

Frequently Asked Questions New Provisional Ballot Envelope, Form 12-B (01/12)

When designing the new form, the Secretary of State's office applied the following four primary guiding principles:

- Having the form include only the information that is legally required in order for the ballot to be counted or rejected, according to Ohio law, the NEOCH consent decree, and other court decisions;
- Not having an election specific form so that counties did not have to print different types of forms in the same calendar year and switch out the form in training materials from one election to the next;
- Making the form be easy to use by voters and precinct elections officials; and
- Including a "voter registration form" containing all of the fields required by federal and state law in order for a voter to update his or her name and/or address or register to vote.

1. How does the voter indicate his or her party choice on the envelope for a partisan primary election?

While it may seem counterintuitive, party choice is not a required field on the provisional ballot envelope, and it certainly is not information that is necessary to determine the validity of a provisional ballot. The voter chooses the party at the time he or she tells the precinct election official which party's ballot he or she desires to vote. Since the party ballot is contained inside the envelope, the voter does not have to mark anything on the envelope.

However, because boards need to record the party choice in the voter registration system, here are three options for boards to consider:

- a. If you perform your data entry after determining which ballots will be counted, then when you remove the ballot from the envelope you may simply mark R, D, etc on the envelope so that you'll have a record when you enter it into your VR system; or
- b. If you do not want to print election specific forms but want to have a place for voters to write their party selection, then you may create a label and affix it to each envelope that you send to the precincts for a primary (the label could include a line where the voter may write the name of the party the voter selected), but be sure to affix the label where it does not cover up any other material on the envelope; or
- c. Edit the envelope affirmation for the primary election only by inserting a line in the margin at the bottom where the voter can write the name of the party the voter selected (your printer can probably help you with layout).

If you follow either of the last two options above, remember that failure to write a party on the envelope is NOT a reason to invalidate the provisional ballot.

One additional consideration: the absence of party affiliation printed on the outside of the provisional ballot envelope frees the board from any accusation that party bias affected the review process.

2. How will I create the post-election spreadsheet for provisional ballots since the envelope no longer has reasons for voting a provisional ballot? Is the post-election report still required?

The post-election report is required by the settlement agreement with the League of Women Voters. Even though the checkboxes are no longer on the forms, you will be able to “back into the data” with the assistance of your voter registration system vendor. For instance, you have the data necessary to know whether a person is registered or not in the precinct in which the provisional ballot is cast and you have the data to know whether that person had requested an absentee ballot or not. If the voter completes the back of the envelope you will know if the provisional is a change of name within the same precinct. You won’t be able to back into data for “no ID” category. According to the 2011 data, the category of “no qualifying form of ID except SSN4” occurs in less than 5% of all instances. After reviewing the information that you have, if you are still unable to determine the reason that the person voted provisionally, you may include that in the “other” reasons for casting a provisional ballot category. If you think that the approach outlined above will be too time consuming or insufficient for your local practices, you may provide to the precinct elections officials:

- A separate form on which to tally the reasons (without associating the tally with any particular voter); or
- An additional form on which they may note the reason that the provisional ballot is issued and place it inside of the envelope.

3. Is a voter required to complete the registration form on the back of the envelope?

No. The only required information is a voter’s name, identification, and signature. It is true that if a provisional voter moved, then new address information may be necessary to determine whether the voter cast the ballot in the correct precinct. Where the voter does not include a new address on the back of the envelope, and the precinct does not match the precinct assigned to the voter, then the ballot does not count. If, however, the voter did include a new address on the back, then the board must determine the precinct based on the new address.

4. If a person is not registered to vote anywhere in the State of Ohio and completes the registration form on the back of the envelope, does that provisional ballot count?

No. A provisional ballot cast by a person who was not registered to vote anywhere in Ohio on or before the registration deadline for that election cannot count. In order for a provisional ballot to count, the front of the envelope must be complete and the person must have had the

qualifications of an elector and been registered to vote in the State of Ohio on or before the registration deadline for that election.

5. If the provisional voter completes the back of the provisional ballot envelope does he or she also have to complete a voter registration card?

No. The back of the envelope contains the same information required on a voter registration card. If a registered voter whose name and/or address has changed completes the back of the provisional ballot envelope, this will serve to update the voter's registration information with the board. If a person who was not registered to vote in Ohio by the registration deadline for that election completes the required information on the back of the envelope, this will serve to register the voter in the state of Ohio for future elections.

Permanent retention of the back of the envelope satisfies the permanent retention requirement for voter registration forms. Alternatively, once the retention requirement for provisional ballot envelopes has expired, you may wish to cut out the registration card on the back of the envelope for permanent retention. We intentionally made this form similar to the registration form for those counties to whom the same size of the cards retained is still important.

6. Is the precinct election official still required to provide the provisional voter with Form 12-H (the Provisional Ballot Notice form with the toll free hotline)?

Yes. This is still a requirement of federal and state law; every provisional voter must receive a copy of this notice. Also, remember that the "Judge Carr Notice" is still required to be posted for all federal elections.

7. Is the absence of a stub on a provisional ballot a reason to reject the provisional ballot?

No. Unlike an absentee ballot, for which state law requires the ballot and stub to be attached when sealed in the identification envelope and sent to the Director of the Board of Elections, a provisional ballot need not have its stub attached in order for the ballot to count.

8. May we drill holes in the envelope to help make it easier to determine if there is indeed a ballot inside of the envelope?

Yes. Be certain to have your vendor drill the holes in places that do not prevent the voter from reading or providing any information on either side.

9. The envelope seems to be formatted for a different size than we use. Can I use a different size envelope?

Yes. Neither the size nor the color of the envelope is prescribed. You can work with your printing vendor to scale the .pdf to fit either a larger or smaller envelope.

10. May a county board add a “for office use only” section to the back of the envelope to help with the post-election review process?

Yes. You may add a “for office use only” section to the information prescribed on the back of the envelope. Some boards have created a sticker that they affix to the envelope after the election (again, not covering up any important information) that contains blanks for their staff to fill in during the review process. Either approach is acceptable.