's mail-in or absentee ballot, and in any event must deliver ballots by the second (2nd) Tuesday before the election.
- After the county board of elections begins delivering and mailing mail-in and absentee ballots, the county must deliver or mail subsequent ballots requested within forty-eight (48) hours of receipt provided they are approved.
- Whether submitted in person or by mail, all mail-in and absentee ballots must be received by the CEO by 8:00 P.M. on Election Day.

Mail-in and Absentee Ballots

Delivery of Mail-in and Absentee Ballots

- As noted previously, counties **must** begin processing applications for mail-in and absentee ballots at least fifty (50) days before the primary or election or at an earlier time as the county board of elections determines **may** be appropriate.
- Counties **must begin delivering** mail-in or absentee ballots as soon they are certified and available.
- Counties **may** await the outcome of pending litigation that affects the contents of the ballots, but in any event the county **must** begin delivering mail-in or absentee ballots no later than the 2nd Tuesday prior to Election Day.

Collection of Mail-in and Absentee Ballots

- In addition to CEOs, counties may provide for other secure ballot collection locations that the county deems appropriate to accommodate in-person return of voted mail-in and absentee ballots.
- If a county decides to provide for other ballot collection locations, the county should consider the following best practices:

- The county board of elections should pass a resolution to determine the number and locations of ballot collection locations within the county, and provide public notification of the locations.
- Ensure and document to the Department the security and chain of custody of mail-in and absentee ballots retrieved from ballot collection locations. **NOTE:** *Please contact the Department for guidance on how to document security and chain of custody.*
- Utilize a secure ballot collection receptacle that is designed for this specific purpose. **NOTE:** *Please contact the Department for guidance on factors, best practices, and examples for these receptacles.*
- Officially designate county election personnel who are sworn and authorized to remove mail-in and absentee ballots from ballot collection receptacles.
- Process mail-in and absentee ballots collected from ballot collection locations in the same manner as ballots personally delivered or mailed to the county board of elections.
- Hours of access to and collection from the ballot collection locations do not have to be limited to weekdays nor to typical business hours.
- Public notification should be provided as to the location of collection locations, and clear signage should designate the locations and explain their proper use.

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Version History:

Version	Date	Description	Author
1.0	1.10.2020	Initial document release	Bureau of Election Security and Technology