# Election Officers

# Digest

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# ELECTION OFFICERS DIGEST

## I. INTRODUCTION

This digest is compiled primarily from the California Elections Code. Selected words and phrases used in this digest are defined in the Elections Code as follows:

### 1. Definitions

§ 8. As used in this code, the present tense includes the past and future tenses, and the future the present; the masculine gender includes the feminine; and the singular includes the plural, and the plural, the singular.

§ 307. "Clerk" means the county elections official, registrar of voters, city clerk, or other officer or board charged with the duty of conducting any election.

§ 313. "County office" means the office filled by any county officer.

§ 314. "County officer" means any elected officer enumerated in Division 2 (commencing with § 24000) of Title 3 of the Government Code.

§ 316. "Direct primary" is the primary election held on the first Tuesday after the first Monday in June in each even-numbered year, to nominate candidates to be voted for at the ensuing general election or to elect members of a party central committee.

§ 318. "Election" means any election including a primary that is provided for under this code.

§ 319. "Election board" means the board of supervisors of each county, the city council or other governing body of a city, or any board or officer to whom similar powers and duties are given by any charter.

§ 320. "Elections official" means any of the following:

(a) A clerk or any person who is charged with the duty of conducting an election.

(b) A county clerk, city clerk, registrar of voters, or elections supervisor, having jurisdiction over elections within any county, city, or district within the state.

§ 321. "Elector" means any person who is a United States citizen 18 years of age or older and a resident of an election precinct at least 15 days prior to an election.

§ 324. (a) General election means either of the following:

(1) The election held throughout the state on the first Tuesday after the first Monday of November in each even-numbered year.

(2) Any statewide election held on a regular election date as specified in Section 1000.

(b) At each general election there shall be elected to the Congress of the United States:

(1) One Representative for each congressional district.

(2) One Senator, when the general election immediately precedes the commencement of a full term.

§ 326. "Judicial office" means the office filled by any judicial officer.

§ 327. "Judicial officer" means any Justice of the Supreme Court, justice of a court of appeal, or judge of the superior court.

§ 328. "Local election" is a municipal, county, or district election.

§ 329. "Measure" means any constitutional amendment or other proposition submitted to a popular vote at any election.

§ 334. "Nonpartisan office" means an office for which no party may nominate a candidate. Judicial, school, county, and municipal offices are nonpartisan offices.

§ 337. "Partisan office" means an office for which a party may nominate a candidate.

§ 338. "Party" means a political party or organization that has qualified for participation in any primary election.

§ 339. "Precinct board" is the board appointed by the elections official to serve at a single precinct or a consolidated precinct.

"Precinct board", when used in relation to proceedings taking place after the polls have closed, likewise includes any substitutive canvassing and counting board that may have been appointed to take the place of the board theretofore serving.

§ 340. "Presidential primary" is the primary election that is held on the first Tuesday after the first Monday in February in any year which is evenly divisible by the number four, and at which delegations to national party conventions are to be chosen.

§ 341. "Primary election" includes all primary nominating elections provided for by this code.

§ 348. "Regular election" is an election, the specific time for the holding of which is prescribed by law.

§ 351. "School office" means the office filled by any school officer.

§ 352. "School officer" means the Superintendent of Public Instruction and the superintendent of schools of a county.

§ 353. "Section" means a section of this code unless some other statute is specifically mentioned.

§ 354. "Shall" is mandatory and "may" is permissive.

§ 356. "Special election" is an election, the specific time for the holding of which is not prescribed by law.

§ 357. "Statewide election" is an election held throughout the state.

§ 359. "Voter" means any elector who is registered under this code.

**2. Abbreviations**

All section references are to the California Elections Code unless otherwise noted. The designation "Cal. Const." refers to the California Constitution.

# II. GENERAL

## SUMMARY

This chapter outlines the composition of precinct boards and the appointment of election officers to these boards for the various elections held.

Precinct boards appointed for each precinct are made up of voters of the state. A member of the precinct board may serve only in the precinct for which his or her appointment was received. High school students over 16 years of age who meet specified requirements may also serve. (§ 12302.) The composition of the precinct board shall be determined by the elections official based on election precinct size. The precinct board shall consist of a minimum of one inspector and two clerks. Additional clerks may be allocated in proportion to the number of registered voters within the precinct. (§ 12304.)

The members of the precinct boards are to be appointed by the elections official in charge of the election not less than 29 days prior to the election. (§ 12286.) In constituting precinct boards, the elections official may excuse persons appointed whom the elections official is satisfied ought to be excused. Substitutions may be made when any person appointed is excused or found disqualified or incompetent, until a final or amended list of election officers is sent to the inspector for that precinct. (§ 12316.) If the precinct board members for any precinct have not been appointed or cannot serve, or the polling place has not been designated prior to an election, the county elections official shall, by written order, immediately appoint the precinct board members or designate the polling place for the precinct, as the case may require, and shall notify each precinct board member of such appointment. If, at this time, the elections official cannot make suitable arrangements for a polling place in any precinct in which none has been designated, the elections official may designate a polling place in any contiguous precinct. Any precinct board member serving in this polling place shall be regarded as serving in the proper precinct within the meaning of this chapter. (§ 12327.)

Each member of a precinct board shall receive a stipend for services fixed by the governing body of the jurisdiction. This sum shall be paid out of the treasury of the jurisdiction in which the election is held. The inspector may receive more compensation than the other members of the precinct board. The additional compensation to the inspector is for services rendered in securing precinct board members and other duties which may be directed by the elections official. (§ 12310.)

### 1. Precinct Board.

Election Officers Constitute Precinct Board

The persons appointed to serve as election officers for each precinct at any election shall constitute the precinct board for that precinct. (§ 12301.)

Precinct Board Members

A member of a precinct board shall be a voter of the state, except as provided below. The member may serve only in the precinct for which his or her appointment is received. (§ 12302(a).)

In order to provide for a greater awareness of the elections process, the rights and responsibilities of voters, and the importance of participating in the electoral process, as well as to provide additional members of precinct boards, an elections official may appoint not more than five pupils per precinct to serve under the direct supervision of precinct board members designated by the elections official. A student may be appointed, notwithstanding his or her lack of eligibility to vote, subject to the approval of the governing board of the educational institution in which the pupil is enrolled, if the pupil possesses the following qualifications:

(1) Is at least 16 years of age at the time of the election to which he or she is serving as a member of a precinct board.

(2) Is a United States citizen or will be a citizen at the time of the election to which he or she is serving as a member of a precinct board.

(3) Is a pupil in good standing attending a public or private secondary educational institution.

(4) Is a pupil and has a grade point average of at least 2.5 on a 4.0 scale. (§ 12302(b)(4).)

No student appointed as provided above shall be used by a precinct board to tally votes. (§ 12302(c).)

Distribution of Duties

The members of each precinct board shall distribute the duties devolving upon the precinct board, which are in addition to their individual duties, in a manner they deem most advantageous. (§ 14210.)

Composition of Board; Number of Members

The composition of the precinct board shall be determined by the elections official based on election precinct size. The precinct board shall consist of a minimum of one inspector and two clerks. Additional clerk positions may be allocated in proportion to the number of registered voters within the precinct. (§ 12304(a).)

**2. Appointment of Precinct Board.**

When and by Whom Appointed

The members of the several precinct boards are to be appointed not less than 29 days prior to the election, by the elections official having charge or control of the election in the political subdivision in which such election is to be held. (§ 12286.) For a state or county election the appointing power is the board of supervisors of the county; and for a municipal election the city council or other governing body of the city, or any board or officer to whom similar powers and duties are given by charter. (§ 319.) If the precinct board members for any precinct have not been appointed or cannot serve, the elections official shall, by written order, immediately appoint the precinct board members and shall notify each precinct board member of such appointment. (§ 12327.)

Substitute Appointments

In constituting precinct boards, the elections official may excuse persons appointed who the elections official is satisfied ought to be excused. Substitutions may be made when any person appointed is excused or found disqualified or incompetent, until a final or amended list of election officers is sent to the inspector for that precinct. (§ 12316.)

Appointed Precinct Board Member Failing To Act as Such

Any voter who has filed an application for the position of, and been appointed as a precinct board member and who, without being excused by the county elections official, knowingly fails to act as a precinct board member, is guilty of a misdemeanor punishable by a fine not to exceed $100. (§ 18700.)

Inspector May Appoint Replacement

The inspector may appoint a voter to replace any precinct board member who ceases to act or becomes incapacitated during the progress of an election. (§ 12314.)

Appointment of Inspector by Precinct Board

If the inspector ceases to act, a majority of the remaining members of the precinct board may appoint a substitute. (§ 12315.)

Procedure If Appointed Members Fail To Appear at Opening of Polls

If any member of a precinct board does not appear at the opening of the polls on the morning of an election, those voters present, including members of the board, shall appoint a voter to fill the vacancy. If none of the members appointed appears at that time, the voters of the precinct present at that time may appoint a board. (§ 12313.)

Notice of Appointments

Upon filing the list of names and addresses of those who have been appointed members of the precinct board, the elections official shall immediately mail or deliver to each voter so appointed, a notice stating the appointment and the position to which assigned, the penalty for failure to serve, and any other matter that the elections official determines. (§ 12307.)

Appointment Notice to Inspector

The elections official shall immediately mail or deliver to each person appointed as inspector a notice showing the precinct polling place and the voters appointed to serve as election officers in that precinct. (§ 12319.)

**3. Declaration Required of Officers.**

Declaration Required for Eligibility

No person is eligible to act as an election officer until the declaration required by Section 12321 has been signed. (§ 12320.)

Form of Declaration of Inspectors and Election Officers

Each inspector shall sign a declaration of intention to faithfully discharge the duties of inspector and shall return it to the elections official at least 15 days before Election Day. If the inspector fails or refuses to sign and file the declaration, the elections official shall appoint a substitute who shall make and file the application. (§ 12321(a)(1).)

The declaration of an inspector and each of the declarations of other members of the precinct board provided for in this article shall be signed in the presence of a witness and shall be as binding on the signer as would be an oath of office. (§ 12321(a)(2).)

In lieu of signing and returning the declaration of the inspector, as provided in this chapter, the county elections official may require the inspector to sign the declaration on the day of election and before entering upon the performance of these duties. (§ 12321(d).)

**4. Instruction of Inspectors.**

Following the appointment of members of precinct boards, the elections official shall instruct inspectors so appointed concerning their duties in connection with the conduct of the election, which instruction shall conform to the uniform standards adopted by the Secretary of State pursuant to Section 12309.5. A person may not serve as an inspector of a precinct board at an election unless instruction has been received in accordance with this section except

that, in the case of the emergency disability of a regular inspector, substitute inspectors shall be given any instruction found necessary by the elections official. At the request of the elections official, the legislative body may contract with any qualified person or organization for purposes of instructing inspectors in accordance with this section. (§ 12309.)

The uniform standards for the training of precinct board members must address the following, at a minimum: (1) the rights of voters, including language access rights for linguistic minority voters, the disabled, and the protected classes (42 U.S.C. Sec. 1973 et seq.); (2) election challenge procedures; (3) operation of a jurisdiction's voting system; (4) poll hours and procedures concerning the opening and closing of polling locations; (5) relevant election laws and any other subjects that will assist the inspector in carrying out his/her duties; (6) cultural competency; (7) knowledge regarding issues confronting voters who have disabilities; (8) and provisional and vote-by-mail ballot procedures. (§ 12309.5.)

**5. Polling Places.**

Polling Places; Booths, Places or Compartments

All officers required by law to designate polling places shall furnish the polling places with a sufficient number of places, booths, or compartments, at or in which voters may conveniently mark their ballots, so that they may be screened from the observation of others. Each place, compartment, or booth shall be so adjusted as to conceal from any observation the voter's marking of the ballot. The number of voting booths or compartments shall be determined by the officer conducting the election. (§ 14110.)

**6. Miscellaneous**

Compensation of Precinct Board Members

Each member of a precinct board shall receive a stipend for services fixed by the governing body of the jurisdiction. This sum shall be paid out of the treasury of the jurisdiction in which the election is held. The inspector may receive more compensation than the other members of the precinct board. The additional compensation to the inspector is for services rendered in securing precinct board members and other duties which may be directed by the elections official. (§ 12310.)

Discharge Prohibited Due to Absence on Election Day

No person shall be suspended or discharged from any service or employment because of absence while serving as an election officer on Election Day. (§ 12312.)

# III. DUTIES OF ELECTIONS OFFICERS BEFORE OPENING POLLS

## SUMMARY

Chapter III defines for the election officers those duties to complete prior to the opening of the polls on an Election Day. Also included in this chapter are checklists of the various materials needed at each polling location and instructions in case these materials are missing or damaged.

The polling places shall be arranged so that neither the ballot containers nor the voting booths or compartments shall be hidden from the view of those present. (§ 14211.)

If, for any valid reason, the polling place designated for any precinct cannot be used, it is the responsibility of the elections official or, in the case of an emergency, the precinct board, on the day of the election, to locate a sufficient polling place near to the original polling place and duly post a notice of the change at the former site. (§ 12281.)

Eligibility to serve as an election officer depends upon signing the required declaration of intention to fulfill the assigned duties. Signing shall take place in front of a witness and is as binding as an oath of office. (§ 12321(a)(2).)

The inspector's signed declaration should be returned to the elections official 15 days before the election or may be signed on Election Day prior to beginning his or her duties. (§ 12321(a) (d).) All other election officers will sign the declaration on Election Day prior to the opening of the polls. (§ 12321(b).)

Before every election, the county elections official will deliver to the precinct board various documents and supplies that must be present at the polling place. Included are three copies of the index of affidavits of registration for the precinct and any necessary supplement bringing the index up to date. (§ 2189.) A complete list of necessary election supplies can be found starting on page 9.

Official ballots shall be delivered by the elections official in sealed packages and must be signed for by a precinct board member who will return the endorsed receipt to the elections official. (§ 14104.) The elections official shall provide a sufficient number of official ballots for each precinct. Additional ballots will be provided for vote-by-mail or emergency purposes. (§ 14102.) Page 11 states the procedure to use if the ballots do not arrive or are damaged upon arrival.

Election officers are required to post various materials in the polling place in clear view of those present. The essential materials are listed starting on page 11. A form of the Roster of Registered Voters can be found starting on page 12. The roster may, however, be kept in the form of the index to the affidavits of registration for that precinct. If an index is used, it should provide, to the left of each name, ample space for the voter to sign his or her name. (§ 14109.) The roster may be inspected by any person at any time while voting is in progress or while votes are being counted. (§ 14223(b).)

### 1. Polling Place

Change of Location of Polling Place

If, for any valid reason, the polling place designated for any precinct cannot be used, the elections official or, in the case of an emergency, the precinct board on the day of election, shall designate another polling place as near the place first designated as possible, post notice on or near the place first designated, and conduct the election at the new location. (§ 12281.)

Restriction; Alcoholic Beverages

A place where the primary purpose of the establishment is the sale and dispensation of alcoholic beverages may not be used as a polling place. A polling place may not be connected by a door, window, or other opening with any place where any alcoholic beverage is sold or dispensed while the polls are open. (§ 12288.)

Arrangement of Polling Place

The polling places shall be arranged so that neither the ballot containers nor the voting booths or compartments shall be hidden from the view of those present. (§ 14211.)

**2. Identification of Precinct Members.**

Persons who are to act as precinct board members at any polling place may be ascertained from the list published pursuant to Section 12105. (§ 12105.5.)

**3. Declarations Required.**

On the day of election and before entering upon the performance of duties, each of the precinct board members, other than the inspector, shall sign a declaration of intention to faithfully discharge the duties of an election officer. The declaration shall be signed before any member of the precinct board. The form for each of the declarations shall be provided in the roster for the precinct. (§ 12321(b).)

Any precinct board member may administer and certify oaths required to be administered during the progress of an election. This authorization shall include the power to give any type of oath required of a public employee. There shall be no fee or charge for administering an oath. (§ 12321(c).)

**4. Documentation Furnished by Elections Official to Precinct Board.**

Index to Affidavits of Registration; Register

Before the day of any election held throughout the county, the county elections official shall deliver to the precinct board in each precinct three copies of the index to the affidavits of registration for that precinct, with canceled names lined out and with necessary supplements to bring the index up to date. The index and supplements shall constitute the register to be used at the election. (§ 2189.)

List of Canceled Voters

Before every election, the county elections official shall supply each polling place with a list of voters in the precinct whose affidavits of registration were canceled or became inactive pursuant to the cancellation procedures in Sections 2220 through 2226. (§§ 2221, 2226.)

List of Vote-By-Mail Voters

Before the election, the elections official shall send to the inspector of each precinct in his or her county or city, a list of the voters in that precinct applying for and receiving a vote-by-mail voter's ballot, the type of ballot and the date of delivering or mailing. (§ 3013.)

**5. Election Supplies.**

Election Supplies Furnished by Elections Official

The elections official shall furnish to the precinct officers all of the following:

(a) Printed copies of the indexes.

(b) Necessary printed blanks for the roster, tally sheets, lists of voters, declarations, and returns.

(c) Envelopes in which to enclose returns.

(d) Neither less than 6, nor more than 12 instruction cards to each precinct for the guidance of voters in obtaining and marking their ballots. On each card shall be printed necessary instructions and the provisions of Sections 14225, 14279, 14280, 14287, 14291, 14295, 15271, 15272, 15273, 15276, 15277, 15278, 18370, 18380, 18403, 18563, and 18569.

(e) A digest of election laws with any further instructions the county elections official may desire to make.

(f) An American flag of sufficient size to adequately assist the voter in identifying the polling place. The flag is to be erected at or near the polling place on Election Day.

(g) A ballot container, properly marked on the outside indicating its contents.

(h) When it is necessary to supply additional ballot containers, these additional containers shall also be marked on the outside, indicating their contents.

(i) Sufficient ink pads and stamps for each booth. The stamps shall be one solid piece and shall be made so that a cross (+) may be made with either end. If ballots are to be counted by vote tabulating equipment, an adequate supply of other approved voting devices shall be furnished. All voting stamps or voting devices shall be maintained in good usable condition.

(j) When a candidate or candidates have qualified to have his or her or their names counted pursuant to Article 3 (commencing with Section 15340) of Chapter 4 of Division 15, a sufficient number of ink pens or pencils in the voting booths for the purpose of writing in on the ballot the name of the candidate or candidates.

(k) A sufficient number of cards to each polling place containing the telephone number of the office to which a voter may call to obtain information about his or her precinct location. The card shall state that the voter may call collect during polling hours.

(l) An identifying badge or insignia for each member of the precinct board. The member shall print his or her name and the precinct number thereon and shall wear the badge or insignia at all times in the performance of duties, so as to be readily identified as a member of the precinct board by all persons entering the polling place.

(m) Facsimile copies of the ballot containing ballot measures and ballot instructions printed in Spanish or other languages as provided in Section 14201.

(n) Sufficient copies of the notices to be posted on the indexes used at the polls. The notice shall read as follows: "This index shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14297 of the Elections Code. Any person who removes, tears, marks, or otherwise defaces this index with the intent to falsify or prevent others from readily

ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted, is guilty of a misdemeanor."

(o) A roster of voters for each precinct in the form prescribed in Section 14107.

(p) In addition, the elections official may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures to the precinct officers.

(q) Printed copies of the Voter Bill of Rights, as supplied by the Secretary of State. The Voter Bill of Rights shall be conspicuously posted both inside and outside every polling place. (§ 14105.)

Ballot Pamphlets at Polling Places

Three copies of the ballot pamphlet, to be supplied by the Secretary of State, shall be kept at every polling place, while an election is in progress, so that they may be freely consulted by the voters. (§ 9094(c).)

**6. Ballots; Ballot Boxes.**

Number of Ballots Provided to Precinct Boards

For each statewide election, the elections official shall provide a sufficient number of official ballots in each precinct to reasonably meet the needs of the voters in that precinct on Election Day using the precinct's voter turnout history as the criterion, but in no case shall this number be less than 75% of registered voters in the precinct, and for vote-by-mail and emergency purposes shall provide such additional number of ballots that may be necessary. (§ 14102(a)(1).)

The number of party ballots to be furnished to any precinct for a primary election shall be computed from the number of voters registered in that precinct as intending to affiliate with a party, and the number of nonpartisan ballots to be furnished to any precinct shall be computed from the number of voters registered in that precinct without statement of intention to affiliate with any of the parties participating in the primary election. (§ 14102(a)(2).)

For all other elections, the elections official shall provide a sufficient number of official ballots in each precinct to reasonably meet the needs of the voters in that precinct on Election Day using the precinct's voter turnout history as the criterion, but in no case shall this number be less than 75% of the number of registered voters in the precinct, and for vote-by-mail and emergency purposes shall provide the additional number of ballots that may be necessary. (§ 14102(b).)

Delivery of Blank Ballots to Precinct Boards

Before the opening of the polls at any election, the elections official shall cause to be delivered to the precinct board in each precinct in which the election is to be held, the proper number of ballots of the kinds to be used in that precinct. The ballots shall be delivered in sealed packages with marks on the outside clearly designating the precinct or polling place for which they are intended, and the number of ballots enclosed. (§ 14103.)

Ballot Receipt

The elections official shall prepare a receipt for each polling place, enumerating the packages and stating the date of delivery to the precinct board member. The precinct board member shall sign the receipt upon receipt of the packages. The signed receipt shall be returned to the elections official. Messengers may be employed to insure the safe and expeditious delivery of the ballots. (§ 14104.)

If the ballots or supplies do not arrive in time, the precinct board member present should immediately

communicate with the elections official or other official from whom they should have been received.

Loss or Destruction of Ballots

In the case of the prevention of an election in any precinct by the loss or destruction of the ballots intended for that precinct, the inspector, or other precinct officer for that precinct, shall make an affidavit setting forth the fact, and transmit it to the Governor. (§ 13101.)

**7. Materials To Post.**

Only Those Materials Required by Law

Members of the precinct board shall not display, distribute, or make available at the polling place any materials other than those required pursuant to this division without the express approval of the county elections official. (§ 14105.5.)

Posting Voting Information

A member of each precinct board shall cause the following voting information to be publicly posted at each polling place on the day of each election:

(a) A sample version of the ballot that will be used for the election.

(b) Information regarding the date of the election and the hours during which polling places will be open.

(c) Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot.

(d) Instructions for mail-in registrants and first-time voters under Section 303(b) of the Help America Vote Act of 2002 (P.L. 107-252).

(e) General Information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated.

(f) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation as they pertain to elections. (§ 14200.)

Posting Facsimile Copy of Ballot Measures and Instructions; Languages

The precinct board shall post, in a conspicuous location in the polling place, at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish. Facsimile ballots shall also be printed in other languages and posted in the same manner if a significant and substantial need is found by the elections official. (§ 14201(a)(1).)

In those counties which are required under the provisions of the federal Voting Rights Act of 1965, as extended by Public Law 94-73, to furnish ballots in other than the English language, the posting of the facsimile ballot in that particular language shall not be required. (§ 14201(a)(2).)

In those precincts where ballots printed in a language other than English are available for use by the voters at the polls, the posting of a facsimile ballot in that particular language shall not be required. (§ 14201(e).)

Posting Indexes to Affidavits of Registration

Before opening the polls, the precinct board shall post in separate, convenient places at or near the polling place, and of easy access to the voters, not less than two of the copies of the index to the affidavits of registration for that precinct. (§ 14202(a).)

In any county in which tabulating equipment is used to produce the index of registration, the copies of the index posted pursuant to this section shall be by street addresses in numerical order, unless otherwise provided by Section 2192. (§ 14202(b).)

Copies of Index Must Remain Posted

The precinct board shall maintain the copies of the index posted during the whole time of voting. These copies shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14294. (§ 14298(a).)

A member of the precinct board shall post a notice on each index which reads as follows: "This index shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14294. Any person who removes, tears, marks, or otherwise defaces this index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted, is guilty of a misdemeanor." (§ 14298(b).)

**8. Roster.**

Roster of Registered Voters

The roster to be kept by each precinct board and shall be substantially in the following form:

Roster of Registered Voters

The roster to be kept by each precinct board and shall be substantially in the following form:

Roster

of the _____ election held in the _____ precinct _____ district,

County of _____, on the _____ day of _____, 20_____.

Following are the voters of the above precinct desiring to vote under the provisions of Elections Code Sections 14216, 14218, 14278, and 14284:

| No. | Signature of Voter | Residence of Voter |
|---|---|---|
| 1. | _____ | _____ |
| 2. | _____ | _____ |
| 3. | _____ | _____ |
| etc. | _____ | _____ |

We hereby certify that all voters whose signatures appear hereinbefore in this roster voted this day

excepting the following who, after signing the roster, failed to vote or were challenged and denied the right to vote.

| No. | Name | No. | Name |
|---|---|---|---|
| | | | |
| | | | |

We further certify that the number of voters who voted in this precinct at this election is _____, and that the above list of voters, less those who did not vote as enumerated, constitutes the roster of this precinct for this election.

We further certify that the total number of official ballots received, voted, rejected, spoiled and canceled, found in the ballot container and the number accounted for is as indicated on the ballot statement.

We further certify that the assisted voters list and challenge list show a complete list of all voters assisted or challenged.

| | |
|---|---|
| Clerk | Inspector |
| Clerk | Judge |
| Clerk | Judge |

All members of the precinct board shall sign this certificate. (§ 14107.)

**NOTE** - A distinction should be noted between the "roster" just mentioned and "tally sheet." The former is to contain the signatures of the voters, the number thereof being certified to by the election officers, whereas the latter ("tally sheet") is to contain the tally or count of the votes and a record thereof also signed by the elections officers. The former is signed before the ballots are opened, the latter after the ballots are opened and counted.

Fill in Blanks at Head of Roster

At the head of the roster, if not already stated, one of the officers shall designate in writing the election and date thereof, and the number of the precinct.

Form of Roster; Warning

The roster shall contain in no less than 6-point type at the head of each page the following words:

> "WARNING: It is a crime punishable by imprisonment in the state prison or in county jail for anyone to fraudulently vote, fraudulently attempt to vote, vote more than once, attempt to vote more than once, impersonate a voter, or attempt to impersonate a voter (Elections Code Sec. 18560)." (§ 14108.)

Roster in the Form of Index to Affidavits of Registration

Notwithstanding Sections 14105 and 14107, the roster to be kept by each precinct board may be in the form of an index to the affidavits of registration for that precinct, in which case the index shall provide space of sufficient size to allow each voter to sign his or her name pursuant to Section 14216. (§ 14109.)

Inspection of Roster

Any person may inspect the roster while voting is in progress and while votes are being counted. However, this shall not be done at a time or in a manner which will impede, interfere, or interrupt the normal process of voting. (§ 14223(b).)

# IV. CONDUCT OF ELECTIONS

## SUMMARY

Chapter IV defines for the precinct official those regulations pertaining to voters' rights and to the rights of election officers to deny access to the polls. This chapter also outlines proper balloting procedures.

For all primary and general elections, polls open at 7 a.m. and close at 8 p.m. If a precinct board cannot provide a qualified voter with a ballot, the elections official will deliver additional ballots and the polls will remain open until 10 p.m. on Election Day. (§ 14299) In municipal elections, the polls must remain open for at least 8 consecutive hours. (§ 10242) Voting may take place as soon as the polls open and will continue until they close. (§ 14214.)

Any United States citizen, 18 years or older, properly registered to vote in the State of California may vote in any election held within the territory where he or she resides. (§§ 2000, 10000.) Page 17 explains the procedure to take if a voter is erroneously placed in a precinct other than the one in which he or she lives.

Upon entering the polling place, the voter should announce himself or herself and write his or her name and address in the space provided on the roster of voters. Page 18 outlines the procedure to be followed if the officer is unable to find a voter's name on the index of registration and a provisional ballot is necessary. A provisional ballot allows the voter to vote whereupon the specially sealed ballot will be counted only after proper confirmation of registration is determined by the county elections official. (§ 14310.)

An election officer may orally challenge a prospective voter within a polling place for any number of reasons. The procedure and the various grounds for which a voter may be challenged are found starting on page 19. Determining the domicile of a voter plays a pivotal role in the challenge process. The domicile of a person is that place where a voter's habitation is fixed, so that after any absence he or she intends to return. The definitions of "residence" and "domicile" for voting purposes and laws relating to the definitions are listed starting on page 21. Any challenged person refusing to take a properly administered oath pertaining to any question of residence must not be permitted to vote. (§ 14249.) The precinct board is under obligation to keep a list of all challenges, containing all information listed on page 23. (§ 14252.)

Each voter will receive from the precinct board only one ballot. (§ 14278.) A facsimile ballot containing ballot measures and instructions printed in an approved foreign language will be provided upon request unless sample ballots and ballots for voting are already furnished in that language as provided by law. (§ 14219.)

Voting booths shall be occupied by only one person at a time unless a voter is accompanied by children in their care or if the voter is eligible to receive assistance under the assisted voter provisions (see page 25). (§§ 14222, 14224.) The precinct officers shall keep a list of those voters receiving help under the assisted voter provisions and shall return the list to the elections official. (§ 14283.)

A ballot shall be marked only with the marking device provided by law. (§ 14284.) If a voter spoils or defaces a ballot, the voter should immediately return the ballot to the ballot clerk and receive another ballot. A total of three ballots will be granted in this manner. (§ 14288.) Those ballots marked by the ballot clerk as spoiled will be returned to the elections official with the unused ballots. (§ 14290.) Before depositing a properly voted ballot into the ballot box, the precinct inspector will remove the slip containing the number of the ballot and hand it to the voter. (§ 14225.) At least once each hour until 6 p.m., a precinct board member shall identify, on a posted copy of the index of registration, those voters who have voted, by drawing a line through their names. (§ 14294.)

"Vote-by-mail voter" means any voter casting a ballot in any way other than at the polling place. (§ 300(a).) A "special absentee voter" can be any member of the armed forces, their spouses and dependents; any U.S. citizen living outside the territorial limits of the U.S., or any person serving on a U.S. documented merchant vessel. (§ 300(b).) A "permanent vote-by-mail voter" is a registered voter who has requested his or her county elections official

send him or her a vote-by-mail ballot for every election. (§ 3201.) A vote-by-mail voter can vote in a polling booth by surrendering the unused vote-by-mail ballot to the precinct inspector. (§ 3015.) Any vote-by-mail voter who is unable to surrender his or her vote-by-mail voter's ballot shall be issued a provisional ballot. (§ 3016.) Persons not planning to vote by mail but who find themselves physically incapable of reaching the polls on Election Day may have a ballot delivered by an elections official to any authorized representative of the voter. (§ 3021.) Voting restrictions placed on special absentee voters reentering the county prior to Election Day can be found on pages 29-30..

Voting booths will be closed to all voters appearing in the polling place after the announcement of closing is made by a precinct official. The polls will remain open for those waiting to vote prior to the announcement. (§§ 14401, 14402.) Members of the precinct board shall account for the ballots delivered to them by returning a sufficient number of unused ballots to make up, when added to the number of official ballots cast and the number of spoiled and canceled ballots returned, the number of ballots given to them. The officers receiving returned ballots shall compel this accounting. The precinct board shall also complete and sign the certificate of performance prescribed in Section 15280, if that section applies. (§ 14405.)

**1. Opening of the Polls.**

Time of Opening Polls

The polls shall be open at 7:00 a.m. of the day of any election. (§ 14212.)

At Municipal Elections in General Law Cities

The polls shall be open on the day of election between the hours that the governing body determines, but not less than eight consecutive hours. The hours of opening and closing the polls shall be specified in the notice of election, or shall otherwise be the same as provided for general elections. (§ 10242.)

Opening Announced

Before the precinct board receives any ballots, it shall proclaim aloud at the place of election that the polls are open. (§ 14213.)

Ballot Box to be Opened, Exhibited and Closed; Not Removed or Opened Until Polls Are Closed

Before receiving any ballots, the precinct board, in the presence of any persons assembled at the polling place, shall open and exhibit and close the ballot container or containers. Thereafter, the ballot container or containers shall not be removed from the polling place or presence of the bystanders until all the ballots are counted, nor opened until after the polls are finally closed. (§ 14215.)

**2. Regulations at Polls.**

Only Voters and Authorized Persons Permitted Within Barricade

Only voters engaged in receiving, preparing, or depositing their ballots and persons authorized by the precinct board to keep order and enforce the law may be permitted to be within the voting booth area before the closing of the polls. (§ 14221.)

Persons Permitted To Sit at Desk

Only members of the precinct board, and persons while signing their names on the roster, shall be permitted, during the hours within which voting is in progress, to sit at the desk or table used by the precinct board.

(§ 14223.)

Officers Must Be Present at Polls

At any election, a majority of the members of any precinct board shall be present at the polling place at all times while the polling place is open. (§§ 10243, 14220.)

Lawful Communication

Any member of the precinct board, when using a language other than English at the polls, shall communicate with voters in that language only as he or she would be lawfully permitted to communicate in English under the code. The member shall be subject to like penalty for any illegal communication as if it had occurred in English. (§ 14227.)

Officer Ceasing To Act, Another To Be Appointed

The inspector may appoint a voter to replace any precinct board member who ceases to act or becomes incapacitated during the progress of an election. (§ 12314.)

If the inspector ceases to act, a majority of the remaining members of the precinct board may appoint a substitute. (§ 12315.)

**3. Voting**

When Voting May Commence

Voting shall commence as soon as the polls are opened and shall be continued during the time the polls remain open. (§ 14214.)

Who May Vote

Every United States citizen at least 18 years of age at the time of the election and resident in this State who complies with this Code governing the registration of electors may vote at any election held within the territory within which he or she resides and the election is held. (Cal. Const. Sec. 2, Art. II; § 2000.)

At Local, Special or Consolidated Elections

Every person is entitled to vote at a local, special, or consolidated election who is registered in any one of the precincts which compose the local, special, or consolidated election precincts. (§ 10000.)

Voter Placed in Wrong Precinct

If a voter is erroneously assigned to a precinct, the voter may apply to the elections official for a certificate showing the record of registration. The elections official shall give the voter the certificate on or before Election Day. Upon presentation of this certificate to the precinct board of the proper precinct, the board shall permit the voter to vote. If the voter does not obtain the certificate provided for in this section, and votes in the precinct into which the voter has been erroneously assigned by the elections official, and the election is contested, the voter's vote shall not be rejected for those candidates and on those measures with respect to which the voter would have been entitled to vote had the voter voted in the proper precinct, and no inquiry shall be made as to how the voter voted for those candidates or on those measures. (§ 2118.5(a).)

No voter who receives a certificate of registration under this section shall be charged a fee by the elections official. (§ 2118.5(b).)

A person duly registered as a voter in any precinct in California who removes therefrom within 14 days prior to an election shall, for the purpose of that election, be entitled to vote in the precinct from which the person so removed until the close of the polls on the date of that election. (§ 2035.)

Voter Who Has Moved and Not Re-Registered

A voter who has moved from one address to another within the same county and who has not reregistered to vote at that new address may, at his or her option, vote on the day of the election at the polling place at which he or she is entitled to vote based on his or her current residence address, or at the office of the county elections official or other central location designated by that elections official. The voter shall be reregistered at the place of voting for future elections. (§ 14311(a).)

Voters casting ballots under this section shall be required to vote by provisional ballot, as provided in Section 14310. (§ 14311(b).)

Name and Address of Voter

Any person desiring to vote shall announce his or her name and address in an audible tone of voice, and when one of the precinct election officers finds the name in the index, the officer shall in a like manner repeat the name and address. The voter shall then write his or her name and residence address or, if the voter is unable to write, shall have the name and residence address written by another person on a roster of voters provided for that purpose, whereupon a challenge may be interposed as provided in this article. (§ 14216.)

Change of Surname

If the surname of any person offering to vote has been changed since the person has registered, the person shall sign his or her name as it was before the change and also the appropriate name as it is at the time the person votes, indicating on the roster on the same line by brackets or other means that the two names are the name of one person. (§ 14218.)

**4. Voter's Name Not On Index.**

Inability to Find Voter's Name on Index

If the precinct board is unable to find a voter's name upon the index of registration, it shall inform the voter that he or she may cast a provisional ballot and the procedure for doing so. If the voter elects to cast a provisional ballot, the precinct board shall furnish the voter with a provisional ballot, in accordance with Section 14310. (§ 14217.)

Voting a Provisional Ballot

At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows: (1) An election official shall advise the voter of the voter's right to cast a provisional ballot. (2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter's registration and eligibility to vote. (3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote. (§ 14310(a).)

Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to

the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for vote-by-mail ballots, and shall be completed in the same manner as vote-by-mail envelopes. (§ 14310(b).)

During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of signatures on vote-by-mail ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot. (§ 14310(c)(1).)

Provisional ballots shall not be included in any semiofficial or official canvass, except upon: (A) the elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or (B) the order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this paragraph regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters. (§ 14310(c)(2).)

The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official. If the ballot cast by the voter contains the same candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct, the elections official shall count the votes for the entire ballot. If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct. (§ 14310(c)(3).)

This section shall apply to any vote-by-mail voter described by Section 3015 who is unable to surrender his or her unvoted vote-by-mail voter's ballot. (§ 14310(f).)

Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted. (§ 14310(g).)

Voter Claims Erroneous Cancellation of Affidavit of Registration

Any voter whose name has been placed on the inactive file of registered voters and offers to vote at any election between the date of the verification notice, and two federal general elections after the date of the notice, or who notifies the elections official of a continued residency, shall be removed from the inactive file and placed on the active voter file. (§ 2226(c).)

**5. Challenge.**

Conditions for Challenge

A person offering to vote may be orally challenged within the polling place only by a member of the precinct board upon any or all of the following grounds: (1) the voter is not the person whose name appears on the index; (2) the voter is not a resident of the precinct; (3) the voter is not a citizen of the United States; (4) the voter has voted that day; or (5) the voter is presently on parole for the conviction of a felony. (§ 14240(a).)

Challenge Procedure

On the day of the election, no person other than a member of a precinct board or other official responsible for the conduct of the election shall challenge or question any voter concerning the voter's qualifications to vote. (§ 14240(b).)

If any member of a precinct board receives, by mail or otherwise, any document or list concerning the

residence or other voting qualifications of any person or persons, with the express or implied suggestion, request, or demand that the person or persons be challenged, the board member shall first determine whether the document or list contains or is accompanied by evidence constituting probable cause to justify or substantiate a challenge. In any case, before making any use whatever of such a list or document, the member of the precinct board shall immediately contact the elections official charged with the duty of conducting the election, and describe the contents of the document or list and the evidence, if any, received bearing on voting qualifications. The elections official shall advise the members of the precinct board as to the sufficiency of probable cause for instituting and substantiating the challenge and as to the law as herein provided, relating to hearings and procedures for challenges by members of the precinct board and determination thereof by a precinct board. The elections official may, if necessary, designate a deputy to receive and to answer inquiries from precinct board members as herein provided. (§ 14240(c).)

Challenge; Residency; Evidence

A piece of mailed matter returned undelivered by the post office shall not be accepted or used as evidence upon which to initiate a challenge as to residency by any member of the precinct board unless other evidence or testimony is also presented, nor shall the mailed matter, standing alone without other evidence or testimony, be accepted as evidence by the precinct board in determining a challenge. (§ 14241.)

Challenge on Ground of Nonresidence in Precinct

The ground for challenging a voter who is not a resident of the precinct at which he or she is offering to vote shall not apply to any person who is duly registered as a voter in any precinct in California and who has moved from that precinct within 14 days prior to the election. (§ 14242.)

If the challenge is on the ground that the person seeking to vote is not the person whose name appears on the index, a member of the precinct board shall tender the following oath: "You do swear (or affirm) that you are the person whose name is entered on the index." (§ 14243.)

If the challenge is on the ground that the person seeking to vote is not a resident of the precinct, the person challenged shall be sworn to answer questions, and after having been sworn, a member of the precinct board shall ask that person: "Are you a resident of this precinct?" If the answer to the question is "Yes", without significant qualification, no other questions shall be asked. (§ 14244.)

Challenge; Voting Second Time

If the challenge is on the ground that the person challenged has already cast a ballot for this election, a member of the precinct board shall tender to the person challenged this oath: "You do swear (or affirm) that you have not previously voted in this election, either by vote-by-mail ballot or at a polling place." (§ 14245.)

Challenge; Determination

If the challenge is on the ground that the person challenged is not the person whose name appears on the index, or that he or she has voted that day, the challenge shall be determined in favor of the person challenged if that person takes the oath as set forth either in Section 14243 or Section 14245. (§ 14246.)

Challenges of voters that they are not residents of the precinct or citizens of the United States shall be tried and determined by the precinct board at the time of the challenge. The precinct board may, at its discretion, also request any other person present in the polling place to be sworn and answer questions whom the board believes may have knowledge or information concerning the facts of the challenge. (§ 14247.)

Challenge; Doubt

Any doubt in the interpretation of the law shall be resolved in favor of the challenged voter. (§ 14251.)

Determination of Residence

The precinct board in determining the place of residence of any person shall be governed by the rules set forth in Article 2 of Chapter 1 (commencing with Section 2020) of Division 2. (§ 14250.)

Determination of Residence and Domicile

"Residence" for voting purposes means a person's domicile. The domicile of a person is that place in which his or her habitation is fixed, wherein the person has the intention of remaining and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one domicile. The residence of a person is that place in which the person's habitation is fixed for some period of time, but wherein he or she does not have the intention of remaining. At a given time, a person may have more than one residence. (§ 349.)

The term of domicile is computed by including the day on which the person's domicile commenced and by excluding the day of the election. (§ 2020.)

A person who leaves his or her home to go into another state or precinct in this state for temporary purposes merely, with the intention of returning, does not lose his or her domicile. A person does not gain a domicile in any precinct into which he or she comes for temporary purposes merely, without the intention of making that precinct his or her home. (§ 2021.)

If a person moves to another state with the intention of making it his or her domicile, the voter loses his or her domicile in this state. (§ 2022.)

If a person moves to another state as a place of permanent residence, with the intention of remaining there for an indefinite time, he or she loses his or her domicile in this state, notwithstanding that he or she intends to return at some future time. (§ 2023.)

The mere intention to acquire a new domicile, without the fact of removal avails nothing, neither does the fact of removal without the intention. (§ 2024.)

A person does not gain or lose a domicile solely by reason of his or her presence or absence from a place while employed in the service of the United States or of this state, nor while engaged in navigation, nor while a student of any institution of learning, nor while kept in an almshouse, asylum or prison. This section shall not be construed to prevent a student at an institution of learning from qualifying as an elector in the locality where he or she domiciles while attending that institution, when in fact the student has abandoned his or her former domicile. (§ 2025.)

The place where a person's family is domiciled is his or her domicile unless it is a place for temporary establishment for his or her family or for transient objects. Residence in a trailer or vehicle or at any public camp or camping ground may constitute a domicile for voting purposes if the registrant complies with the other requirements of this article. (§ 2027.)

If a person has a family fixed in one place, and he or she does business in another, the former is his or her place of domicile, but any person having a family, who has taken up an abode with the intention of remaining and whose family does not so reside with him or her, is a domiciliary where he or she has so taken up the abode. (§ 2028.)

The domicile of one spouse shall not be presumed to be that of the other, but shall be determined independently in accordance with this article. (§ 2029.)

A domiciliary of this state who marries a person employed temporarily in this state in the service of the

United States government, may elect to retain his or her domicile for the purpose of qualifying as an elector only, except that his or her domicile in this state shall terminate if such domiciliary qualifies as an elector in any other state or any territory. (§ 2030.)

If a person has more than one residence and such person maintains a homeowner's property tax exemption on the dwelling of one of the residences pursuant to Section 218 of the Revenue and Taxation Code, there shall be a rebuttable presumption that the residence subject to the homeowner's property tax exemption is that person's domicile. However, this presumption shall not apply in the event any other residence is listed as the person's current residence address on any driver's license, identification card, or vehicle registration issued to that person by, and on file with, the Department of Motor Vehicles. If a person has more than one residence and that person claims a renter's tax credit for one of the residences pursuant to Section 17053.5 of the Revenue and Taxation Code, there shall be a rebuttable presumption that the residence subject to the renter's tax credit is that person's domicile. However, this presumption shall not apply in the event any other residence is listed as the person's current residence address on any driver's license, identification card, or vehicle registration issued to such person by, and on file with, the Department of Motor Vehicles. This section shall not be applicable to state or federal elected officials. (§ 2031.)

Except as provided in this article, if a person has more than one residence and such person has not physically resided at any one of the residences within the immediate preceding year, there shall be a rebuttable presumption that those residences in which he or she has not so resided within the immediate preceding year, are merely residences as defined in Section 349(c) and not his or her domicile. (§ 2032.)

"Rebuttable presumption" shall be deemed a presumption which affects the burden of producing evidence. (§ 346.)

Whenever the house number or the mailing address of a voter has been changed and the voter's domicile is the same, the public agency authorizing the change shall notify the county elections official in writing of the change and the county elections official shall make the change on the voter's affidavit of registration and a new affidavit shall not be required. (§ 2033.)

A person domiciled in a house or apartment lying in more than one precinct shall be registered as domiciled in the precinct designated by the county elections official on the basis of the street address or other precinct the county elections official considers appropriate unless the person requests, either by letter or in person at the office of the county elections official, that he or she wishes to be domiciled for registration purposes in another precinct in which his or her house or apartment lies. In order to fulfill the requirements of this section, the letter of request shall include the name, signature, and residence address of the requester. (§ 2034.)

A person duly registered as a voter in any precinct in California who removes therefrom within 14 days prior to an election shall, for the purpose of that election, be entitled to vote in the precinct from which the person so removed until the close of the polls on the date of that election. (§ 2035.)

Certification of Registration

A certified copy of an uncancelled affidavit of registration from the county elections official is prima facie evidence that the person named in the entry is a voter of the county. (§ 2167.)

Challenge; Prior to Oath

Before administering an oath to a person regarding his or her place of residence, a member of the precinct board shall read to the person challenged, the rules prescribed by Section 14249 and Article 2 (commencing with Section 2020) of Chapter 1 of Division 2. (§ 14248.)

Challenge; Refusal to Take Oath

If any person challenged refuses to take the oaths tendered, or refuses to be sworn and to answer the questions concerning the matter of residence, that person shall not be allowed to vote. (§ 14249.)

List of Challenges To Be Kept by Precinct Board

The precinct board shall compile a list showing all of the following:

(a) The name and address of each person challenged.

(b) The name, address, and any other identification as a voter, of each person offering information concerning any person's qualifications to vote, or testifying pursuant to Section 14247, together with the name and address and any other identification of the person about whom the information or testimony is given.

(c) The grounds of each challenge.

(d) The determination of the board upon the challenge, together with any written evidence pertaining thereto.

(e) If evidence has been presented to the board requesting challenges, the evidence shall be returned to the elections official responsible for the conduct of the election. (§ 14252.)

Challenge; Discontinuation

In the event the precinct board determines that persistent challenging of voters is resulting in a delay of voting sufficient to cause voters to forego voting because of insufficient time or for fear of unwarranted intimidation, the board shall discontinue all challenges, and so note on the roster. (§ 14253.)

If Challenge Overruled, Voter To Be Given Ballot

If the challenge is overruled, the election officer shall give the voter a ballot and the voter shall be allowed to vote.

**6. Receiving and Marking Ballots.**

One Ballot to Each Voter

The precinct board shall give each voter only one ballot, as provided in Section 13102. (§ 14278.)

Procedure if Insufficient Ballots at Precinct

If a precinct board is unable to furnish a ballot to a qualified voter because there is an insufficient number of ballots at the precinct, the elections official shall deliver to the precinct additional ballots to ensure that all eligible voters can cast their ballots by 10 p.m. on Election Day. (§ 14299.)

Provide Facsimile Ballot to Voter

The precinct board shall provide upon request to any voter for use in the voting booth or compartment, a copy of the facsimile ballot containing ballot measures and instructions printed in Spanish or in other languages, as required by Section 14201, unless sample ballots and ballots for voting are already being provided in that language under the federal Voting Rights Act of 1965 as amended by Public Law 94-73. (§ 14219.)

At Primary Elections, Voter To Receive Official Primary Ballot

All voting shall be by ballot. There shall be provided, at each polling place, at each election at which public officers are to be voted for, but one form of ballot for all candidates for public office, except that, for partisan primary elections, one form of ballot shall be provided for each qualified political party as well as one form of nonpartisan ballot, in accordance with subdivision (b), below. (§ 13102(a).)

At partisan primary elections, each voter not registered as intending to affiliate with any one of the political parties participating in the election shall be furnished only a nonpartisan ballot, unless he or she requests a ballot of a political party and that political party, by party rule duly noticed to the Secretary of State, authorizes a person who has declined to state a party affiliation to vote the ballot of that political party. The nonpartisan ballot shall contain only the names of all candidates for nonpartisan offices and measures to be voted for at the primary election. Each voter registered as intending to affiliate with a political party participating in the election shall be furnished only a ballot of the political party with which he or she is registered and the nonpartisan ballot, both of which shall be printed together as one ballot in the form prescribed by Section 13207. (§ 13102(b).)

A political party may adopt a party rule in accordance with subdivision (b) that authorizes a person who has declined to state a party affiliation to vote the ballot of that political party at the next ensuing partisan primary election. The political party shall notify the party chair immediately upon adoption of that party rule. The party chair shall provide written notice of the adoption of that rule to the Secretary of State not later than the 135th day prior to the partisan primary election at which the vote is authorized. (§ 13102(c).)

The county elections official shall maintain a record of which political party's ballot was requested pursuant to subdivision (b), or whether a nonpartisan ballot was requested, by each person who declined to state a party affiliation. The record shall be made available to any person or committee who is authorized to receive copies of the printed indexes of registration for primary and general elections pursuant to Section 2184. (§ 13102(d).)

Voter To Receive Ballot Only in Proper Precinct

Unless otherwise provided by law, no person shall apply for or receive any ballot at any precinct other than that in which the voter is entitled to vote. (§ 14279.)

Voter To Receive Ballot Only from Precinct Officer

Unless otherwise provided by law a voter shall not receive a ballot from any person other than one of the precinct officers. No person other than a precinct officer or officer authorized by law shall deliver a ballot to any voter. (§ 14280.)

Voter To Be Instructed on Marking Ballot

All ballots, except vote-by-mail voter ballots, shall be marked only with the marking device provided by law. (§ 14284(a).)

To prevent voters from marking their ballots with a pen or pencil, at the time of delivering a ballot to a voter, the precinct officer shall distinctly state that the voter shall mark the ballot with the device provided by law or the ballot will not be counted. (§ 14284(b).)

Voting Booth Occupancy

On receiving a ballot, the voter shall forthwith retire alone to one of the booths or compartments provided, and mark the ballot, unless Section 14222 or 14224 is applicable. (§ 14281.)

Nothing contained in this code shall prevent a voter from being accompanied by a child or children under the age of 18 years while the voter is within the voting booth area if the child is, or children are, under the voter's

care. (§ 14222.)

Voting booths or compartments shall not be occupied by more than one person at a time, unless the voter is eligible under the assisted voter provisions. Voters shall not remain in or occupy the booth longer than is necessary to mark their ballots, which shall not exceed 10 minutes. However, where no other voter would be inconvenienced a longer period shall be allowed. (§ 14224.)

Voters Assisted: When and How

When a voter declares under oath, administered by any member of the precinct board at the time the voter appears at the polling place to vote, that the voter is then unable to mark a ballot, the voter shall receive the assistance of not more than two persons selected by the voter, other than the voter's employer, an agent of the voter's employer, or an officer or agent of the union of which the voter is a member. (§ 14282(a).)

No person assisting a voter shall divulge any information regarding the marking of the ballot. (§ 14282(b).)

In those polling places that are inaccessible under the guidelines promulgated by the Secretary of State for accessibility by the physically handicapped, a physically handicapped person may appear outside of the polling place and vote a regular ballot. The person may vote the ballot in a place that is as near as possible to the polling place and that is accessible to the physically handicapped. A precinct board member shall take a regular ballot to that person, qualify that person to vote, and return the voted ballot to the polling place. In those precincts in which it is impractical to vote a regular ballot outside the polling place, vote-by-mail ballots shall be provided in sufficient numbers to accommodate physically handicapped persons who present themselves on Election Day. The vote-by-mail ballot shall be presented to and voted by a physically handicapped person in the same manner as a regular ballot may be voted by that person outside the polling place. (§ 14282(c).)

Assisted Voters List

The precinct officers shall keep a list of the voters who have been assisted in marking their ballots. The list of assisted voters shall be returned to the elections official and preserved with other election materials and records. (§ 14283.)

How To Mark Ballot

All ballots, except vote-by-mail voter ballots, shall be marked only with the marking devices provided by law. To prevent voters from marking their ballots with a pen or pencil, at the time of delivering a ballot to a voter, the precinct officer shall distinctly state that the voter shall mark the ballot with the device provided by law or the ballot will not be counted. (§ 14284.)

When Two or More Are To Be Elected to Same Office

Where two or more candidates for the same office are to be elected, and the voter desires to vote for candidates for that office, the voter shall, by using the provided marking device, place a mark in the voting square, rectangle, or other specific voting space following the names of the candidates for that office for whom the voter intends to vote, not exceeding, however, the number of candidates to be elected. (§ 14285.)

Measures To Be Voted On

When a measure is submitted to the voters, the voter shall place a mark on the ballot in the appropriate space opposite the answer the voter desires to give as to that measure. The voter, in marking the ballot, shall use the marking device provided. (§ 14286.)

Recall Election

When the election is a recall election of a state, county, municipal, judicial, or district officer, the voter may vote on the question of recall by placing a mark after the word "Yes" or after the word "No". He or she may also vote for a candidate whose name is printed on the ballot by placing a mark after such name. (§§ 11322, 11323.)

No Identifying Marks on Ballot

No voter shall place any mark upon a ballot that will make that ballot identifiable. (§ 14287.)

Voter Shall Not Reveal Contents of Ballot

After the ballot is marked, a voter shall not show it to any person in such a way as to reveal its contents. (§ 14291.)

Spoiled Ballots

If a voter spoils or defaces a ballot, the voter shall at once return it to the ballot clerk and receive another ballot. A voter shall not receive more than a total of three ballots, including the original ballot, in this manner. (§ 14288.)

Cancellation of Spoiled Ballots

The precinct board shall immediately cancel, without unfolding them, all the spoiled ballots returned. The board shall write the word "spoiled" on the back of each spoiled ballot in ink or indelible pencil and return the spoiled ballots with the unused ballots. (§ 14290.)

Cancelled Ballots

Any voter who does not vote the ballot he or she has received, shall, before leaving the polling place, return it to the board member having charge of the ballots, who shall immediately cancel it. All canceled ballots shall be returned to the ballot clerk in the same manner as spoiled ballots. (§ 14296.)

Folding Ballot

Before leaving the voting booth or compartment, the voter shall fold the ballot according to the instructions on it, so that the marks on its face are not visible and only the number on the ballot and the top margin are exposed. (§ 14292.)

Depositing in Ballot Box

Having folded the ballot, the voter shall deliver it folded to a member of the precinct board, who shall then separate the slip containing the number from the ballot, hand the slip to the voter, and deposit the ballot in the ballot box in the presence of the voter. (§ 14293.)

Notation of Vote

No later than the time at which the voter delivers the voted ballot, a precinct board member in charge of the index shall write in the space opposite the name of the voter the line number designating the position of the name on the roster. In those counties using the combined index roster, the voter's name shall be crossed off of the index in lieu of numbering. (§ 14297.)

Delivery of Ballot

No voter shall deliver to any member of the precinct board any ballot other than the one received from the board member. (§ 14295.)

Number Slip Removal

Members of the precinct board shall not deposit in the ballot container any ballot from which the slip containing the number of the ballot has not been removed by a member of the precinct board and handed to the voter. This section does not apply to voting by absent voter ballot. (§ 14225.) **[Note: Section 14225 was not amended to change "absent voter" to "vote-by-mail voter."]**

Notice of Persons Voted

At all elections, a member of the precinct board shall mark, on one of the copies of the index posted at or near the polling place, the name of each person who has voted, by drawing a line through the name of the voter, with a pen or indelible pencil. The board member shall mark off the names at least once each hour, to and including 6 p.m. In all counties not using the index roster, the board member shall draw a line under the last name signed in the roster at 6 p.m. or at the time of discontinuation of this procedure, whichever occurs last. (§ 14294.)

Maintenance of Index

The precinct board shall maintain the copies of the index posted during the whole time of voting. These copies shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14294. (§ 14298(a).)

A member of the precinct board shall post a notice on each index which reads as follows: "This index shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14294. Any person who removes, tears, marks, or otherwise defaces this index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted, is guilty of a misdemeanor." (§ 14298(b).)

### 7. Vote-by-Mail and Special Absentee Voting

Vote-by-Mail and Special Absentee Voter Definitions

"Vote-by-mail voter" means any voter casting a ballot in any way other than at the polling place. (§ 300(a).)

"Special absentee voter" means an elector who is any of the following:

(1) A member of the armed forces of the United States or any auxiliary branch thereof.

(2) A citizen of the United States temporarily living outside of the territorial limits of the United States or the District of Columbia.

(3) Serving on a merchant vessel documented under the laws of the United States.

(4) A spouse or dependent of a member of the armed forces or any auxiliary branch thereof. (§ 300(b).)

Any voter may apply for permanent vote-by-mail voter status. Application for permanent vote-by-mail voter status shall be made in accordance with Section 3001, 3100, or 3304. The voter shall complete an application, which shall be available from the county elections official, and which shall contain all of the following:

(a) The applicant's name at length.

(b) The applicant's residence address.

(c) The address where ballot is to be mailed, if different from the place of residence.

(d) The signature of the applicant. (§ 3201.)

Facsimile Transmission of Ballot

A special absentee voter who is temporarily living outside of the territorial limits of the United States or the District of Columbia, or is called for military service within the United States on or after the final date to make application for a vote by absent voter ballot, may return his or her ballot by facsimile transmission. To be counted, the ballot returned by fax must be received by the voter's elections official no later than the closing of the polls on Election Day and must be accompanied by an identification envelope containing all of the information required by Section 3011 and the oath of voter declaration as set forth in Section 3103.5. (§ 3103.5.)

Surrender of Vote-by-Mail Voter Ballot

Vote-by-mail voters who return to their home precincts on election day may vote only if they surrender their vote-by-mail voter ballots to the inspector of the precinct board. The precinct board shall return the unused vote-by-mail voter's ballots to the elections official in an envelope designated for this purpose. (§ 3015.)

Provisional Ballot When Unable To Surrender Vote-by-Mail Voter Ballot

Any vote-by-mail voter who is unable to surrender his or her vote-by-mail voter's ballot within the meaning of Section 3015 shall be issued a provisional ballot, in accordance with Section 14310. (§ 3016.)

Return of Voted Ballot

All vote-by-mail ballots cast under this division shall be voted on or before the day of the election. After marking the ballot, the vote-by-mail voter shall either: (1) return the ballot by mail or in person to the elections official from whom it came or (2) return the ballot in person to any member of a precinct board at any polling place within the jurisdiction. However, a vote-by-mail voter who, because of illness or other physical disability, is unable to return the ballot, may designate his or her spouse, child, parent, grandparent, grandchild, brother, sister, or a person residing in the same household as the vote-by-mail voter to return the ballot to the elections official from whom it came or to the precinct board at any polling place within the jurisdiction. The ballot must, however, be received by either the elections official from whom it came or the precinct board before the close of the polls on election day. (§ 3017(a).)

The elections official shall establish procedures to insure the secrecy of any ballot returned to a precinct polling place. (§ 3017(b).)

On or before March 1, 2008, the elections official shall establish procedures to track and confirm the receipt of voted vote by mail ballots and to make this information available by means of online access using the county's elections division Internet Web site. (§ 3017(c).)

The provisions of this section are mandatory, not directory, and no ballot shall be counted if it is not delivered in compliance with this section. (§ 3017(d).)

Notwithstanding subdivision (a), no vote-by-mail voter's ballot shall be returned by any paid or volunteer worker of any general purpose committee, controlled committee, independent expenditure committee, political party, candidate's campaign committee, or any other group or organization at whose behest the individual designated to return the ballot is performing a service. However, this subdivision shall not apply to a candidate or a candidate's spouse. (§ 3017(e).)

Receiving of Vote-by-Mail Ballots

All vote-by-mail ballots cast under this division shall be received by the elections official from whom they were obtained or by the precinct board no later than the close of the polls on election day. (§ 3020.)

Vote-by-Mail Ballots After the Period for Requesting by Mail

After the close of the period for requesting vote-by-mail voter ballots by mail, any voter unable to go to the polls because of illness or disability resulting in his or her confinement in a hospital, sanatorium, nursing home, or place of residence, or any voter unable because of a physical handicap to go to his or her polling place or because of that handicap is unable to vote at his or her polling place due to existing architectural barriers at his or her polling place denying his or her physical access to the polling place, voting booth, or voting apparatus or machinery, or any voter unable to go to his or her polling place because of conditions resulting in his or her absence from the precinct on election day may request in a written statement, signed under penalty of perjury, that a ballot be delivered to him or her. This written statement shall not be required if the vote-by-mail voter ballot is voted in the office of the elections official as defined by Section 3018(b), at the time of the request. This ballot shall be delivered by the elections official to any authorized representative of the voter who presents this written statement to the elections official.

Before delivering the ballot the elections official may compare the signature on the request with the signature on the voter's affidavit of registration, but in any event, the signature shall be compared before the vote-by-mail voter ballot is canvassed.

The voter shall mark the ballot, place it in the identification envelope, fill out and sign the envelope and return the ballot, personally or through the authorized representative, to either the elections official or any polling place within the jurisdiction.

These ballots shall be processed and counted in the same manner as other vote-by-mail ballots. (§ 3021.)

Special Absentee Voter May Register Upon Return to the County

If any special absentee voter is released from service after the closing date of registration for an election and has returned to the county of his or her residence and is not a registered voter, he or she may apply in person to the elections official for permission to register. If the elector furnishes documentary proof of release from service after the closing date of registration for the election, the elections official shall allow him or her to be registered and to vote in the election. On or before the day of election the elections official shall deliver to the precinct board a list of special absentee voters registered under the provisions of this section. (§ 3107.)

Special Absentee Voter Who Returns to the County

If any special absentee voter to whom a vote-by-mail ballot has been mailed and which ballot has not been voted by him or her returns to the county in which he or she is registered on or before election day, he or she may apply for a second vote-by-mail ballot pursuant to Section 3014. The elections official shall require him or her to sign an authorization to cancel the vote-by-mail ballot previously issued when it is returned to the county elections official. The elections official shall then issue another vote-by-mail ballot to the voter, or the elections official shall certify to the precinct board that the voter is eligible to vote in the precinct polling place of his or her residence. (§ 3108.)

Registered Special Absentee Voters

If any special absentee voter returns to the county of his or her residence after the final day for making application for an vote-by-mail voter ballot, he or she may appear before the elections official and make application

for registration, vote-by-mail ballot, or both. The elections official shall register the voter, if he or she is not registered, and deliver to him or her a vote-by-mail ballot, which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and returned as are other vote-by-mail ballots. (§ 3109.)

**8. Closing the Polls.**

Time of Closing Polls

The polls shall be kept open until 8 p.m. of the day of any election, and when the polls are closed, the precinct board shall proclaim that fact aloud at the place of election. After the proclamation, no ballot shall be received. However, if at the hour of closing there are any other voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote. (§§ 14212, 14401.)

Anyone who arrives at the polling place after the time provided for closing the polls shall not be entitled to vote, even though the polls are open when he or she arrives. (§ 14402.)

Time for Closing of Polls Extended by Court Order

If the time for closing the polls is extended pursuant to a court order, all votes cast during the time that the closing of the polls is extended shall be by provisional ballot. Any provisional ballots cast pursuant to this section shall be separated and held apart from other provisional ballots cast by voters prior to the time the closing of the polls was extended. (§ 14402.5.)

Municipal Elections in General Law Cities

The polls shall be open on the day of election between the hours that the governing body determines, but not less than eight consecutive hours. The hours of opening and closing the polls shall be specified in the notice of election, or shall otherwise be the same as provided for general elections. Before the precinct board receives any ballots, it shall cause it to be proclaimed aloud at the place of election that the polls are open. (§ 10242.)

Unused Ballots

Immediately upon the closing of the polls and before any voted ballot is taken from any of the ballot containers, the precinct board member shall, in the presence of all persons in the room who may desire to observe them, proceed to render the unused ballots unusable in one of the following ways:

(a) By drawing across its face, in ink or indelible pencil, two lines that cross each other, the cross to be more than three inches square. The precinct board member shall thereupon, immediately and before any ballots are taken from any ballot container, place all defaced ballots within an envelope or other receptacle provided for that purpose.

(b) By tearing or cutting in a manner so that it is apparent that the ballot has been intentionally destroyed to prevent its use. If this method of destruction is used, it shall be done in a manner so that the serial number of the ballots is retained for the purpose of reconciliation.

(c) By placing all of the unused ballots into a special container provided for that purpose. A tamperproof seal containing spaces for entering the total number of unused ballots enclosed, the beginning and ending serial numbers thereof, and signature lines for all members of the precinct board following a statement certifying that all the ballots were placed in the container in their presence and the information on the seal is true and correct, shall be provided. After signing the seal, it shall be placed on the container in a manner so that the container cannot be opened without

tearing the seal. (§ 14403.)

Immediately upon the arrival of the hour when the polls are required by law to be closed on election day, the elections official conducting the election shall openly, in the elections official's main office, in the presence of any persons who are present to observe, according to the procedure set forth in Section 14403, proceed to render every unused ballot remaining in the control of the elections official unusable. The elections official shall forthwith make and file an affidavit, in writing, as to the number of ballots destroyed. If the procedure in Section 14403(c) is used, the tamperproof seal shall be signed by the elections official and at least one deputy or assistant elections official or registrar. The sealed container shall then be placed, with the sealed containers containing unused ballots from the precincts, in a security area by the elections official until disposition is made pursuant to Section 17301 or 17302.

Alternatively, the elections official may, immediately upon the arrival of the hour when the polls are closed, recycle for any other lawful purpose any unused ballots remaining in the control of the elections official that clearly identify the election for which they were prepared. No later than 30 days following the last day to certify the official results of the election, the elections official shall make and file an affidavit, in writing, as to the number of ballots recycled. At the elections official's discretion, the unused ballots may be recycled up to six months following an election or at the conclusion of an election contest proceeding, whichever is later. (§ 14404.)

Reconciliation of Ballots

The members of the precinct board shall account for the ballots delivered to them by returning a sufficient number of unused ballots to make up, when added to the number of official ballots cast and the number of spoiled and canceled ballots returned, the number of ballots given to them. The officers receiving returned ballots shall compel this accounting. (§ 14405(a).)

The precinct board shall complete the roster as required in Section 14107, and shall also complete and sign the certificate of performance prescribed in Section 15280, if that section applies. (§ 14405(b).)

# V. CANVASSING THE VOTE

## SUMMARY

This chapter explains the procedures involved in counting the ballots after the polls close. Votes can be tabulated either in the precinct or at a pre-specified central location. (The information supplied in this chapter does not pertain to any precinct using electronic or electromechanical tabulation, punchcard device tabulation of ballots or voting machines.)

If the canvass is to take place in the precinct, as soon as the polls are finally closed, the precinct board shall commence to count the votes by taking the ballots cast, unopened, out of the box and counting them to ascertain whether the number of ballots corresponds with the number of signatures on the roster. The precinct board shall make a record upon the roster of the number of ballots in the ballot box, the number of signatures on the roster, and the difference, if any. (§ 15271.)

The count shall be public and shall be continued without adjournment until completed and the result is declared. (§ 15272.) If a ballot measure or office affects more than one county, no results will be made public until the polls close in all counties involved. (§ 15152.) At least four members of the precinct board will conduct the canvass. (§ 15102.) All ballots should be inspected for irregularities. Those ballots marked in any way other than provided by law will be rejected. (See page 33 for markings that do not render a ballot invalid.) Rejected ballots will be marked as such and placed in a package for that purpose. (§ 15154.)

Each precinct will keep two tally sheets. Sufficient space for tallying the votes cast for each candidate or ballot measure shall be provided. (§ 15277.) After the votes for the entire ballot are tallied, the ballots shall not be further examined, but placed in a strong, sealed envelope. The signature of all precinct board members shall be written across the seal. (§ 15279.)

Page 36 lists the materials to be returned to the county elections official. If the returns from any precinct are incomplete, ambiguous, not properly authenticated, or otherwise defective, the elections official may issue and serve subpoenas requiring members of the precinct board to appear and be examined under oath concerning the manner in which votes were counted and the result of the count in their precinct. This section shall apply when ballots are tabulated manually or automatically at the polls. (§ 15303.)

A snap tally may be called if, before any election, the governing body of the jurisdiction holding the election decides that certain offices or ballot measures to be voted on are of more than ordinary public interest and require an early tabulation and announcement. The decision shall be transmitted to the elections official not less than 30 days before the election. (§ 14440.)

Whenever the ballots at any election or from any precincts are to be tallied at a central place and not at the precincts, the elections official or secretary of the jurisdiction conducting the election shall specify the public place to be used and give notice of that location. (§ 12109.) The elections official or authorized deputy shall segregate the persons employed to count the ballots into counting boards. These counting boards shall be deemed to be precinct boards, and are subject to all laws governing precinct boards where ballots are counted at the polling place. (§ 15207.) The count shall be public and shall be continued without adjournment until completed and the result is declared. (§ 15272.)

If the ballots are to be counted at a central counting place, no fewer than two precinct board members shall, following the close of the polls, deliver the ballots, in a sealed container, to the central counting place or a designated receiving station. (§ 15202.)

This section of the digest does not apply to precincts using electronic or electromechanical tabulation,

punchcard device tabulation of ballots or voting machines. (See Digest section entitled "Voting Systems.")

**1. Vote Count in the Precinct**

As soon as the polls are finally closed, the precinct board shall commence to count the votes by taking the ballots cast, unopened, out of the box and counting them to ascertain whether the number of ballots corresponds with the number of signatures on the roster. The precinct board shall make a record upon the roster of the number of ballots in the ballot box, the number of signatures on the roster, and the difference, if any. (§ 15271.)

Time to Begin Count

Neither the elections official, any member of a precinct board, nor any other person shall count any votes, either for a ballot proposition or candidate, until the close of the polls in that county. After that time, the ballots for all candidates and ballot propositions voted upon solely within the county shall be counted and the results of the balloting made public. However, the results for any candidate or ballot proposition also voted upon in another county or counties shall not be made public until after all the polls in that county and the other county or counties have closed. This paragraph applies regardless of whether the counting is done by manual tabulation or by a vote-tabulating device. (§ 15152.)

Canvass Must be Public

The count shall be public and shall be continued without adjournment until completed and the result is declared. During the reading and tallying, the ballot read and the tally sheet kept shall be within the clear view of watchers. (§ 15272.)

Board to Act as Group and Conduct Only One Count

Unless otherwise provided in this code, the precinct board members may not constitute themselves into separate squads in an attempt to conduct more than one count of the ballots at the same time. (§ 15273.)

Members May Relieve Each Other During Canvass of Vote

The members of the precinct board may relieve each other in the duties of counting ballots. (§ 15274.)

Procedures

Any ballot that is not marked as provided by law or that is marked or signed by the voter so that it can be identified by others shall be rejected. The rejected ballots shall be placed in the package marked for voted ballots or in a separate container as directed by the elections official. All rejected ballots shall have written thereon the cause for rejection and be signed by the majority of processing board members who are assigned by the elections official to process ballots. (§ 15154(a).)

The following ballot conditions shall not render a ballot invalid: (1) Soiled or defaced. (2) Two or more impressions of the voting stamp or mark in one voting square. (§ 15154(b).)

If the voter indicates, either by a combination of both marking and writing in, a choice of more names than there are candidates to be elected or nominated for any office, or if for any reason the choice of the voter is impossible to determine, the vote for that office shall not be counted, but the remainder of the ballot, if properly marked, shall be counted. (§ 15154(c).)

Those ballots not rejected shall be placed in one pile, and the board shall proceed to count by tallying the vote for one or more offices or measures at a time. (§ 15275.)

The precinct board members shall ascertain the number of votes cast for each person and for and against

each measure in the following manner: One precinct board member shall read from the ballots. As the ballots are read, at least one other precinct board member shall keep watch of each vote so as to check on any possible error or omission on the part of the officer reading or calling the ballot. (§ 15276.)

Write-In Candidates

Any name written upon a ballot for a qualified write-in candidate, including a reasonable facsimile of the spelling of a name, shall be counted for the office, if it is written in the blank space provided and voted as specified below:

(a) For voting systems in which write-in spaces appear directly below the list of candidates for that office and provide a voting space, no write-in vote shall be counted unless the voting space next to the write-in space is marked or slotted as directed in the voting instructions.

(b) For voting systems in which write-in spaces appear separately from the list of candidates for that office and do not provide a voting space, the name of the write-in candidate, if otherwise qualified, shall be counted if it is written in the manner described in the voting instructions.

(c) The use of pressure-sensitive stickers, glued stamps, or any other device not provided for in the voting procedures for the voting systems approved by the Secretary of State to indicate the name of the write-in candidate are not valid, and a name indicated by these methods shall not be counted.

(d) Neither a vote cast for a candidate whose name appears on the ballot nor a vote cast for a write-in candidate shall be counted if the voter has indicated, by a combination of marking and writing, a choice of more names than there are candidates to be nominated or elected to the office.

(e) All valid write-in votes shall be tabulated and certified to the elections official on forms provided for this purpose, and the write-in votes shall be added to the results of the count of the ballots at the counting place and be included in the official returns for the precinct. (§ 15342.)

Notwithstanding any other provision of law, no name written upon a ballot in any election shall be counted for an office or nomination unless the candidate whose name has been written on the ballot has complied with Part 3 (commencing with Section 8600) of Division 8. (§ 15341.)

Tally Sheets

Two of the precinct board members shall each keep a tally sheet in a form prescribed by the elections official. Each tally sheet shall contain all of the following:

(1) The name of each candidate being voted for and the specific office for which each candidate is being voted. The offices shall be in the same order as on the ballot.

(2) A list of each measure being voted upon.

(3) Sufficient space to permit the tallying of the full vote cast for each candidate and for and against each measure. (§ 15277(a).)

The precinct board members keeping the tally sheets shall record opposite each name or measure, with pen or indelible pencil, the number of votes by tallies as the name of each candidate or measure voted upon is read aloud from the respective ballot. (15277(b).)

Immediately upon the completion of the tallies, the precinct board members keeping the tally shall draw two heavy lines in ink or indelible pencil from the last tally mark to the end of the line in which the tallies terminate

and initial that line. The total number of votes counted for each candidate and for and against each measure shall be recorded on the tally sheets in words and figures. (§ 15277(c).)

Comparison of Lists

On completion of the canvass of the returns for each election, the elections official shall compare the vote-by-mail voters' list with the roster of voters in each precinct to determine if any voter cast more than one ballot at that election. (§ 15278.)

Tally of Votes Only as Prescribed by Law

No precinct board member may make any tally of votes in any other manner than is provided in this article, nor in any other place than on the tally sheets provided for that purpose. (§ 15278.5.)

Ballots to Be Sealed; Not to Be Examined Thereafter

The ballots, as soon as all of the names and measures marked on them as voted for are read and tallied, shall not thereafter be examined by any person, but as soon as all are counted, shall be carefully sealed in a strong envelope. The signatures of each member of the precinct board shall be written across the seal. (§ 15279.)

Completion of Forms by Precinct Board

The precinct board shall complete, sign, and return to the elections official all furnished forms requiring its signatures. When votes are counted at the precinct, all members of the precinct board, upon the completion of their duties, shall sign a certificate of performance, which shall be substantially in the following form (§ 15280):

Certificate of Performance

For _____ precinct, for the _____ election, held on the _____ day of _____, (year).

We hereby certify that the total number of votes received by each candidate for each office and the total number of votes cast for and against each measure is as indicated on the tally sheets.

We further certify that the results of votes cast forms posted outside the polling place and transmitted to the county elections official show the total number of votes received by each candidate for each office and the total number of votes cast for and against each measure is as indicated.

| | |
|---|---|
| _____ | _____ |
| Inspector | Clerk |
| _____ | _____ |
| Assistant Inspector | Clerk |
| _____ | _____ |
| Judge | Clerk |
| _____ | _____ |
| Judge | Clerk |

Sign and Post Copy of Result

The precinct board shall sign and post conspicuously on the outside of the polling place a copy of the result of the votes cast. The copy shall remain posted for at least 48 hours after the official time fixed for the closing of the

polls. (§ 15281.)

Elections in General Law Cities; Procedure at Close of Polls

The votes shall be counted, the result of the votes cast shall be posted, the supplies and records of the election shall be returned to the city elections official and shall be disposed of by him or her in accordance with the provisions of this code governing elections generally, so far as they may be applicable. (§ 10260.)

**2. Return of Supplies and Records.**

Supplies and Election Returns to Be Delivered to County Elections Official

The precinct board, as soon after the polls are closed as possible, shall prepare the supplies, including the copies of the index posted at or near the polling place, and records of the election for delivery to the elections official. (§ 14430.)

The precinct board shall enclose and seal in one or more packages, as determined by the elections official, all of the following: voted, spoiled, canceled, or unused ballots. (§ 14431.)

The precinct board shall enclose and seal in one or two packages, as determined by the elections official:

(a) Two tally sheets, if ballots are to be tabulated manually at the precinct.

(b) The roster of voters.

(c) The copy of the index used as the voting record.

(d) The challenge list.

(e) The assisted voter's list. (§ 14432.)

Transmit Result of Vote

The precinct board immediately shall transmit, unsealed, to the elections official a statement showing the result of the votes cast at the polling place. The statement shall be open to public inspection. (§ 14433.)

Delivery of Sealed Packages by Two Members

The sealed packages containing the lists, papers, and ballots shall be delivered by two of its members without delay, unopened, to the elections official or to a receiving station designated by the elections official. (§ 14434.)

No list, tally, paper, or certificate returned from any election shall be set aside or rejected for want of form, nor because it is not strictly in accordance with this code, if it can be satisfactorily understood. (§ 14435.)

Subpoenas Requiring Precinct Board to Appear

If the returns from any precinct are incomplete, ambiguous, not properly authenticated, or otherwise defective, the elections official may issue and serve subpoenas requiring members of the precinct board to appear and be examined under oath concerning the manner in which votes were counted and the result of the count in their precinct. (§ 15303.)

### 3. Snap Tallies.

Early Tabulation and Announcement

Before any election, the governing body of the jurisdiction holding the election shall decide that certain offices or measures to be voted on are of more than ordinary public interest and require an early tabulation and announcement. The decision shall be transmitted to the elections official not less than 30 days before the election. (§ 14440.)

Special Forms for Snap Tally

The elections official shall prepare and forward to each selected precinct forms containing a list of the offices and measures designated as being of more than ordinary interest, and stating the number of ballots to be counted for the snap tally. In each general election, the special form shall, for each office listed on it, include the names of all candidates for that office whose names appear on the ballot.

The inspector at each selected precinct shall note the results of the count and the total number of votes cast in the precinct on the snap tally forms as soon as the designated number of ballots has been tallied. The inspector shall then communicate the figures in the manner directed by the elections official. In each general election, the figures shall include the votes cast for every candidate whose name appears on the ballot for an office listed on the forms. The inspector shall continue, each time the designated number of ballots have been tallied, to note and report the results as directed. (§ 14441.)

### 4. Canvass at Central Place

Resolution by Election Board

Whenever the ballots at any election or from any precincts are to be tallied at a central place and not at the precincts, the elections official or secretary of the jurisdiction conducting the election shall specify the public place to be used and give notice thereof as follows:

(a) By at least one publication in a newspaper of general circulation published in the jurisdiction where the election is to be held, provided such publication is made at least 10 days before the day of the election.

(b) If a newspaper of general circulation is not published in that jurisdiction, then by prominently posting the notice in the office of the elections official for at least 10 days before the day of the election. (§ 12109.)

Qualifications and Duties of Precinct Board

A person may be employed to count, tally, and certify the ballots if he or she is not a candidate at the election and if he or she satisfies either of the following requirements:

(1) Has the qualifications required for precinct board members.

(2) Is a deputy or employee of either of the following:

(A) The governing board.

(B) The elections official. (§ 15205(a).)

No person selected to count ballots need reside in any particular precinct. (§ 15205(b).)

The elections official or any deputy authorized by the elections official may excuse or dismiss any person from any counting board and enforce the order. (§ 15206.)

The elections official or authorized deputy shall segregate the persons employed to count the ballots into counting boards. These counting boards shall be deemed to be precinct boards, and are subject to all laws governing precinct boards where ballots are counted at the polling place. (§ 15207.)

As soon as the polls are closed, the precinct board shall, in the presence of the public, do all of the following:

(1) Seal the container used to transport voted ballots and insure that the precinct number is designated on the ballot container.

(2) Certify, sign and seal the several packages or envelopes as directed by the elections official.

(3) By not less than two of their number, deliver the ballot container and packages to the elections official at the central counting place in the manner prescribed by the elections official. The ballot container and packages shall remain in their exclusive possession until delivered to the elections official. (§ 15201(a).)

This section also applies to ballots counted manually pursuant to Article 6 (commencing with Section 15290) (§ 15201(b).)

The count shall be public and shall be continued without adjournment until completed and the result is declared. During the reading and tallying, the ballot read and the tally sheet kept shall be within the clear view of watchers. (§ 15272.)

# VI. VOTING SYSTEMS

## SUMMARY

Chapter VI describes the various voting systems used in precincts throughout California. Also included are procedures to be followed both in conducting the vote and in conducting the canvass when using one of these systems. (See page 40 for definitions.)

All precinct board members must attend a training class on the use of voting machines and other precinct responsibilities unless appointed to fill an emergency vacancy. (§ 19340.)

All voting equipment shall be transferred to the polling places in charge of an authorized official, who shall certify to their delivery in good order. (§ 14112.) Ballots and all other election supplies appropriate to the system will also be provided. (§ 14113.)

Prior to entering a voting booth, a precinct board member shall instruct the voter on the proper use of the voting system. The voter shall be told how to mark the ballot and how to fold the ballot after completing the vote (an envelope may be used). If, after entering the booth a voter needs further instruction regarding the operation of the voting machine or device, a precinct board member shall provide the requested information. (§ 14272.)

Upon leaving the voting booth, the voter will hand the folded ballot or the envelope containing the ballot to a precinct board member, who shall remove the ballot stub, hand it to the voter, and deposit the ballot into the ballot container. (§ 14277.)

As soon as the polls are closed, the precinct board shall remove the voted ballots from the ballot container and take them out of the secrecy envelopes or detach them from the secrecy stubs. Where the envelope or stub is also the write-in ballot, and a write-in vote has been registered thereon, the ballot card shall not be separated from the envelope or stub. If two or more separate ballot cards have been used in the election, the precinct board shall sort them into groups, each of which shall contain the same series of ballot cards. (§ 14420(a).)

After completing the action described in subdivision (a), the precinct board shall count the number of ballot cards in each group, and certify the number of ballots cast on the voting roster as provided by Section 14105. If there is any discrepancy between the number of voters listed in the roster and the number of ballots voted, this fact shall be noted with an explanation of the difference and signed by all members of the precinct board. (§ 14420(b).)

The precinct board shall group voted ballot cards and voted separate write-in ballots, as directed by the elections official, and place them in containers. The board shall also place spoiled and void ballots, if any, in containers as directed by the elections official. All of these ballots, along with the containers for voted ballot cards, shall be placed in one or more boxes, which shall then be sealed and delivered as soon as possible to the receiving centers or central counting places with the unused ballots, supplies, and other materials as directed by the elections official. (§ 14421.)

The ballots may be counted at the polls if a counting or tabulating machine approved therefor pursuant to Article 1 (commencing with Section 19200) of Chapter 3 of Division 19 is available at the polls. (§ 15250.)

All proceedings at the central counting place, or counting places, if applicable, shall be open to the view of the public but no person, except one employed and designated for the purpose by the elections official or his or her authorized deputy, shall touch any ballot container. Access to the area where electronic data processing equipment is being operated may be restricted to those persons authorized by the elections official. (§ 15204.)

Each qualified political party may employ, and have present at the central counting place or places, not more than two representatives to check and review the preparation and operation of the tabulating devices, their programming and testing, and have the representatives in attendance at any or all phases of the election. (§

15004(a).)

Any bona fide association of citizens or a media organization may employ, and may have present at the central counting place or places, not more than two representatives to check and review the preparation and operation of the tabulating devices, their programming and testing, and have the representatives in attendance at any or all phases of the election. (§ 15004(b).)

The county elections official may limit the total number of representatives employed pursuant to subdivision (b) in attendance to no more than 10 by a manner in which each interested bona fide association of citizens or media organization has an equal opportunity to participate. Any representatives employed and in attendance pursuant to subdivision (a) shall not be subject to the limit specified in this subdivision. (§ 15004(c).)

**1. Definitions.**

"Voting System" Definition

"Voting System" means any mechanical, electromechanical, or electronic system and its software, or any combination of these used to cast or tabulate votes, or both. (§ 362.)

"Vote Tabulating Device" Definition

"Vote tabulating device" means any piece of equipment, other than a voting machine, that compiles a total of votes cast by means of ballot card sorting, ballot card reading, paper ballot scanning, electronic data processing, or a combination of that type of equipment. (§ 358.)

"Voting Machine" Definition

"Voting machine" means any device upon which a voter may register his or her vote, and which, by means of counters, embossing, or printouts, furnishes a total of the number of votes cast for each candidate or measure. (§ 361.)

"Voting Device" Definition

"Voting device" means any device used in conjunction with a ballot card or cards to indicate the choice of the voter by marking, punching, or slotting the ballot card. (§ 360.)

"Punchcard" Definition

"Punchcard" means a tabulating card on which the voter may record his or her vote by punching, marking, or slotting. (§ 344.)

**2. General Provisions.**

Precinct Board Inspector Instruction

Following the appointment of members of precinct boards, the elections official shall instruct inspectors so appointed concerning their duties in connection with the conduct of the election, which instruction shall conform to the uniform standards adopted by the Secretary of State pursuant to Section 12309.5. (§ 12309(a).)

A person may not serve as an inspector of a precinct board at an election unless instruction has been received in accordance with this section except that, in the case of the emergency disability of a regular inspector, substitute inspectors shall be given any instruction found necessary by the elections official. (§ 12309(b).)

At the request of the elections official, the legislative body may contract with any qualified person or organization for purposes of instructing inspectors in accordance with this section. (§ 12309(c).)

Precinct Board Instruction

Any member of a precinct board who has not previously attended a training class in the use of the voting machines and the duties of a board member shall be required to do so, unless appointed to fill an emergency vacancy. (§ 19340.)

Delivery of Voting Equipment

All voting equipment shall be transferred to the polling places in charge of an authorized official, who shall certify to their delivery in good order. (§ 14112.)

Providing of Ballots and Supplies

Ballots and other election supplies appropriate to the system shall be furnished as provided for other precincts except that:

(a) No rubber stamps or ink pads shall be supplied when only ballots to be punched are used.

(b) Ballots shall be suitable to be punched or slotted in the marking device and subsequently counted on an approved mechanical or electronic counting device.

(c) The containers of the ballots shall be of such type that they will adequately protect the ballots and that they can be opened without mutilation. (§ 14113.)

Marking of Punchcard Ballots Used for Vote-by-Mail Voting.

If punchcard ballots are used for vote-by-mail voting, the ballots shall be marked by pencil, or by a marking device that enables the voter to register his or her vote by punching or slotting the ballot card. Counting of punchcard ballots marked by pencil may be as with paper ballots, or a true duplicate copy of each ballot may be prepared using the same procedure as provided by Section 15271. Vote-by-mail ballots so prepared shall be counted by the counting device. (§ 13266.)

**3. Procedures at the Polls.**

Procedure at Polls

The procedure at the polls where voting is conducted pursuant to this division shall be the same as at other polling places, except as provided in Article 4. (§ 14270.)

Voter Must Be Entitled to Vote

After the opening of the polls, the precinct board shall not allow any voter to enter the voting booth until it ascertains that he or she is entitled to vote. (§ 14271.)

Instructions to Voter

Before each voter enters the voting booth, the precinct board shall inform him or her how to operate the voting device. If a marking or punching device is used, the voter shall be instructed to use only that device. The voter shall also be instructed how to fold the ballot and place it in the envelope. If any voter, after entering the booth,

asks for information regarding the operation of the machine or device, the precinct board shall give him or her the information. (§ 14272.)

Marking Device Handed to Voter

The device for marking the ballot may be handed to the voter with his or her ballot before the voter goes into the voting booth, and shall be returned to the precinct board after he or she has finished marking his or her ballot. (§ 14273.)

Same Marking Device for Manually Counted Ballots

In any election where ballots are to be counted both manually and by electromechanical tabulating devices, the marking device used for marking ballots to be counted electromechanically may be used for marking ballots to be counted manually. (§ 14274.)

Folding Ballot or Placing in an Envelope

Before leaving the voting booth or compartment, the voter shall fold or place the ballot card in the envelope so that the ballot markings of the voter will not be exposed, and the ballot stub will be outside of the envelope or other container, to be removed by the precinct board. (§ 14275.)

Voter Shall Not Show Ballot to Any Person

After his or her ballot is marked, a voter shall not show it to any person in such a way as to reveal its contents. (§ 14276.)

Deposit Ballot in Ballot Container

The voter shall hand the folded ballot or the envelope containing the ballot to a precinct board member who shall remove the ballot stub, hand it to the voter, and deposit the ballot in the ballot container. If the ballot is to be transferred from the envelope to the ballot container, care shall be taken not to disclose the markings of the voter on the ballot. (§ 14277.)

**4. Closing the Polls.**

Processing of Voted Ballots After Close of Polls

As soon as the polls are closed, the precinct board shall remove the voted ballots from the ballot container and take them out of the secrecy envelopes or detach them from the secrecy stubs. Where the envelope or stub is also the write-in ballot, and a write-in vote has been registered thereon, the ballot card shall not be separated from the envelope or stub. If two or more separate ballot cards have been used in the election, the precinct board shall sort them into groups, each of which shall contain the same series of ballot cards. (§ 14420(a).)

After completing the action described in subdivision (a), the precinct board shall count the number of ballot cards in each group, and certify the number of ballots cast on the voting roster as provided by Section 14105. If there is any discrepancy between the number of voters listed in the roster and the number of ballots voted, this fact shall be noted with an explanation of the difference and signed by all members of the precinct board. (§ 14420(b).)

Segregation of Ballots

The precinct board shall group voted ballot cards and voted separate write-in ballots, as directed by the elections official, and place them in containers. The board shall also place spoiled and void ballots, if any, in containers as directed by the elections official. All of these ballots, along with the containers for voted ballot cards,

shall be placed in one or more boxes, which shall then be sealed and delivered as soon as possible to the receiving centers or central counting places with the unused ballots, supplies, and other materials as directed by the elections official. (§ 14421.)

Tabulation of Write-In Votes

Any name written upon a ballot for a qualified write-in candidate, including a reasonable facsimile of the spelling of a name, shall be counted for the office, if it is written in the blank space provided and voted as specified below:

(a) For voting systems in which write-in spaces appear directly below the list of candidates for that office and provide a voting space, no write-in vote shall be counted unless the voting space next to the write-in space is marked or slotted as directed in the voting instructions.

(b) For voting systems in which write-in spaces appear separately from the list of candidates for that office and do not provide a voting space, the name of the write-in candidate, if otherwise qualified, shall be counted if it is written in the manner described in the voting instructions.

(c) The use of pressure-sensitive stickers, glued stamps, or any other device not provided for in the voting procedures for the voting systems approved by the Secretary of State to indicate the name of the write-in candidate are not valid, and a name indicated by these methods shall not be counted.

(d) Neither a vote cast for a candidate whose name appears on the ballot nor a vote cast for a write-in candidate shall be counted if the voter has indicated, by a combination of marking and writing, a choice of more names than there are candidates to be nominated or elected to the office.

(e) All valid write-in votes shall be tabulated and certified to the elections official on forms provided for this purpose, and the write-in votes shall be added to the results of the count of the ballots at the counting place and be included in the official returns for the precinct. (§ 15342.)

**5. Counting Procedure.**

Establishing Return Centers

The elections official of the jurisdiction shall establish one or more election return centers for the purpose of facilitating the compilation of election returns and expediting their announcement to the public. (§ 15260(a).)

In establishing a return center, the elections official may designate a group of precincts which the center shall serve and this designation shall be available for public inspection no later than 15 days before the election. The election return center may be at any public place as the elections official designates. (§ 15260(b).)

Establishing Counting Centers

The elections official may establish one or more multiple centers to count ballots from designated precincts and transmit the results via telephone, facsimile transmission, or modem. The count shall be conducted in all other respects in accordance with the central counting provisions of Article 2 (commencing with Section 15200). The list of designated precincts for each multiple counting center shall be available for public inspection no later than 15 days before the election. (§ 15261.)

Provision for Paper Ballots

If paper ballots are used in conjunction with this system, counting shall be as provided in Article 5 (commencing with Section 15270) and Article 6 (commencing with Section 15290). (§ 15200.)

Delivery to Central Counting Place

If the ballots are to be counted at a central counting place, no fewer than two precinct board members shall, following the close of the polls, deliver the ballots, in a sealed container, to the central counting place or a designated receiving station. There may be two or more central counting places. (§ 15202.)

Tabulation at Polls

The ballots may be counted at the polls if a counting or tabulating machine approved therefore pursuant to Article 1 (commencing with Section 19200) of Chapter 3 of Division 19 is available at the polls. (§ 15250.)

Proceedings Open to View of Public

All proceedings at the central counting place, or counting places, if applicable, shall be open to the view of the public but no person, except one employed and designated for the purpose by the elections official or his or her authorized deputy, shall touch any ballot container. Access to the area where electronic data processing equipment is being operated may be restricted to those persons authorized by the elections official. (§ 15204.)

Check and Review of Tabulating Devices

Each qualified political party may employ, and have present at the central counting place or places, not more than two representatives to check and review the preparation and operation of the tabulating devices, their programming and testing, and have the representatives in attendance at any or all phases of the election. (§ 15004(a).)

Any bona fide association of citizens or a media organization may employ, and may have present at the central counting place or places, not more than two representatives to check and review the preparation and operation of the tabulating devices, their programming and testing, and have the representatives in attendance at any or all phases of the election. (§ 15004(b).)

The county elections official may limit the total number of representatives employed pursuant to subdivision (b) in attendance to no more than 10 by a manner in which each interested bona fide association of citizens or media organization has an equal opportunity to participate. Any representatives employed and in attendance pursuant to subdivision (a) shall not be subject to the limit specified in this subdivision. (§ 15004(c).)

Duplication of Defective Ballot Cards

In preparing the voted ballot cards for processing, any ballot that is torn, bent, or otherwise defective shall be corrected so that every vote cast by the voter shall be counted by the automatic tabulating equipment. If necessary, a true duplicate copy of the defective ballot card shall be made and substituted therefore, following the intention of the voter insofar as it can be ascertained from the defective ballot. All duplicate ballots shall be clearly labeled "duplicate," and shall bear a serial number that shall be recorded on the damaged or defective ballot. (§ 15210.)

Duplication of Vote-by-Mail Ballot Onto Punchcard

If paper ballots are used for vote-by-mail voting, the canvass may be conducted in accordance with Chapter 1 (commencing with Section 15000), or the elections official may have a true duplicate copy of vote-by-mail paper ballots made on punchcard ballots which shall be verified in the presence of witnesses. After verification, the punchcard ballots shall be counted in the same manner as other punchcard ballots. (§ 15211.)

# VII. PENAL PROVISIONS

General Provisions

The penal provisions found in the Elections Code apply to all elections. (§ 18000 *et seq.*)

Upon a conviction for any crime punishable by imprisonment in any jail or prison, in relation to which no fine is herein prescribed, the court may impose a fine on the offender not exceeding $1,000 in cases of misdemeanors or $10,000 in cases of felonies, in addition to the imprisonment prescribed. (§ 18001.)

Every person charged with the performance of any duty under any law of this state relating to elections, who willfully neglects or refuses to perform it, or who, in his or her official capacity, knowingly and fraudulently acts in contravention or violation of any of those laws, is, unless a different punishment is prescribed by this code, punishable by fine not exceeding $1,000 or by imprisonment in the state prison for 16 months or two or three years, or by both. (§ 18002.)

Payment for Voting

A person shall not directly or through any other person pay or receive any money or other valuable consideration before, during, or after an election in order to reward any person or as a reward for voting for or against or agreeing to vote for or against the election or endorsement of any other person as the nominee or candidate of any caucus, convention, organized assemblage of delegates, or other body representing or claiming to represent a political party, candidate, or principle, or any club, society, or association. A violation of this section shall be punishable by imprisonment in the state prison for 16 months or two or three years. (§ 18310.)

Electioneering at or Near Polls Prohibited

No person, on election day, or at any time that a voter may be casting a ballot, shall, within 100 feet of a polling place or an elections official's office:

(a) Circulate an initiative, referendum, recall, or nomination petition or any other petition.

(b) Solicit a vote or speak to a voter on the subject of marking his or her ballot.

(c) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240.

(d) Do any electioneering.

As used in this section, "100 feet of a polling place or an elections official's office" means a distance 100 feet from the room or rooms in which voters are signing the roster and casting ballots. Any person who violates any of the provisions of this section is guilty of a misdemeanor. (§ 18370.)

Vandalism at Polling Places

No person, during any election, shall do any of the following:

(1) Remove or destroy any of the supplies or other conveniences placed in the voting booths or compartments for the purpose of enabling the voter to prepare his or her ballot.

(2) Remove, tear down, or deface the cards printed for the instruction of voters.

(3) Remove, tear, mark or otherwise deface any voter index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted.

(4) Remove, tear down, or deface the signs identifying the location of a polling place or identifying areas within 100 feet of a polling place. (§ 18380(a).)

Any person who violates any of the provisions of this section is guilty of a misdemeanor. (§ 18380(b).)

Imitation of Ballot Paper

Any person who makes, uses, keeps, or furnishes to others, any paper or punchcards watermarked or overprinted in imitation of ballot paper or punchcards is punishable by a fine not exceeding $1,000, or by imprisonment in the state prison for 16 months, two or three years, or by both the fine and imprisonment. (§ 18400.)

Every person who prints any ballot not in conformity with Chapter 2 (commencing with Section 13100) of Division 13, or who circulates or gives to another any ballot, knowing at the time that the ballot does not conform to Chapter 2 (commencing with Section 13100) of Division 13, is guilty of a misdemeanor. (§ 18401.)

Voter Disclosure of Ballot

Any person other than an elections official or a member of the precinct board who receives a voted ballot from a voter or who examines or solicits the voter to show his or her voted ballot is punishable by a fine not exceeding $10,000, by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment. This section shall not apply to persons returning a vote-by-mail ballot pursuant to Sections 3017 and 3021 or persons assisting a voter pursuant to Section 14282. (§ 18403.)

Corruption of the Voting Process

Any person who commits fraud or attempts to commit fraud, and any person who aids or abets fraud or attempts to aid or abet fraud, in connection with any vote cast, to be cast, or attempted to be cast, is guilty of a felony, punishable by imprisonment for 16 months or two or three years. (§ 18500.)

Any public official who knowingly violates any of the provisions of this chapter, and thereby aids in any way the illegal casting or attempting to cast a vote, or who connives to nullify any of the provisions of this chapter in order that fraud may be perpetrated, shall forever be disqualified from holding office in this state and upon conviction shall be sentenced to a state prison for 16 months or two or three years. (§ 18501.)

Any person who in any manner interferes with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, as to prevent the election or canvass from being fairly held and lawfully conducted, is punishable by imprisonment in the state prison for 16 months or two or three years. (§ 18502.)

Corruption of Voters -- Promise of Employment

A person shall not directly or through another person give, offer, or promise any office, place, or employment, or promise to procure or endeavor to procure any office, place, or employment to or for any voter, or to or for any other person, in order to induce that voter at any election to:

(a) Refrain from voting.

(b) Vote for any particular person.

(c) Refrain from voting for any particular person.

A violation of any of the provisions of this section shall be punishable by imprisonment in the state prison for 16 months or two or three years. (§ 18520.)

Corruption of Voters -- Receipt of Consideration

A person shall not directly or through any other person receive, agree, or contract for, before, during or after an election, any money, gift, loan, or other valuable consideration, office, place, or employment for himself or any other person because he or any other person:

(a) Voted, agreed to vote, refrained from voting, or agreed to refrain from voting for any particular person or measure.

(b) Remained away from the polls.

(c) Refrained or agreed to refrain from voting.

(d) Induced any other person to:

(1) Remain away from the polls.

(2) Refrain from voting.

(3) Vote or refrain from voting for any particular person or measure.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years. (§ 18521.)

Corruption of Voters -- Payment or Promise by Controlled Committee

Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) Induce any voter to:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) Remain away from the polls at an election.

(b) Reward any voter for having:

(1) Refrained from voting.

(2) Voted for any particular person or measure.

(3) Refrained from voting for any particular person or measure.

(4) Remained away from the polls at an election.

Any person or candidate violating this section is punishable by imprisonment in the state prison for 16 months or two or three years. (§ 18522.)

Bribery

A person shall not directly or through any other person advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that it, or any part thereof, shall be used in bribery at any election, or knowingly pay or cause to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part, expended in bribery at any election. Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years. (§ 18523.)

A person shall not directly or through any other person advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that it, or any part thereof, will be used for boarding, lodging, or maintaining a person at any place or domicile in any election precinct, ward, or district, with intent to secure the vote of that person or to induce that person to vote for any particular person or measure. Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years. (§ 18524.)

Intimidation of Voters

Every person who makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years. (§ 18540(a).)

Every person who hires or arranges for any other person to make use of or threaten to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years. (§ 18540(b).)

No person shall, with the intent of dissuading another person from voting, within 100 feet of a polling place, do any of the following:

(1) Solicit a vote or speak to a voter on the subject of marking his or her ballot.

(2) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240.

(3) Photograph, videotape, or otherwise record a voter entering or exiting a polling place. (§18541(a).)

Any violation of this section is punishable by imprisonment in a county jail for not more than 12 months, or in the state prison. Any person who conspires to violate this section is guilty of a felony. (§18541(b).)

For purposes of this section, 100 feet means a distance of 100 feet from the room or rooms in which voters are signing the roster and casting ballots. (§18541(c).)

Every employer, whether a corporation or natural person, or any other person who employs, is guilty of a misdemeanor if, in paying his or her employees the salary or wages due them, encloses their pay in pay envelopes upon which or in which there is written or printed the name of any candidate or any political mottoes, devices, or

arguments containing threats, express or implied, intended or calculated to influence the political opinions or actions of the employees. (§ 18542.)

Every person who knowingly challenges a person's right to vote without probable cause or on fraudulent or spurious grounds, or who engages in mass, indiscriminate, and groundless challenging of voters solely for the purpose of preventing voters from voting or to delay the process of voting, or who fraudulently advises any person that he or she is not eligible to vote or is not registered to vote when in fact that person is eligible or is registered, or who violates Section 14240, is punishable by imprisonment in the county jail for not more than 12 months or in the state prison. (§ 18543(a).)

Every person who conspires to violate Section 18543, subdivision (a) is guilty of a felony. (§ 18543(b).)

Any person in possession of a firearm or any uniformed peace officer, private guard, or security personnel or any person who is wearing a uniform of a peace officer, guard, or security personnel, who is stationed in the immediate vicinity of, or posted at, a polling place without written authorization of the appropriate city or county elections official is punishable by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment. (§ 18544(a).)

This section shall not apply to any of the following:

(1) An unarmed, uniformed guard or security personnel who is at the polling place to cast his or her vote.

(2) A peace officer who is conducting official business in the course of his or her public employment or who is at the polling place to cast his or her vote.

(3) A private guard or security personnel hired or arranged for by a city or county elections official.

(4) A private guard or security personnel hired or arranged for by the owner or manager of the facility or property in which the polling place is located if the guard or security personnel is not hired or arranged solely for the day on which an election is held. (§ 18544(b).)

Any person who hires or arranges for any other person in possession of a firearm or any uniformed peace officer, private guard, or security personnel or any person who is wearing a uniform of a peace officer, guard, or security personnel, to be stationed in the immediate vicinity of, or posted at, a polling place without written authorization of the appropriate elections official is punishable by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment. This section shall not apply to the owner or manager of the facility or property in which the polling place is located if the private guard or security personnel is not hired or arranged solely for the day on which the election is held. (§ 18545.)

As used in this article:

(a) "Elections official" means the county elections official, registrar of voters, or city clerk.

(b) "Immediate vicinity" means the area within a distance of 100 feet from the room or rooms in which the voters are signing the roster and casting ballots. (§ 18546.)

Corruption of Voting

Every person is guilty of a crime punishable by imprisonment in the state prison for 16 months or two or three years, or in county jail not exceeding one year, who:

(a) Not being entitled to vote at an election, fraudulently votes or fraudulently attempts to vote at that election.

(b) Being entitled to vote at an election, votes more than once, attempts to vote more than once, or knowingly hands in two or more ballots folded together at that election.

(c) Impersonates or attempts to impersonate a voter at an election. (§ 18560.)

Corruption of Voting - Assisting, Aiding or Abetting

Every person is punishable by imprisonment in the state prison for 16 months or two or three years who:

(a) Procures, assists, counsels, or advises another to give or offer his vote at any election, knowing that the person is not qualified to vote.

(b) Aids or abets in the commission of any of the offenses mentioned in Section 18560. (§ 18561.)

Corruption of Voting - Examination of Vote by Precinct Board Member

Every member of a precinct board is guilty of a misdemeanor who, prior to putting the ballot of a voter in the ballot box, commits any of the following:

(a) Attempts to find out any name on the ballot.

(b) Opens or suffers to be opened or examined the folded ballot of any voter which has been handed in.

(c) Makes or places any mark or device on any folded ballot with a view to ascertaining the name of any person for whom the voter has voted. (§ 18562.)

Every member of a precinct board is guilty of a misdemeanor who, without the consent of a voter, discloses the name of any candidate the board member has discovered in his or her capacity as a member of the board to have been voted for by the voter. (§ 18563.)

Corruption of Voting - Tampering With Voting System

Any person is guilty of a felony, punishable by imprisonment in a state prison for two, three, or four years who, before or during an election:

(a) Tampers with, interferes with, or attempts to interfere with, the correct operation of, or willfully damages in order to prevent the use of, any voting machine, voting device, voting system, vote tabulating device, or ballot tally software program source codes.

(b) Interferes or attempts to interfere with the secrecy of voting or ballot tally software program source codes.

(c) Knowingly, and without authorization, makes or has in his or her possession a key to a voting machine that has been adopted and will be used in elections in this state.

(d) Willfully substitutes or attempts to substitute forged or counterfeit ballot tally software program source codes. (§ 18564.)

The Secretary of State, Attorney General, and any local elections official in the county in which the act occurs, may bring a civil action against an individual, business, or other legal entity that commits any specified act of tampering with a voting system or voting equipment before, during, or after an election. (§ 18564.5.)

Any person who aids or abets in the commission of any of the offenses described in Section 18564 is punishable by imprisonment in the county jail for a period of six months or in the state prison for 16 months or two or three years. (§ 18565.)

Corruption of Voting - Forgery

Every person is punishable by imprisonment in the state prison for two, three, or four years who:

(a) Forges or counterfeits returns of an election purported to have been held at a precinct where no election was in fact held.

(b) Willfully substitutes forged or counterfeit returns of election in the place of true returns for a precinct where an election was actually held. (§ 18566.)

Corruption of Voting - Altering Returns

Every person who willfully adds to or subtracts from the votes actually cast at an election, in any official or unofficial returns, or who alters the returns, is punishable by imprisonment in the state prison for 16 months or two or three years. (§ 18567.)

Corruption of Voting - Changing Ballots, Wrongfully Adding or Subtracting Ballots

Every person is punishable by a fine not exceeding $1,000, or by imprisonment in the state prison for 16 months or two or three years, or by both such fine and imprisonment, who:

(a) Aids in changing or destroying any poll list or official ballot.

(b) Aids in wrongfully placing any ballots in the ballot container or in taking any therefrom.

(c) Adds or attempts to add any ballots to those legally polled at any election by fraudulently putting them into the ballot container, either before or after the ballots therein have been counted.

(d) Adds to or mixes with, or attempts to add to or mix with, the ballots polled, any other ballots, while they are being counted or canvassed or at any other time, with intent to change the result of the election, or allows another to do so, when in his power to prevent it.

(e) Carries away or destroys, attempts to carry away or destroy, or knowingly allows another to carry away or destroy, any poll list, ballot container, or ballots lawfully polled or who willfully detains, mutilates, or destroys any election returns.

(f) Removes any unvoted ballots from the polling place before the completion of the ballot count. (§ 18568.)

Every person who aids or abets in the commission of any of the offenses mentioned in Section 18566, 18567, or 18568 is punishable by imprisonment in the county jail for the period of six months or in the state prison for 16 months or two or three years. (§ 18569.)

Corruption of Voting - Interference With or Alteration of Posted Result

Every person is guilty of a misdemeanor who does any one of the following:

(a) Removes or defaces any posted copy of the results of votes cast within the period of 48 hours from the official time fixed for the closing of the polls.

(b) Delays delivery of or changes the copy of the result of votes cast that is to be delivered to the city or county elections official. (§ 18570.)

Corruption of Voting -- Unlawful Acts of Counting Board

Any person acting on any counting board who refuses to obey any lawful order of the county elections official or his or her deputy is guilty of a misdemeanor, unless he or she is by his or her refusal guilty of a higher crime under the laws of this state. (§ 18571.)

Each counting board and its members are subject to the liabilities and penalties to which precinct boards or their members are subject where the votes and returns are counted at the precincts where they were polled. (§ 18572.)

Corruption of Voting -- Misleading Assisted Voter

Every person is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years who furnishes any voter wishing to vote, who cannot read, with a ballot, informing or giving that voter to understand that it contains a name written or printed thereon different from the name which is written or printed thereon, or defrauds any voter at any election by deceiving and causing him or her to vote for a different person for any office than he or she intended or desired to vote for. (§ 18573.)

Corruption of Voting -- Refusal to Answer Precinct Board Questions

Every person who, after being required by the precinct board at an election, refuses to be sworn or, being sworn, refuses to answer any pertinent questions propounded by the board touching the right of another to vote, is guilty of a misdemeanor. (§ 18574.)

Corruption of Voting -- Falsely Acting as Elections Official

Every person is guilty of a felony, and on conviction shall be punished by imprisonment in the state prison for two, three or four years, who at any election:

(a) Without first having been appointed and qualified, acts as an election officer.

(b) Not being an election officer, performs or discharges any of the duties of an election officer in regard to the handling, counting, or canvassing of any ballots. (§ 18575.)

Corruption of Vote-by-Mail Voting

Any person who willfully (a) interferes with the prompt delivery of a completed vote-by-mail ballot application, (b) retains a completed vote-by-mail ballot application, without the voter's authorization, for more than three days excluding weekends and state holidays, or by the deadline for return of vote-by-mail voters' ballot applications, whichever is earlier, or (c) denies an applicant the right to return his or her own completed vote-by-mail ballot application to the local elections official having jurisdiction over the election, is guilty of a misdemeanor. (§ 18576.)

Any person having charge of a completed vote-by-mail ballot who willfully interferes or causes interference with its return to the local elections official having jurisdiction over the election is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding $10,000, or by both. (§ 18577.)

Any person who applies for, or who votes or attempts to vote, a vote-by-mail voter's ballot by fraudulently signing the name of a fictitious person, or of a regularly qualified voter, or of a person who is not qualified to vote, is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years, or by fine not exceeding $1,000, or by both the fine and imprisonment. (§ 18578.)