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I. VOTER REGISTRATION AND IDENTIFICATION REQUIREMENTS

Who may register to vote in Florida?

An individual may become a registered voter in Florida if she is:

- At least 18 years of age;
- A citizen of the United States;
- A legal resident of the State of Florida; and
- A legal resident of the county in which she would like to register.

A person may pre-register on or after her 17th birthday and may vote in any election occurring on or after her 18th birthday.

A person is not eligible to register to vote in Florida if she:

- Has been adjudicated mentally incompetent with respect to voting in Florida or any other state and she has not had her right to vote restored; or
- Has been convicted of any felony by any court of record and has not had her right to vote restored.

What are the voter registration deadlines for the primary and general elections in 2004?

Under Florida law, the voter registration books must close (i.e. the deadline for registering to vote in a give election is) the “29th day before each election.” The 29-day period is computed by excluding the day of the election and including all other days. If the 29th day before the election is on a Sunday or legal holiday, then the registration books will close on the next day that is not a Sunday or legal holiday.

- August 2, 2004 is the last day to register to vote in the August 31, 2004 primary election.
- October 4, 2004 is the last day to register to vote in the November 2, 2004 general election.

Can a person register to vote after the deadline for voter registration (book closing)?

Yes. Certain persons can vote in an election if they did not register to vote by the book closing deadline. These persons are allowed to register to vote at the office of the supervisors of elections until 5:00 p.m. on the Friday before an election. Late registration is available to the following persons: (1) an individual who has been recently “discharged or separated” from the uniformed services or the Merchant Marines; (2) an individual who has been “discharged or separated” from their employment in another country; and (3) family members of these individuals.
Persons who are eligible for late registration must be prepared to provide one of the following pieces of documentation:

- Certificate of Release or discharge from Active Duty;
- Military Permanent Change of Station Orders to home of record while awaiting a Certificate of Release;
- Documents showing evidence of being employed in the Merchant Marines; or
- Valid Passport showing the date of re-entry into the United States.

Each document must indicate that the person was discharged from service or left employment outside of the United States during the period the books were closed for the election. (i.e. after the deadline for voter registration for an election).

Also, if a person learns that she has been removed from the voter registration rolls in error, supervisors of elections must restore the person’s name, upon “satisfactory proof,” even if the deadline for voter registration has passed.

Where can a person register to vote in Florida?

The National Voter Registration Act of 1993 (NVRA) and Florida law require election officials to provide voter registration applications by mail, and at the following locations:

- Motor vehicle offices (e.g., Florida Department of Highway and Motor Vehicles);
- Public assistance agencies (e.g., Florida Department of Children and Families);
- Public libraries;
- Agencies that serve persons with disabilities
- Armed forces recruitment offices;
- Qualifying education institutions (e.g., high schools and colleges)

Additionally, upon request, election officials must provide voter registration applications to individuals or groups conducting voter registration drives. Election officials may charge 1 cent per application for a request for 10,000 or more applications. Otherwise, there is no charge to receive voter registration applications.

May persons conducting voter registration drives make copies of completed voter registration applications for their records before delivering them to the county supervisor of elections offices?

Yes. While there appears to be no statute, or definitive ruling by a Florida court that directly answers this question, rulings by the Office of the Florida Attorney General on related subjects seem to suggest that it would not violate Florida law for persons registering new voters to copy voter registration information prior to submission of the information to the supervisors of election. For more information, please see Appendix 1 – Legal Memorandum by Florida Attorney Mary Jill Hanson, Esq.
What are the time limits for state agencies to process voter registration applications?

A voter registration application received by a motor vehicle or public assistance office must be forwarded to the local county supervisor of elections office within five (5) calendar days of receiving the application. However, there appears to be no state law or regulation that sets a time limit in which supervisors of elections must process voter applications and send out voter identification cards.

What is the procedure for determining whether an individual’s registration application has been correctly processed and accepted?

The NVRA requires state election officials to provide to each person who submits a completed voter registration notice of whether his or her application was accepted or denied. In Florida, if the application is accepted then the applicant will receive a voter identification card in the mail. If the application is incomplete, the elections official must ask the applicant to supply the missing information in writing and sign a statement that the additional information is true and correct. If the application is denied, the elections official must notify the applicant that the application has been denied and the reason for the denial.

What can a person do if her application is erroneously denied?

If a person believes that her voter registration application has been denied in error, she may file a written complaint with the Department of State, Divisions of Elections. The complaint must state the alleged error or violation of federal or state law and the state or county official or entity responsible for the error or violation. The Department must attempt to resolve the complaint through an informal process which cannot last longer than 30 days or if the complaint is filed within 120 days before an election, the process cannot last longer than 20 days.

If a person files a written complaint with the Department, participates in an informal process, and an agreement is not reached or the alleged error or violation is not corrected within 90 days after the Department receives the complaint, (or within 20 days if the error or violation occurred 120 days before an election), then the person may bring an action for declaratory or injunctive relief in the circuit court in the county where the alleged violation occurred.

If the alleged error or violation occurred within 30 days before the date of a state or federal election, and the error or violation will affect a person’s right to vote, then the complaining party may immediately bring an action in the circuit court where the alleged error or violation occurred.
What are the new identification requirements for voter registration applications?

The Help America Vote Act of 2002 (HAVA) requires states to obtain an identification (ID) number from individuals who register to vote after January 1, 2003. HAVA requires state voter registration applications to include a current and valid driver’s license number or the last 4-digits of the applicant’s social security number. If the applicant has neither a driver’s license nor a social security number, then the state must assign the applicant an identification number for voter registration purposes.20

Florida law also requires that voter registration applications must contain a Florida driver’s license number, a Florida identification card number or the last 4-digits of an applicant’s social security number.21 Florida law, however, does not provide that if an applicant does not have a valid identification number, the State will provide one. Nevertheless, a Florida identification number and card may be obtained from the Florida Department of Highway and Motor Vehicles.

In addition to providing an ID number, if a person is registering to vote for the “first time” in a state or county, and that person is registering to vote by mail, both federal and Florida law require the applicant to provide proof of identification by sending with the mail-in application copies of certain documents. In Florida, the following current and valid documents are accepted: 1) Florida driver’s license; 2) Florida identification card issued by the Department of Highway Safety and Motor Vehicles; 3) United States passport; 4) employee badge or identification; 5) buyer’s club identification; 6) debit or credit card; 7) military identification; 8) student identification; 9) retirement center identification; 10) neighborhood association identification; 11) entertainment identification; 12) public assistance identification; 13) utility bill; 14) bank statement; government check; paycheck; or 15) other government document (including a voter identification card).22 If a first-time voter does not mail proof of identification with her application, she may present it at the polls on Election Day.23

Some “first-time” voters who register by mail are exempt from the proof of identification requirement. Specifically, persons who are 65 years of age or older; have a temporary or permanent physical disability; are members of the uniformed service or Merchant Marines on active duty and by reason of active duty are absent from the county on Election Day; are the spouses or dependent of members of uniformed service or Merchant Marines who are absent from the county on Election Day; or currently reside outside the United States and are eligible to vote in Florida.24
II. VOTER REGISTRATION LIST MAINTENANCE

For what reasons can a person’s name be removed from a list of registered voters?

Both federal and Florida law permit election officials to remove names from the voter registration list for the following reasons: 1) at the voter’s request; 2) the voter has been convicted of a felony; 3) the voter has been adjudicated mentally incompetent with respect to voting; 4) death of the voter; or 5) the voter has moved to an address outside of the county where the voter is registered and the voter has failed to respond to an address confirmation notice from the elections office and the voter does not vote in two federal elections after the address confirmation notice is sent.25

Additionally, in Florida, if a county supervisor of elections believes that a voter is: not 18 years old, not a citizen of the United States, is a fictitious person, or has listed a residence that is not her legal residence, the supervisor may remove the name of the voter from this list only after the supervisor sends a notification letter to the voter, at her last known address, stating that the supervisor believes that the registration is invalid, and the voter is given an opportunity to appear before the supervisor to show cause as to why her name should not be removed.26

What are the procedures for removing names of persons who have felony convictions or found to be mentally incompetent?

If the voter is removed from the list based on a felony conviction or after having been found mentally incompetent by a state adjudication, the county supervisor of elections is required to notify the voter by certified U.S. mail that her name may be removed or “purged” from the list of registered voters.27 The notification must “plainly state” why the voter’s name will be purged, and request information from the voter on forms provided by the supervisor. In addition, the voter should be provided an opportunity to attend a hearing if she would like to protest the removal of her name. (If the notice is returned to the supervisor of elections unclaimed, then the supervisor may give notice via an announcement in a local newspaper). The voter has 30 days to respond to the notice or attend the hearing, after which the supervisor of elections will determine whether the voter should be removed from the list. If it is determined that the voter should be purged, the county supervisor of elections must then send another notice to the voter, explaining the decision and why the voter was purged from the list.28

How often are names removed from voter registration lists?

In Florida, a registration list maintenance program must be conducted by supervisors of elections in at least every odd-numbered year and must be completed more than 90 days prior to any federal election. However, a voter may be removed anytime from a registration list if she requests removal, is convicted of a felony and has not had her voting rights restored, is determined to be mentally incompetent with respect to voting and has not had her right to vote restored, dies, or is determined ineligible to vote.29
Should voters be notified before their names are removed from voter registration lists?

Yes. If a person is being removed from the voter registration list based on a felony conviction or a finding of mental incompetence and has not had her right to vote restored, then the supervisor of elections must notify the person by certified U.S. mail that her name may be removed from the list of registered voters.

Also, if a supervisor of elections believes a person is not 18 years of age, not a citizen, is a fictitious person or uses an address that is not the person’s legal residence, then the supervisor must send a notification letter to the voter at her last known address stating that the supervisor believes that the registration is invalid and the voter’s name will be removed unless she appears before the supervisor to show cause as to why her name should not be removed.

Finally, if a county supervisor of elections receives information that a voter has moved outside the supervisor’s county, the supervisor must send a final address confirmation notice to the voter. This notice must be sent by forwardable mail and must contain a postage prepaid preaddressed form stating that the voter’s name will be removed from the registration list if the voter does not: 1) return the preaddressed form; 2) appear to vote; 3) change the voter’s registration; or 4) request an absentee ballot during the period beginning on the date of the notice and ending on the day after the second general election thereafter.

May a person whose name has been removed due to a felony conviction have her right to vote restored?

Yes. Persons with felony convictions may seek the restoration of their right to vote by submitting a Restoration of Civil Rights application to the Office of Executive Clemency, 2601 Blairstone Road, Building C, Room 229, Tallahassee, FL 32399-2405, (850) 488-2952. For assistance with navigating the application process, please contact the ACLU of Florida at 1-877-U-COUNT-2, or you may visit Advancement Project’s website at www.advancementproject.org to download a voter restoration publication entitled Re-Enfranchisement!

What can a voter do if she learns that her name has been removed from the registered voters’ list in error?

If a voter realizes that her name has been wrongly removed from the registration list prior to the next election, she should provide proof that her name was removed in error to the supervisor of elections. The supervisor is required to restore the voter’s name upon “satisfactory proof,” even if the deadline for voter registration has passed.

On Election Day, if a voter is told that her name is not on the voter registration list, and she believes it has been removed in error, the voter should request to cast a provisional ballot. (The definition of a provisional ballot is provided in Section IV below).
Finally, she may file a written complaint with the Department of State, Divisions of Elections. The complaint must state the alleged error or violation of federal or state law and the state or county person or entity responsible for the error or violation. The Department must attempt to resolve the complaint through an informal process which cannot last longer than 30 days or if the complaint is filed within 120 days before an election, the process cannot last longer than 20 days.  

If a person files a written complaint with the Department, participates in an informal process, and an agreement is not reached or the alleged error or violation is not corrected within 90 days after the Department receives the complaint or within 20 days if the error or violation occurred 120 days before an election, then the person may bring an action for declaratory or injunctive relief in the circuit court in the county where the alleged violation occurred.

If the alleged error or violation occurred within 30 days before the date of a state or federal election, and the error or violation will affect a person’s right to vote, then the complaining party may immediately bring an action in the circuit court where the alleged error or violation occurred.

Can a voter obtain a photocopy of voter registration lists?

Yes, under certain circumstances. The voter registration list is a public record and all citizens may be allowed to examine the record. A person may not, however, make copies of the list unless the person represents a municipality; a government agency; a political candidate who wants to use the lists for the purpose of furthering her candidacy; a registered political committee that wants to use the lists for political purposes only; or an incumbent officeholder who wants to use the list for the purpose of reporting to her constituents.
III.  EARLY VOTING (IN PERSON) AND ABSENTEE BALLOTS

Is early voting allowed in Florida?

Yes. There has been a recent change in Florida law as it relates to early voting. Effective July 1, 2004, all supervisors of elections must allow a voter to vote early. Early voting must begin on the 15th day before an election and end on the day before an election for 8 hours each day (including weekends). If a special election is held, then early voting must occur on the 8th day before that election and end on the day before the special election.

Supervisors of elections must offer early voting at the main office of the supervisor or at a branch office that has been in full service for at least one year prior to an election. The supervisor of elections may designate other sites for early voting (e.g., city hall or public libraries) so long as the sites are geographically located so that all voters in the county will have an equal opportunity to cast a ballot. The voter must be permitted to cast her ballot on a regular voting machine after providing identification and completing a voter certificate. (For information about identification requirements see Section V below)

Who is permitted to vote by absentee ballot?

Any qualified registered voter may request an absentee ballot.

How may a person request an absentee ballot?

A qualified voter, the voter’s legal guardian, or, if directly instructed by the voter, a member of the voter’s immediate family may request an absentee ballot in writing or by telephone. The request must be made to the county supervisor of elections. One request for an absentee ballot will be considered sufficient for a person to receive absentee ballots for all of the elections held within a calendar year unless the voter indicates that the request should be limited to a specific election.

The person making a request for an absentee ballot must provide: the name of the voter who is making the request; the voter’s address; the voter’s date of birth; the requester’s name; the requester’s address; the requester’s driver’s license number (if available); the requester’s relationship to the voter; and the requester’s signature (for written requests only).

If a request for an absentee ballot made by a voter living overseas is received by the supervisor of elections office after the Friday before the election, the supervisor must send a notice to the overseas voter acknowledging receipt of the request and notifying her that the ballot will not be forwarded due to insufficient time for return of the ballot by the deadline.
Upon receipt of a request for an absentee ballot, the supervisor of elections must provide an absentee ballot by: 1) forwardable mail to overseas voters; or 2) nonforwardable, return if undeliverable mail to the address of the voter as it appears on file at the supervisor office unless the voter indicates a different address because she: is absent from the county and does not plan to return before the election; is in a hospital, assisted-living facility, nursing home, short term medical facility or correctional facility; can not occupy the residence due to natural disaster or other emergency.47

Supervisors of elections must send absentee ballots to overseas voters no fewer than 35 days before primary and general elections.48 Additionally, if an overseas voter provides an e-mail address in a request for absentee ballot, then the supervisor must provide the names of candidates who will be on the ballots via e-mail no later than 30 days before a primary and general election.49

Finally, a voter may pick up an absentee ballot at the supervisor of elections office after providing identification,50 or a person designated by the voter may pick up an absentee ballot on or up to four days before Election Day after that person completes an affidavit provided by the supervisor.51

How must one vote an absentee ballot to ensure that it will be counted?

To ensure that absentee ballots will be counted, the voter must return the completed ballot to the county supervisor of elections by no later than 7 p.m. on the day of the election.52 The voter must mark her own ballot unless she is unable to do so because of blindness, inability to read or write or disability.53 If the voter needs assistance marking her ballot, then she may select a person of her choice, other than her employer, or an officer or agent of the voter’s union, to mark her ballot.54

Voters must also make sure that they sign their names on the absentee ballot on the line above “voter’s signature.” Overseas voters must also provide the date on which the ballot is signed.55 Effective July 1, 2004, voters are no longer required to have their absentee ballots signed by a witness.56

Are there special instructions for absentee ballots requested by certain first-time voters?

Yes. First-time voters who registered to vote by mail, and who have not provided the required proof of identification by the time they receive an absentee ballot, must send with their absentee ballots a copy of photo identification or identification which shows the voters’ name and current residence address (e.g. utility bill).57

This identification is not required if the voter is 65 years of age or older; has a temporary or permanent physical disability; is a member of the uniformed service or Merchant Marines on active duty and by reason of active duty is absent from the county on Election Day; is the spouse or dependent of member of the uniformed service or Merchant Marines who is absent from the county on Election Day; or currently resides outside the United States.58
When will absentee ballots be counted?

The county canvassing board may begin canvassing (i.e. counting) absentee ballots as early as 7 a.m. on the fourth day before the election, but no later than 12 noon on the day after the election. The county canvassing board is comprised of the supervisor of elections, a county court judge who must serve as the chair of the board, and the chair of the board of county commissioners.

What is the procedure for determining if an absentee ballot will be counted?

When the county supervisor of elections receives an absentee ballot, the supervisor may compare the signature on the voter certificate of the ballot with the signature of the voter on file in the registration books. If the voter is registered in that county, then the supervisor should indicate on the voter’s registration record that she has voted, and the supervisor must keep the ballot unopened until the county canvassing board canvasses the vote.

Upon receiving absentee ballots from the supervisor of elections, the county canvassing board must compare the number of ballots in its possession with the number of requests for ballots received according to the supervisor’s records. After all the absentee ballots are accounted for, the board must compare the signatures on the voter certificates on the absentee ballots with the signatures on file in the voter registration records, if the supervisor has not already done so. If the signatures are the same, the ballot is counted.

If the signatures on the ballot are different from those in the voter registration records, then the ballot will be marked “rejected as illegal.” This rejected ballot will remain sealed and the supervisor of elections must notify the voter that the ballot was rejected. The supervisor must also mail a voter registration application to the voter to update the voter’s signature.

Are there special instructions for canvassing absentee ballots received from certain first-time voters?

Yes. Upon receiving the absentee ballot from first-time voters who registered to vote by mail, the county supervisor of elections will open the mailing envelope to see if the voter has enclosed the required identification or indicated that she is exempt from this requirement. If the identification is enclosed or the voter has indicated that she is exempt from providing identification, then the supervisor of elections will make a note on the registration records and forward the ballots to the canvassing board to be counted.
If the required identification is not enclosed and the voter has not indicated that she is exempt from the requirement, the supervisor of elections will look at the registration records to see if the identification was previously received or the voter previously indicated that she is exempt from the requirement.\textsuperscript{68} If this information was not provided previously, then the envelope with the voter’s certificate must remain sealed and be treated as a \textit{provisional ballot} until 7 p.m. on Election Day. (Information about provisional ballots may be found in Section IV below). The absentee ballot must not be canvassed unless the supervisor has received the required identification or written indication of exemption by 7 p.m. on Election Day.\textsuperscript{69} Otherwise, it will be canvassed as if it were a provisional ballot.\textsuperscript{70}

**What should a person do if she requested an absentee ballot but wants to vote in person on Election Day?**

A voter who has received an absentee ballot, but wants to vote in person must return the ballot, whether voted or not, to the county supervisor of elections who will mark the ballot “canceled.”\textsuperscript{71} If a voter who requested an absentee ballot, appears in person to vote, and the election officials cannot determine whether the supervisor has received the person’s absentee ballot, she may vote by provisional ballot.\textsuperscript{72}
IV. Provisional Ballots

What is a provisional ballot?

A provisional ballot is a conditional electronic or paper ballot that may be cast by a voter at a polling place on Election Day.73

Under what circumstances will provisional ballots be provided to voters?

Under HAVA and Florida law, any voter claiming to be properly registered and eligible to vote, but whose eligibility cannot be determined, should request and be given a provisional ballot.74 In Florida, a provisional ballot should not be issued to a voter who is in the wrong polling place.75 Poll workers must direct a voter who is in the wrong polling place to the correct polling place for the voter’s current address.76

Additionally, if a court or other order extends the polling place hours, and a person votes in an election after the regular poll-closing time, then she must vote a provisional ballot.77

Must information about provisional ballots be posted in the polling place?

Yes. Both federal and Florida law, require election officials to post voting information, including information about provisional ballots, at each polling place.78

What information must be provided to voters who cast provisional ballots?

Both HAVA and Florida law mandate that each person casting a provisional ballot must be given written instructions on how to contact a “free access system,” to determine whether the voter’s ballot was counted. The instructions must contain not only information on how to access the system, but also information the voter must provide in order to find out whether her ballot has been counted.79

What is the procedure for determining if a provisional ballot will be counted?

Provisional ballots are individually examined by the county canvassing board to determine whether the voter was entitled to vote at the precinct where the ballot was cast. The canvassing board must also determine that the voter did not otherwise vote in that particular election.80 If it is determined that the person was registered and entitled to vote at the precinct where the person cast a ballot, the canvassing board will compare the signature on the provisional ballot envelope with the signature on the voter’s registration record and, if the two signatures match, will count the ballot.81 If the signatures do not match, Florida law is unclear about what will happen, but presumably the ballot will not be counted.82
If the canvassing board determines that the voter was not registered or entitled to vote at the precinct where the provisional ballot was cast, then the provisional ballot must not be counted. Instead, the canvassing board must mark the unopened provisional ballot “Rejected as Illegal.”

**When will provisional ballots be counted?**

The county canvassing board will meet to canvass provisional ballots at a time and place designated by the supervisor of elections. Public notice of the time and place at which the board will meet to canvass must be given at least 48 hours prior to this meeting. Information on whether or not a provisional ballot has been counted must be made available no later than 30 days following the election.

**How will voters know whether their provisional ballots have been counted?**

The local county supervisor of elections office is required under Florida law to provide a free and confidential access system – either via a toll-free number or the Internet - for voters to call and determine whether or not their provisional ballot was counted. If a voter’s ballot was not counted, the system should provide a reason for why it was not counted. Each county supervisor of elections should have established the free access system for their county by January 1, 2004.
V. Polling Place Locations/Procedures

For how long are the polls open on Election Day?

Polls open from 7:00 a.m. to 7:00 p.m.\textsuperscript{87}

When must polling place locations be finalized?

Polling place locations should be finalized at least 30 days prior to an election.\textsuperscript{88}

How are decisions about polling place locations made?

The board of county commissioners alters or creates polling places upon the recommendation and approval of the supervisor of elections.\textsuperscript{89} County supervisors of elections must select polling places that are: accessible to persons with disabilities; provide adequate parking spaces; and located within precinct lines (precinct lines in large counties are drawn so that they contain no more than 2500 registered voters).\textsuperscript{90}

How and when will voters be notified about polling place changes?

Seven (7) to thirty (30) days before an election, county supervisors of elections must post notice of a change in polling places at least once in a newspaper of general circulation. Additionally, they must send a notice of the change and a description of the new location to every registered voter affected by the change, at least 14 days before the election. If there is an emergency that requires the changing of a polling place and there is not enough time to meet these notice requirements, the notice of polling place change and information about the new location must be posted at the original polling place location.\textsuperscript{91}

Will there be central polling locations where voters, regardless of where they live, can vote?

Yes, under certain circumstances. Generally, a person must vote in a precinct or district in which the person has a legal residence and is registered to vote. However, a person who is temporarily living outside of the county where she is registered to vote may vote at the main office of the supervisor of elections in the county where she is living temporarily, so long as she has no permanent address in that county and it is her intent to remain a resident of the county where she is registered to vote.\textsuperscript{92} A person temporarily living in a county, however, may not vote in municipal elections for the city where she is a permanent resident.

What are the solicitation restrictions at polling places on Election Day?

Under Florida law, solicitation is defined as seeking any vote, fact, opinion, or contribution; distributing political or campaign information; conducting a poll; seeking a signature on any petition; and selling any item.\textsuperscript{93} Generally, no “person may solicit voters within 50 feet of the entrance to any polling place.”\textsuperscript{94}
Solicitation is permitted within 50 feet of the polling place, however, if it is conducted in a separately marked area that does not disturb or otherwise interfere with voter access to the polling place AND the activity and materials clearly indicate that the voter may voluntarily participate in the solicitation. Individuals are also allowed to solicit voters within the 50-foot zone if it is a residential property, business, private property, sidewalk, park, or property traditionally used as a public place for discussion.

**Under what circumstances will voters be required to show identification at the polls on Election Day?**

In Florida, all voters must present a current and valid picture identification at the polls before voting. If the picture identification does not have a signature of the voter, then additional identification that provides the voter’s signature must be provided.

If a voter does not have picture identification, she may be permitted to vote after she completes an affidavit verifying her identity. But, if the voter who does not have picture identification is: a) voting for the “first time,” b) registered to vote by mail, c) and did not provide proof of identification prior to the election, then she may be permitted to vote by provisional ballot.

**Can a person’s right to vote be challenged at the polls?**

Yes. A poll watcher or another voter may challenge a person’s right to vote at the polls. If this occurs, the challenger must complete a written “oath” outlining the reasons why she believes the voter should not be allowed to cast a ballot. The challenger must give the completed oath to the poll clerk or inspector who will deliver it to the person being challenged. The person being challenged must then complete an “oath” verifying that she is a qualified voter.

The clerk and inspectors must compare the information in the challenged person’s oath with that entered on the precinct register and will accept other information if needed. The clerk and inspectors must then decide by majority vote whether the challenged person may cast a regular ballot. If the challenged person refuses to complete an oath or a majority of the clerk and inspectors doubt her eligibility to vote, the challenged person must be allowed to vote by provisional ballot.

**What accommodations must be made for non-English speakers or persons unable to read?**

If a voter requires assistance because she is unable to read or write, she may request the assistance of two election officials or any person of her choice except for the voter’s employer, an agent of her employer, or an officer or agent of her union.

Also, the Voting Rights Act of 1965 requires some states to provide voting materials, including ballots, in English and other languages. In Florida, the following counties are required to provide bi-lingual voting materials for the following persons:
Broward County - Spanish heritage, American Indian (Mikasuki, Muskogee)
Collier County - American Indian (Mikasuki)
Miami-Dade County - Spanish heritage, American Indian (Mikasuki)
Glades County - American Indian (Mikasuki)
Hardee County - Spanish heritage
Hendry County - American Indian (Mikasuki, Muskogee)
Hillsborough County - Spanish heritage
Orange County - Spanish heritage
Monroe County - Spanish heritage

Also, the local laws of Miami-Dade County require voting ballots to be available in Creole in precincts where a significant portion of the electorate is Haitian-American.107

What accommodations must be made for voters with disabilities?

HAVA requires states to have at least one voting machine at each polling place that is accessible to individuals with disabilities, including persons with visual disabilities.108 After July 1, 2004, all polling places in Florida are required to be accessible and usable by persons with disabilities.109 Among other things, each polling place must have:

- Parking spaces that are accessible to persons with disabilities;
- Adequate signs pointing to accessible paths of travel to the polling place;
- Level, stable, and slip-resistant surfaces;
- An unobstructed path to the polling place, and an unobstructed area for voting;
- Sufficient lighting along the accessible path of travel and inside the polling place.

If a polling place does not meet these requirements, the county elections supervisor is required to change the polling place to one that does meet the requirements.110

Also, if a person with disabilities requires assistance with voting, she may request the assistance of two election officials or any person of her choice, other than her employer, an agent of her employer, or an officer or agent of her union.111

How much time do voters have to cast their ballot?

Florida voters have at least 5 minutes to cast their ballot. If the voter requires longer than 5 minutes, an election official may give the voter more time “upon a sufficient reason.” However, if the voter is not granted a longer period of time, and she refuses to vote within five minutes, state law allows the election official to remove the voter from the polling room.112
If a voter is in line to vote at 7:00 p.m. (poll closing time) but has not reached the voting machine may she still vote?

Yes. A voter may “cast a vote if he or she is in line at the official closing of the polls in that county.”113

May voters who have moved to a new address within a county but have not registered at their new address be allowed to vote at the precinct for their old address?

No. If a person has moved within a county where she is registered, then she may vote at the precinct of her new address after she has completed an affirmation indicating her change of address.114

May voters who have moved to a new address in another county but have not registered at their new address be able to vote at the precinct for their old address?

No. If a person moves to another county in Florida after the voter registration books are closed (after the voter registration deadline date) for a general, primary or special election, she may vote by absentee ballot in the county of her old address, but only if that election is for President and Vice President, United States Senator, statewide offices, and statewide issues.115
VI. Voter Intimidation

What constitutes illegal intimidation of voters at the polls?

It is a felony in the state of Florida to “intimidate, threaten, or coerce” anyone with the intent of interfering with their right to vote. This includes interfering with a voter’s right to vote for the candidate of the voter’s choice, or interfering with a voter’s right not to vote for any candidate in any election.

Other forms of illegal intimidation include efforts by government officials, including election officers, to deny someone the opportunity to vote because of a minor error in their registration or application record.

It is a felony for an election official or any person assisting a voter to willfully disclose how a voter voted, and for an employer to discharge or threaten to discharge an employee for voting or not voting in any election.

Are law enforcement officers allowed in a polling place during voting hours?

Yes, uniformed law enforcement officers or emergency service personnel are allowed in the polling place if they are voting or are there with permission of the clerk or a majority of the inspectors.

To whom should a person report acts of voter intimidation?

Persons who are victims of or witness voter intimidation may contact a local state attorney or submit a sworn written complaint to the Florida Elections Commission, Suite 224 Collins Building, 107 West Gaines Street, Tallahassee, FL 32399-0250, (850) 922-4539. If a sworn complaint is submitted to the Florida Elections Commission, it must state whether the same complaint has also been filed with any state attorney.
Endnotes

3 Fla. Stat. ch. 97.041(2)
10 Fla. Stat. ch. 97.052 (1)(b); 97.057; 97.058; 97.0583 (2003)
12 Fla. Stat ch. 97.057(4) and 97.058(6)
13 42 U.S.C. § 1973gg-6(a)(2)
15 Id.
16 Id.
18 Id.
19 Id.
20 Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15483(a)(5)
29 Fla. Stat. ch. 98.065(3) and 98.0977 (2003)
35 Id.
36 Id.
39 Id.
40 Id.
41 Id.
53 Id.
54 Fla. Stat. ch. 101.661 (1)
55 Fla. Stat. ch. 101.65
56 2004 Fla. SB 2566 (Signed by Governor on May 25, 2004)
58 Id.
63 Id.
69 Id.
70 See Fla. Stat. ch. 102.141(2); HAVA, 42 U.S.C. 15483(b)(2)(B)(ii)
72 Id.
74 Fla. Stat. ch. 101.048 (2003); See also HAVA, 42 U.S.C. 15482(a)
76 Florida Department of State Division of Elections, Polling Place Procedures Manual, 7 (Jan. 2004);
78 Fla. Stat. ch. 101.031 (2003); See also, HAVA, 42 U.S.C. 15482(b)(2)(C)
79 Fla. Stat. ch. 101.048 (2003); See also, HAVA, 42 U.S.C. 15482(b)(5)
94 Fla. Stat. ch. 102.031(3) (c ) (2003)
95 Id.
96 Id.
99 Fla. Stat. ch. 101.043(3)
101 Id.
102 Id.
103 Id.
107 See, Code of Metropolitan Dade County, Florida Sec. 12-16 (2003)
108 Id. § 15481(a)(3)
122 Id.
APPENDIX I
MEMORANDUM

TO: Eddie Hailes, Advancement Project

FROM: Mary Jill Hanson, Fla. Bar No. 727369

DATE: May 10, 2004

RE: Confidentiality of Florida Voter Registration Records Prior to Submission to the Registrar

The question has been raised as to whether it violates Florida law if persons registering new voters in Florida copy voter registration information from the voter registration cards prior to submitting the information to the supervisors of elections.

Although there appears to be no definitive ruling by a Florida court or attorney general, based on rulings by the Florida attorney general on related subjects, it would appear that it would not violate Florida law for persons registering new voters to copy voter registration information prior to submission of the information to the supervisors of election.

One must begin analysis of this issue by remembering, as stated in Attorney General Opinion 2001-16,¹ that “[t]he general policy of the State of Florida is that state and local governmental records shall be open for inspection by any person.” Florida’s Public Records Law “is to be liberally construed in favor of open government while exemptions from disclosure are to be narrowly construed so that they are limited to their stated purpose.” AGO 2001-16. The Florida Attorney General’s office has consistently ruled that it will not read an exemption into the Public Records Law, in the absence of legislative or judicial expression of such an exemption.
There is, however, a specific exemption in Florida’s voter statute exempting from copying (not from inspection) certain voter registration information. Section 98.095, Florida Statutes provides that any citizen of the state may examine the registration books “while they are in the custody of the supervisor,... but is not allowed to make copies or extracts therefrom except as provided by” the law. Those authorized by law to receive copies or make extracts of information include candidates, to further their candidacies, registered political committees, political parties or officials thereof, and incumbent officeholders.

Section 97.0585 (2) Florida Statutes provides that information relating to the place where a person registered to vote or updated voter information, as well as a voter’s signature, social security number and telephone number are exempt from the public records law and may not be copied. This statute was, according to AGO 2002-54, adopted to comply with the National Voter Registration Act.

As noted above, the Attorney General has not ever ruled specifically on whether voter registration records may be copied before they are turned over to the supervisor of elections. However, the Attorney General has in other opinions related to voter information consistently ruled in favor of open disclosure, as well as in favor of narrow construction of exemptions. In addition, in AGO 2001-16, in finding that the exemption of 98.095 did not apply to the same information that may be contained on an absentee ballot envelope, the Attorney General wrote that “By its terms, section 98.095, Florida Statutes, applies to voter registration information contained in the county registration books.” In AGO 2002-54, the Attorney General re-iterated this opinion, stating “section 98.095, Florida Statutes, by its terms applies only to voter registration information contained in the county registration books.”

Prior to the records being placed in the county registration books, then, it would seem they are not public records. As such, they may be copied. Note that a voter could always consent to having his/her record copied.

(Footnotes)
1 * Attorney General Opinions of the Florida Attorney General are available online at myfloridalegal.com