

**PROPOSED REGULATION OF THE
SECRETARY OF STATE**

LCB File No. R124-11

PROPOSED CHANGES TO CHAPTER 293 OF NAC

Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as Sections 1 through 12 of this regulation:

*Section 1. Voter turnout numbers to the Secretary of State (NRS 293.124, 293.247),
Not less than two times during the hours in which a county's polling place are open, the county clerk shall notify the Secretary of State of the total voter turnout in that county.*

Section 2. Submission by county clerk of plan for disposition of absent ballots in case of an emergency. (NRS 293.124, 293.247)

1. A plan setting forth the procedures to be used for the disposition of absent ballots in the case of an emergency must be submitted to the Secretary of State for approval no later than 90 days before the election for which it is to be utilized.

2. For the purposes of subsection 1, emergency shall be defined as a situation wherein a polling place or polling places within a county either temporarily or permanently no longer have functioning mechanical voting systems as defined in NRS 293B.033.

3. The Secretary of State shall have the authority to declare a polling place or polling places an emergency for purposes of this section. Should the Secretary of State exercise its discretion by declaring an emergency, it shall immediately notify the county clerk.

Section 3. Waiting to Vote interpreted. (NRS 293.305). For purposes of NRS 293.305:

1. The Secretary of State interprets "waiting to vote" to include:

- (a) Registered voters physically in line to vote;*
- (b) Registered voters who have entered the polling place or who are on foot and visibly moving toward the polling place and intend to vote; or*
- (c) Any other registered voters that a poll worker reasonably determines is intending to enter the polling place to vote.*

2. Upon the closing of the polls at 7:00 p.m., a poll worker shall survey the polling place for any voters described in subsection 1 and shall determine the last registered voter waiting to vote by either:

- (a) Physically standing in the polling place line to mark the end of the line and the last voter who may vote at that polling place; or*
- (b) Placing a sticker or other distinguishing mark on the last voter in the polling place line to signify the end of the line and the last voter who may vote at the polling place.*

Section 4. NAC 293.185 Verification of signatures on certain petitions: Discrepancy in address. (NRS 293.124, 293.1277, 293.247)

1. If, while verifying signatures pursuant to NRS 293.1277, a county clerk discovers that an address included with a signature does not match the address for the registered voter who signed

the petition as indicated in the file of applications to register to vote, the clerk shall notify the registered voter of the discrepancy.

2. A county clerk shall not verify any signature for a person who has been notified of a discrepancy pursuant to subsection 1 unless the person demonstrates to the satisfaction of the clerk that the person is a registered voter of the State, county, district or municipality which is applicable for the ballot question or office that is the subject of the petition.

3. For the purposes of subsection 1, sufficient notice to the registered voter includes, but is not limited to, posting of the registered voter's name on the county clerk's website with instructions on how to contact the clerk's office and demonstrate to the satisfaction of the clerk that the person is a registered voter of the State, county, district or municipality which is applicable for the ballot question or office that is the subject of the petition.

Section 5. NAC 293.217 Electronic notification to Secretary of State of opening and closing of polls on election day. (NRS 293.124, 293.247)

1. On election day for each election other than a city election, the county clerk shall notify the Secretary of State by facsimile, ~~{e}~~ electronic mail, or other means approved by the Secretary of State:

(a) When all polling places within the county are opened and when all the polling places within the county are closed and all votes have been cast. The notification required pursuant to this paragraph must be sent immediately to the Secretary of State upon the county clerk's confirmation.

(b) Except as otherwise provided in paragraph (c), of the time at which each polling place within the jurisdiction of the county clerk opened on election day. The notification required pursuant to this paragraph must be sent to the Secretary of State as soon as practicable after the opening of all polling places within the jurisdiction of the county clerk.

~~(c)~~ If the opening or closing of any polling place was delayed on that day. The notification required pursuant to this paragraph must be sent to the Secretary of State as soon as practicable after the delay occurs and include, without limitation, an explanation of the reason for the delay.

~~(d)~~ Of the time at which each polling place within the jurisdiction of the county clerk closed that day and all registered voters waiting to vote at the time the polls closed have voted. The notification required pursuant to this paragraph must be sent to the Secretary of State as soon as practicable after the closing of all polling places within the jurisdiction of the county clerk.

2. If a county clerk reports a delay of an opening or closing of a polling place pursuant to paragraph (b) of subsection 1, the county clerk shall inform the Secretary of State when the delay has been cured and the polling place has opened or closed, as the case may be. The notification required pursuant to this subsection must be sent to the Secretary of State as soon as practicable after the opening or closing, as the case may be, of the polling place.

3. A county clerk shall not report, *post or otherwise disclose* on election day any unofficial results of election returns related to a candidate for statewide or multicounty office or a statewide or multicounty ballot question *pursuant to NRS 293.383 or otherwise* until the Secretary of State:

(a) Receives the notification required pursuant to paragraph ~~(a)~~ of subsection 1 from every county clerk that all polling places have closed; ~~{and}~~

(b) Receives the results from that particular county;

(c) Verifies the results; and

(d**[b]**) Notifies the county clerk that the county clerk may report, *post or otherwise disclose* such unofficial results.

4. The county clerk shall submit a plan to the Secretary of State setting forth the county clerk's procedures for opening and closing the polling places within his or her county and for the notification required by subsection 1. The plan required in this paragraph shall be submitted to the Secretary of State for approval no later than 90 days before the election for which it is to be utilized.

Section 6. NAC 293.240 Procedures regarding voting; examination of voting booths; notice of Title 24 violation. (NRS 293.124, 293.247)

1. After a person is identified as being a registered voter and has signed the roster, a member of the election board:

(a) May issue the voter a receipt;

(b) **Must ask the registered voter if they need any assistance with voting;**

(c) **Must issue the following statement to the registered voter:**

“If you have any questions or concerns with the voting machine, please stop voting immediately and bring the question or concern to the attention of the election board. You will not be able to have your question or concern addressed by the election board once you have cast your ballot.”; and

(d**[b]**) Shall direct the voter to a voting booth equipped to handle the voter's ballot.

2. A member of the election board shall not permit any person to enter a voting booth to vote until he or she ascertains that the person understands how to operate the vote recording device.

3. If it is obvious to the members of an election board that a voter is trying to delay an election by repeatedly voiding his or her selections and not casting a ballot, a member of the election board must warn the voter that such actions are unlawful and offer assistance if necessary. If the voter continues to try to delay the election, the election board may take any appropriate action to expedite the election, including, without limitation, removing the voter from the polling place if the county clerk has approved the removal.

4. Before the commencement of voting and periodically throughout the election, members of the election board shall examine the voting booths to ensure that each booth does not contain any campaign cards, political advertising, partisan notes or any other matter which constitutes an unauthorized attempt to influence the voters.

5. At each polling place, the election board shall place in a conspicuous place a sign with the statement set forth in subsection 1(c).

6. If any member of the election board observes a violation of Title 24 at a polling place, the violation should be reported to the county clerk who shall immediately notify the Secretary of State's office.

Section 7. NAC 293.245 Observation of conduct of voting at polling place. (NRS 293.124, 293.247)

1. Subject to the provisions of subsections 2 to 6, inclusive, any person may observe the conduct of voting at a polling place.

2. Before observing the conduct of voting at a polling place pursuant to subsection 1, a person must sign **an sworn acknowledgement [form]** prescribed by the Secretary of State stating that the person, during the time the person observes the conduct of voting:

(a) May not talk to voters within the polling place;

- (b) May not use a mobile telephone or computer within the polling place;
- (c) May not advocate for or against a candidate, political party or ballot question;
- (d) May not argue for or against or challenge any decisions of county or city election personnel;
- (e) May not interfere with the conduct of voting; ~~and~~
- (f) May not be present and witness the counting of ballots.
- (g) May be removed from the polling place by the county or city clerk for violating any provision of title 24 of NRS or any of the provisions of paragraphs (a) to (g~~h~~), inclusive.

3. The county or city clerk may, at his or her discretion, remove from a polling place a person observing the conduct of voting pursuant to this section for violating any provision of title 24 of NRS or any of the provisions of paragraphs (a) to (g~~h~~), inclusive, of subsection 2.

4. A person observing the conduct of voting at a polling place pursuant to subsection 1 must comply with the same requirements that apply to members of the general public pursuant to NRS 293.274, 293.305 and 293.730.

5. A person observing the conduct of voting at a polling place pursuant to subsection 1 may remain in the designated area in the polling place after the polls close pursuant to NRS 293.273 so as to observe the closing of the polling place. The person shall not interfere with the closing of the polling place.

6. A person observing the conduct of voting at a polling place pursuant to subsection 1 may remain in an area designated by the chair of the election board to observe the activities conducted at the polling place without interfering with the voting. The designated area must allow for meaningful observation, but must not be located in an area that would allow an observer to infringe on the privacy and confidentiality of the ballot of the voter.

7. As used in this section, “advocate” includes, without limitation, speaking, displaying or disseminating written material and wearing identifying clothing, buttons or other paraphernalia.

8. *A person observing the conduct of voting at a polling place pursuant to subsection 1 must, at all times he or she is observing at the polling place, wear a name tag noting the person’s full name.*

9. *The county clerk shall collect all of the sworn acknowledgments described in subsection 2 and retain copies for no less than 180 days following the election for which the person observing signed the sworn statement.*

Section 8. NAC 293.395 “Official identification” interpreted. (NRS 293.124, 293.247, 293.517) For the purposes of NRS 293.517:

1. The Secretary of State interprets “official identification” to mean a government-issued, or otherwise official, article or combination of articles, which establishes both the identity and residence of a person submitting an application to register to vote.

2. The following articles may be used to establish identity:

- (a) A current and valid Nevada driver’s license;
- (b) A current and valid identification card issued by the Department;
- (c) A current and valid identification card issued by a branch of the Armed Forces of the United States;
- (d) A current and valid identification card issued by a sheriff of a Nevada county to an employee as a condition of employment by certain business enterprises;

(e) A current and valid identification card issued by an agency of the State of Nevada or political subdivision thereof or the United States, including, without limitation, a public school, college or university;

(f) A current and valid student identification card from an accredited private school, college or university;

(g) A current and valid United States passport;

(h) A current and valid insurance plan identification card which the county clerk determines, in his or her discretion, to be a reliable indication of the true name and identity of the person;

(i) A current and valid tribal identification card; *or*

~~[(j) A current and valid employee identification card which the county clerk determines, in his or her discretion, to be a reliable indication of the true name and identity of the person; or]~~

~~(j)~~ Any other official article *with photographic identification* which the county clerk determines, in his or her discretion, to be a reliable indication of the true name and identity of the person, including, without limitation, an expired article listed in paragraphs (a) to ~~(i)~~, inclusive, if that article has been expired for 30 calendar days or less and is otherwise valid.

3. The following articles may be used to establish residency if the current residential address of the applicant, as indicated on the application to register to vote, is displayed on the article:

(a) Any article set forth in subsection 2;

(b) A current and valid utility bill, including, without limitation, a bill for electricity, gas, oil, water, sewer, septic, telephone, cellular telephone or cable television;

(c) A current and valid bank or credit union statement;

(d) A current and valid paycheck;

(e) A current and valid income tax return;

(f) A current and valid statement concerning the mortgage, rental or lease of a residence;

(g) A current and valid motor vehicle registration;

(h) A current and valid document issued by a governmental agency;

(i) A current and valid property tax statement; or

(j) Any other official article which the county clerk determines, in his or her discretion, to be a reliable indication of the true residential address of the person.

Section 9. NAC 293.412 Inactive voters. (NRS 293.124, 293.247, 293.440, 293.530, 293.557)

1. A county clerk shall:

(a) Maintain a separate list of inactive voters or designate inactive voters as such on regular lists of registered voters and election board registers.

(b) At the request of the Secretary of State, report to the Secretary of State the total number of inactive voters.

2. The name of each inactive voter:

(a) Must be included on any list made available for public inspection pursuant to NRS 293.440 unless the person requesting the list requests the exclusion of those names.

(b) Must not be included on any list made available for public inspection pursuant to NRS 293.557.

3. The signature of an inactive voter shall be deemed to be the signature of a registered voter for all purposes regarding any petition authorized or required pursuant to title 24 of NRS.

4. A city or county clerk is not required to send a sample ballot to an inactive voter.

5. A city or county clerk who receives a request for an absent ballot, in accordance with NRS 293.313 and 293.315, from an inactive voter shall issue the absent ballot to the

inactive voter and shall reclassify the inactive voter as an active voter upon receipt of the absent ballot vote.

6. An inactive voter shall be allowed to vote in person at a polling place in the same manner as an active voter

~~7[5].~~ As used in this section, “inactive voter” means a voter designated as inactive pursuant to NRS 293.530 whose registration has not been cancelled.

Section 10. NAC 293.416 Written challenge: Contents. (NRS 293.124, 293.247, 293.547)

1. A written challenge authorized by NRS 293.547 must contain, in addition to any other required information:

(a) ~~[1.]~~ The address and, if readily available, the telephone number of the person whose right to vote is challenged.

(b) ~~[2.]~~ The number of the precinct in which the person whose right to vote is challenged is registered to vote.

(c) ~~[3.]~~ The name, address and telephone number of the person filing the challenge.

(d) ~~[4.]~~ The precinct in which the person filing the challenge is registered to vote.

(e) ~~[5.]~~ The date of the challenge.

(f) ~~[6.]~~ A statement of the facts upon which each ground for the challenge is based.

(g) ~~[7.]~~ A statement that the challenge is based on personal knowledge of the facts upon which each ground for the challenge is based.

2. *For purposes of this section, personal knowledge shall be defined as knowledge of the person whose right to vote is challenged and the reasons for challenging their right to vote which is gained directly through firsthand experience or observation.*

3. *The Secretary of State shall prescribe a form for the written challenge pursuant to NRS 293.547 and county clerks shall only accept written challenges in the prescribed form.*

Section 11. NAC 293.420 Forms for application for registration: Contents; submission; control number; printing. (NRS 293.124, 293.247, 293.507, 293.508, 293.5235)

1. The Secretary of State will create a standard form for use by persons who are applying to register to vote in person or by mail. The form will include:

(a) An application to register to vote, which may be submitted in person or by mail to the county clerk of the county in which the applicant resides;

(b) Instructions to assist the applicant in completing the application;

(c) A notice stating that the application must contain the Nevada driver’s license number of the applicant or, if the applicant has no Nevada driver’s license, at least the last four digits of the social security number of the applicant or, if the applicant has no social security number, a unique identification number assigned by the county clerk pursuant to NAC 293.411 and subsection 5 of NRS 293.507;

~~[(d) A list of the addresses and telephone numbers of county election officers.]~~

(d) ~~[e]~~ A notice that if the applicant indicates on the application that the applicant is not a citizen of the United States or will not be at least 18 years of age on or before election day, the applicant may not register to vote;

(e) ~~[f]~~ The option for the applicant to receive a sample ballot in larger type; and

(f) ~~[g]~~ Instructions to the applicant to contact the county clerk if the applicant does not, within 10 days after submitting the application to the county clerk, receive his or her voter registration card indicating that the registration has been accepted.

2. The Secretary of State will assign a control number to each application and will determine the sequence of the control numbers. The control numbers will consist of a two-digit alphabetical code followed by a five-digit numerical code.

3. The control number must be printed:

(a) On a receipt of the application; and

(b) On the application to be returned to the county clerk.

4. On application forms that do not contain a control number, including, without limitation, the Federal Post Card Application submitted to a county clerk, the county clerk must enter the control number:

(a) On the application and a receipt of the application, if the application is submitted in person; or

(b) On the application, if the application is submitted by mail.

5. Each county clerk shall, and the Secretary of State will, after obtaining a series of control numbers from the Secretary of State, cause the forms to be printed. The county clerk shall continue to make available a sufficient number of the forms to meet the needs of the residents of the county.

Section 12. NAC 293.454 Establishment and maintenance of computerized database of registered voters. (NRS 293.124, 293.675)

1. Each county clerk shall establish and maintain a computerized database of registered voters in the county that is compatible with the statewide voter registration list and meets such technical requirements as may be prescribed by the Secretary of State. The database must include, without limitation:

(a) Except as otherwise provided in NAC 293.476, the name, residential address and date of birth of each registered voter in the county;

(b) For each registered voter described in paragraph (a):

(1) At least one of the following:

(I) The driver's license number or identification card number of the registered voter;

(II) The last four digits of the social security number of the registered voter; or

(III) An indication that the county clerk received from the registered voter the affidavit described in subsection 5 of NRS 293.507;

(2) A voting history indicating the dates on which and locations at which the registered voter cast a ballot in an election;

(3) Except as otherwise provided in NRS 293.2725, whether the registered voter provided, at the time that he or she registered to vote, official identification as required pursuant to NRS 293.517;

(4) If the county clerk has mailed a written notice to the voter pursuant to NRS 293.530, the date that the notice was mailed and an indication of whether the registered voter responded to the notice;

(5) If the county clerk has designated the registered voter as inactive pursuant to NRS 293.530, the effective date of the designation;

(6) If the county clerk has cancelled the registration of the registered voter, the effective date of the cancellation; and

(7) If the registered voter submitted his or her application to register to vote on or after January 1, 2006, a determination of whether the registered voter has submitted a ballot in a federal election; and

(c) A determination of whether the registered voter submitted to the county clerk an application to register to vote that contains incorrect or incomplete information.

2. The county clerk shall classify the registration of each registered voter in the computerized database established pursuant to subsection 1 using the following classifications, as applicable:

(a) “Active,” if the residential address of the registered voter is current.

(b) “Active pending,” if the registered voter:

(1) Has provided all critical eligibility criteria but must have information concerning his or her registration confirmed; or

(2) Is required to provide some type of identification before voting but is otherwise eligible to vote.

(c) “Cancelled,” if the registration of the registered voter is cancelled pursuant to NRS 293.530.

(d) “Fatal pending,” if the registered voter has failed to provide certain critical eligibility criteria and is ineligible to vote until the critical eligibility criteria is provided to the county clerk.

(e) “Inactive,” if *and only when* the registered voter failed to return a postcard mailed pursuant to subsection 3 of NRS 293.530.

(f) “P-17,” if the registered voter was under 18 years of age at the time he or she submitted the application to register to vote but will be 18 years of age or older on or before the day of the election.

(g) “Void,” if the application of the person to register to vote is void pursuant to subsection 6 of NRS 293.5235 or subsection 4 of NRS 293.524.

3. Each election board officer shall determine the eligibility of a person to vote on the basis of the classification indicated on the statewide voter registration list for the following classifications:

(a) A person whose registration is classified as “active,” “active pending” or “inactive” is eligible to vote.

(b) A person whose registration is classified as “P-17” is eligible to vote if the election takes place on or after the person’s 18th birthday.

(c) A person whose registration is classified as “cancelled,” “fatal pending” or “void” is ineligible to vote, unless the county clerk, deputy clerk or election board officer determines on or before the date of the election that, pursuant to law, the person is eligible to vote.

4. As used in this section, “critical eligibility criteria” includes the signature of the registered voter on his or her application to register to vote, the information described in paragraph (a) of subsection 1 and the information described in subparagraph (1) of paragraph (b) of subsection 1.

Chapter 293 of NAC is hereby amended by repealing the following provisions:

~~[NAC 293.355 Demand for recount limited to ballots cast by mail. (NRS 293.124, 293.247, 293.403) A candidate who demands a recount pursuant to subsection 1 of NRS 293.403 may specify that the recount be limited to ballots cast by mail.]~~

Chapter 294A of NAC is hereby amended by adding thereto the provisions set forth as Section 13 of this regulation:

Section 13. Nonprofit must register with Elections Division in addition to registration with Commercial Recordings (NRS 294A.225). Before it engages in the political activities set forth in subsection 1 of NRS 294A.225, a nonprofit organization, in addition to registering with the Secretary of State’s Commercial Recordings Division pursuant to NRS Chapter 82, a

nonprofit corporation must also register with the Secretary of State's Elections Division pursuant to NRS 294A.225.