

**PROPOSED REGULATION OF THE
SECRETARY OF STATE**

LCB FILE NO. R091-211

**The following document is the initial draft regulation proposed
by the agency submitted on 11/23/2021**

PROPOSED REGULATIONS OF THE SECRETARY OF STATE

ELECTIONS DIVISION

LCB File No. _____

Section 1. Chapter 293 of NAC is hereby amended by establishing the provisions set forth in Section 2, inclusive of this regulation.

Sec. 2.

NAC 293.____ Election Security Procedures. (NRS 293.124, 293.247)

1. Each county must establish written procedures to ensure the accuracy and security of voting in the political subdivision and submit the procedures to the Secretary of State for review. The county must submit its election security plan on the form prescribed by the Secretary of State not less than 60 days before the first election in which the procedures will be used. The Secretary of State shall notify the county clerk of approval or disapproval of the procedures no later than fifteen days after the Secretary of State receives the submission.

2. The county clerk may not install any software on any component of the voting system unless directed to, or approved by, the Secretary of State.

3. General requirements concerning security documentation:

(a) The county clerk must maintain on file all documentation of seals, chain-of-custody, access logs, and other document related to the transfer of equipment between parties. These documents are subject to inspection by the Secretary of State. All written entries must be completed in permanent ink.

(b) The county clerk must maintain and document uninterrupted chain-of-custody for each voting machine from the successful completion of acceptance testing through the present, throughout the county's ownership or leasing of the device. This includes any central count

tabulation equipment, precinct scanners, electronic pollbooks, Direct Recording Equipment (DRE) voting machines, and ballot marking devices.

c. Only election officials and poll workers sworn under oath are allowed to handle ballots, which include VVPAT records.

d. The county clerk must submit sample copies of all referenced forms, schedules, logs, and checklists with the security plan.

4. Ballot security. The county clerk must develop a written plan that details the security, including chain-of custody and access controls, of paper ballots, mail ballots, VVPAT rolls, election media cartridges and/or memory devices, and blank ballot stock. This plan must be submitted to the Secretary of State as part of the plan described in subsection 1.

5. Secure storage. All voting system equipment must be secured in a facility with controlled access when not in use. Only personnel authorized by name, in writing, and for a specific period of time by the county clerk may access the areas in which voting systems are stored. In the event unauthorized personnel gain access to a secure area, the Secretary of State must be notified in writing within 24 hours.

(a) The county clerk must maintain a log of each person who enters the areas in which voting system components are stored. The access log must list the person's name, signature, and date and time of entry. If access to the specified areas is controlled by use of a key card or similar door access system that is capable of producing a printed paper log including the person's name and date and time of entry, the log must meet the requirements of this subsection.

(b) Tamper-evident seals must be used on all voting machines and tabulation equipment to ensure that no unauthorized access has occurred. All seals must be logged as described in subsection 6. In the event that a tamper-proof seal is removed in an unauthorized manner or is

discovered to have been tampered with, the Secretary of State must be notified in writing within 24 hours.

6. Physical locking mechanisms and seals. The county clerk must record the serial number of every seal on the appropriate chain-of-custody log for all equipment that is transported to or from a polling place or early voting location. Two individuals must verify, and indicate by signing and dating the log, that the seal serial numbers match the logged serial numbers. If any seals need to be replaced, the chain-of-custody log must note the reason, the date replaced, and signatures of the two individuals verifying the replacement.

7. Access to secure areas. The county clerk must review access lists for authorized personnel on a quarterly basis to ensure that only personnel authorized by name, in writing, and for a specific period of time by the county clerk have access.

8. Contingency plan. The county clerk must develop a written contingency plan in case election operations, including the use of voting systems and any component thereof, are significantly interrupted. The county must submit its contingency plan not less than 60 days before the first election in which the procedures will be used.

(a) The contingency plan should consider all potential sources of disruption, including, but not limited to:

(1) Systemic equipment failures or malfunctions;

(2) Power outages;

(3) Natural disasters or infrastructure failure;

(4) Terror threats or other civil disturbances; and

(5) Unauthorized access, intrusion, or hacking into election facilities or equipment.

(b) The contingency plan must outline how the county clerk would ensure continuity in voting in case one or more voting locations becomes temporarily or permanently unusable on

Election Day or during early voting, which may include:

(1) Sending voters to an alternative voting location (whether new or existing);

(2) Seeking a court order to extend voting hours; and/or

(3) Requesting voters return to the voting location after the problem has been resolved.

c. In advance of each election, the county clerk must review and, as necessary, update the contingency plan and ensure that key staff members and other county personnel, as necessary, have been briefed on the plan.

d. The county clerk must submit to the Secretary of State a tabulation contingency plan that identifies alternative voting equipment or facilities in case the county experiences a complete loss of its central count equipment or use of its central counting place. The plan may include the transport of ballots across county lines, provided that ballots are inventoried and safeguarded by the originating county's employees in the same manner as if the ballots had not been transported. The county clerk must notify the Secretary of State in writing within 12 hours if a tabulation contingency plan is invoked.

e. Election Program Contingency Plan. Any jurisdiction that conducts an election must produce a backup copy of its election program as defined by NRS 293B.135 and NAC 293B.050 that is in a machine-readable format. This copy may serve as a backup in case the original program is destroyed or rendered unusable. The backup copy must be transmitted to the Secretary of State for safekeeping via a password-protected CD, DVD, USB memory stick or STFP site. This backup copy must be produced and secured immediately upon the completion of ballot programming for an election. If any subsequent changes are made to the

election program, the county clerk must create a new backup copy within 48 hours of the change.