

Disclaimer:

This guide is designed for informational purposes only. It is not legal advice and is not intended to create an attorney-client relationship. The Election Protection Coalition does not warrant any information contained in this guide, nor does the Coalition suggest that the information in this guide should be used as a basis to pursue legal advice or decision making.

Questions Involving Access to the Ballot:**1. It is after 7:00 AM and the polling place is not open. [§ 11-131]**

Immediately contact the State or County Election Agency to report the problem. You can find information on State or County Election Agencies at <http://www.hawaii.gov/elections/factsheets/fsvs514.pdf>.

The phone numbers for the election agencies are as follows:

Chief Election Officer: (808) 453-VOTE (8683), Toll-free: 1-800-442-VOTE (8683)

City Clerk of Honolulu: (808) 768-3800

County Clerk of Kauai: (808) 241-6350

County Clerk of Maui: (808) 270-7749

County Clerk of Hawaii: (808) 961-8277

If the polling place is open at 7:00 a.m. but the voting machines have not arrived, call headquarters immediately. Voters should be permitted to vote by paper ballots (preferably) or by provisional ballots if there are no machines available.

3. It is 6:00 PM and my precinct is closed or closing and they will not let me vote. [§ 11-131]

In Hawaii, the polls close at 6:00 p.m. If you are standing in line outside the polling place when the polls close, you will be allowed to enter the polling place and vote, regardless of what time the polls close. If you were standing in line at the time the polls closed and are not allowed to vote, immediately contact the State or County Election Agency to report the problem. The contact information on State or County Election Agencies is: <http://www.hawaii.gov/elections/factsheets/fsvs514.pdf>.

4. There are equipment problems at my precinct and I cannot vote. What should I do?

Encourage the voter to ask to vote by a back-up paper ballot or by provisional ballot. If a caller reports problems with machines, immediately contact the Electronic Frontier Foundation representative at the call center to walk you through the appropriate steps to solve the machine problem.

Identification and Provisional Ballots:

1. I do not have any identification with me. Can I vote? [§ 11-136]

Yes. Precinct officials may request voters to provide identification. The primary form of identification, however, is the recordation of the properly registered voters name in the official poll book. Every person applying to vote shall sign the poll book.

2. I am a registered voter who is not on the rolls at my precinct. Can I vote? [§§ 11-21, 11-22]

Yes, if the voter is able to confirm with poll officials that the voter is qualified to vote (i.e., meets the age, criminal status and durational residency requirements) and that the voter registered in time to vote in the election. Based on information developed, poll officials will determine whether the voter is at the correct polling place.

If the voter has registered on time, is eligible and is in the correct polling place, direct the voter to ask the poll worker to call the VOTER HOTLINE and confirm their registration. If the voter still is not on the rolls, let them know that the voter can vote provisionally (see provisional proving process below). This is a LAST resort, as provisional ballots will only be counted if the Office of Elections can later verify the voter's registration status before the election is certified.

3. Poll workers are turning voters away if they don't have photo ID. [§ 11-136]

Call the VOTER HOTLINE immediately to report the problem. Encourage the voter to go back inside the polling place and demand the right to vote by a REGULAR ballot. If necessary, the voter can vote provisionally.

4. I have been offered a provisional ballot. What should I do?

Although provisional ballots are a LAST resort, you still exercise your RIGHT to vote.

PROVISIONAL VOTING

Help America Vote Act of 2002 (HAVA)

The Help America Vote Act of 2002 (Title III, Sec. 302) requires states to implement provisional voting procedures by January 1, 2004. Individuals who do not appear on the official list of registered voters, but attest that they have registered to vote, must sign a written affirmation that they are registered voters and are eligible to vote in the election. A state or local official must then verify the ballot. The state will provide the voter a free access system (toll free telephone or Internet) number to call to verify that the ballot was or was not counted and, if not, why the ballot was not counted.

How Provisional Voting Works

Requirements for provisional voting [HAVA Sec. 302 (a)]:

1. A voter attests that he or she has registered to vote, and is eligible to vote in the correct district and precinct in that election, but there is no evidence of registration.
2. An election official asserts that the individual is not eligible to vote.

Provisional voting procedures [HAVA Sec. 302 (a)(1-5)]:

1. An election official at the polling place shall notify the voter that he or she may cast a provisional ballot in that election.
2. A voter shall be permitted to cast a provisional ballot at the polling place upon execution of a written affirmation (“Affirmation for Provisional Voting” on the Registration Affidavit Form) by the individual before an election official at the polling place, stating that the individual is:
 - a. a registered voter in the jurisdiction in which the individual desires to vote;and
 - b. eligible to vote in that election.
3. An election official shall transmit the provisional ballot cast to the Office of Elections for prompt verification.
4. If the Office of Elections determines the voter is eligible under State law to vote, the voter’s provisional ballot shall be counted in accordance with State law.
5. The voter will be given a copy of the Registration Affidavit Form (RAF) with the “211” toll free number to call to verify whether their provisional ballot was counted or not, and if not, the reason that the vote was not counted.

Where to Vote:

1. Where do I vote (for voters who have not moved)? [§ 11-12(a)]

A properly registered voter should be listed in the county register (poll book) where they reside. No person may register in a precinct other than where they reside.

You can look up polling locations at www.hawaii.gov/elections/factsheets (click on polling place locator). This locator will provide the voter with two ways to search their respective polling place.

2. I have moved within the same PRECINCT and have not updated by address for voter registration purposes. Where should I vote? [§ 11-21(c)]

If the voter has moved within the same precinct, the voter should go to the appropriate polling place for that precinct. If the voter registration list still lists the voter’s old

address, the voter will be asked to update their registration. If the updated address is within the precinct, the voter must be permitted to vote.

- 3. I have moved to a different precinct within the same COUNTY and I have not updated my address for voter registration purposes. Where should I vote? [§§ 11-18, 11-21(c)]**

The voter should go to new polling location that corresponds to their new address or to the county board of elections, complete and sign a Notice of Change of Address and vote a provisional ballot.

- 4. I have moved from one county to another and have not updated my address for voter registration purposes. Where should I vote? [§ 11-21(c)]**

Prior to the registration deadline (October 6, 2008 for the 2008 General Election), the voter should notify the clerk of the board of elections office in the voter's NEW COUNTY. If the person is otherwise legally eligible to register, the voter will be able to vote at the appropriate precinct in the voter's new county.

On election day, the voter may go to the voter's new polling place and apply to transfer his or her voter registration to the voter's new precinct on a form provided at the polling place. Any person so transferring voter registration shall be immediately added to the register of the new precinct and may vote only at the new precinct.

Assistance at the polls:

- 1. I am physically disabled and need assistance; will my polling place be accessible? [§ 11-139]**

HAWAII law requires that each polling place be accessible to physically disabled voters, but many are not. If a voter reports that a polling place is not accessible to the handicapped, contact a Commander immediately. An attorney will be dispatched to the polling place.

- 2. I am blind, physically disabled, or cannot read English and require assistance at the polls in order to vote. Can I get assistance at the polls? [§ 11-139]**

A voter requiring assistance at the polls for any of the reasons stated above can take a person of their choice into the voting booth (except employer, an agent of employer, an officer or agent to their union). Election Protection volunteers can serve as assistants to disabled or language minority voters if asked to do so by the voter. If a poll worker refuses to allow a disabled or language minority voter to bring a person of their choice into the voting booth, contact a Commander immediately.

Miscellaneous Issues:

1. I have been approached by candidates or others at the polls. [§ 11-132]

All poll monitors, including Election Protection volunteers, must stay at least 200 feet from the entrance to the polling place; they can solicit you if they comply with this rule. If they are violating the 200-foot requirement, contact a Commander immediately.

2. What if I requested an absentee ballot but I want to vote in person on Election Day?

As long as the voter has NOT already submitted the absentee ballot, and is otherwise qualified, they should be allowed to vote in person by REGULAR ballot.

3. There are people at the polls trying to intimidate voters. [§ 19-3]

Contact a Commander immediately. An attorney will be dispatched to the polling place. If the voter agrees, put them on hold while you call the Commander so they can send an attorney to the location immediately. Then, gather as much information from the voter as possible. Also, alert the call center manager.

4. I have a felony conviction. Can I vote? [§ 831-2]

Yes. Hawaii law permits convicted felons to vote so long as they are not currently serving a felony sentence of incarceration. This includes those who are on probation, on parole, or who have completed a felony sentence of incarceration in the past.

5. I am a college student, can I vote where I go to school? [§ 11-11]

You have the RIGHT to vote anywhere so as long as you meet the voting qualifications and are properly registered.

College students may register and vote where they go to school provided that they consider that location their voting residence. A voting residence is the residence the student claims as their home; the residence which qualifies them to vote on a particular ballot. Students must be held to the SAME eligibility requirements as any other voter in the jurisdiction. If a student has been turned away at the polls, ascertain if they have fulfilled all of the registration requirements (age, criminal status, durational residency requirements) and that they have registered on time for this election.

If a properly registered student is turned away at the poll, contact a Commander to dispatch an attorney to the location and contact the appropriate election official.